

CONTRACT SERVICES AGREEMENT

By and Between

CITY OF CARSON

and

PETROCHEM MATERIALS INNOVATION, LLC

**AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
PETROCHEM MATERIALS INNOVATION, LLC**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 13th day of July, 2020 by and between the City of Carson, a California municipal corporation ("City") and Petrochem Materials Innovation, LLC, a Nevada Limited Liability Company ("Contractor" or "PMI"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. The City of Carson has scheduled, or is about to schedule, an annual citywide slurry seal project #1413-3 FY 2019/20, which project requires, among other things, installation of Type II Central Mix REAS [Rubberized Emulsion Aggregate Slurry] (hereinafter, the "Project"); and

B. PMI supplies Type II Central Mix Rubberized Emulsion Aggregate Slurry (REAS) (hereinafter, the "Central Mix") that is centrally mixed in accordance with Section 203-5.5.3 of the Greenbook Standard Specifications for Public Works Construction 2018 Edition (the "Greenbook"), attached hereto as Exhibit "A-3" and incorporated herein by reference, applicator trucks, service trucks, slurry pumps, transport trailers, laydown box, and required labor to complete the application process; and

C. PMI and the City of Los Angeles previously entered into a competitively bid contract dated January 1, 2016, for purchase of the Central Mix, supply of required equipment, and labor related to the application process, attached hereto as Exhibit "C-1" and incorporated herein by reference; and

D. PMI's contract with Los Angeles, as amended, provides that PMI shall offer governmental agencies like the City a price of \$2.11 per gallon for the purchase of Type II Central Mix and \$2.49 for Type I Central Mix, plus transportation which on the Project is equivalent to an additional \$0.03 per gallon for delivery charged from PMI's plant located in the City of South Gate, California, to the City of Carson, California; and

E. Bidding the materials and work would not provide the City with a competitive advantage because piggybacking on the City of Los Angeles's contract with PMI allows the City to obtain slurry materials and sealing services for a price that is approximately 40% lower than if the City were to bid the project on its own.

F. The Parties agree that the City shall be responsible for all required prep work, public outreach and notification to residents, the posting of "No Parking" signs as and when warranted, installation and removal of all traffic control systems, motor street-sweeping, and removal and re-installation of all traffic striping or other devices; and

G. Pursuant to the City of Carson Municipal Code, City has authority to enter into and execute this Agreement.

H. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

I. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

The Scope of Service shall include the Contractor's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the

Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed **Six Hundred Thirty Nine Thousand One Hundred forty-Six Dollars and Sixty-Two Cents (\$639,146.62)** (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City for any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor,

including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Leland Pace</u>	<u>Chief Executive Officer</u>
(Name)	(Title)
<u>Frank Hoffman</u>	<u>Chief Financial Officer</u>
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be **Rick Boutros, P.E., Associate Civil Engineer** or such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative

basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Contractor maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Contractor.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.


No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]


Contractor Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their

respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims

arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor

in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City

Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor,

except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address

by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "non-interests" pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or

other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials

FBV

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

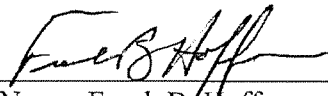
Donesia Gause-Aldana, MMC, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[RJL]

CONTRACTOR:

PETROCHEM MATERIALS INNOVATION, LLC

By: 

Name: Frank B. Hoffman
Title: CFO

Address: 6168 Innovation Way
Carlsbad, CA 92009

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE 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 San Diego

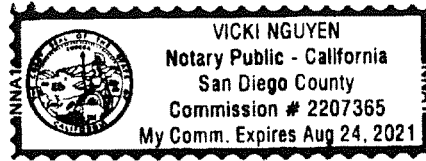
On 7/14/2020 before me, Vicki Nguyen, Notary Public
(insert name and title of the officer)

personally appeared Frank B. Hoffman, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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: [Signature] (Seal)



OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

- CAPACITY CLAIMED BY SIGNER**
- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE 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 _____

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____, 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: _____ (Seal)

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/>	INDIVIDUAL	
<input type="checkbox"/>	CORPORATE OFFICER	
	TITLE(S)	TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/>	PARTNER(S) <input type="checkbox"/> LIMITED	
	<input type="checkbox"/> GENERAL	
<input type="checkbox"/>	ATTORNEY-IN-FACT	
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	
<input type="checkbox"/>	OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES))		DATE OF DOCUMENT
_____ _____		
		SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Manufacturer will perform the following services and deliver the following materials (the "Project"):

- A. PMI will provide the Central Mix, two (2) applicator trucks, approximately thirty-seven (39) transport trailer trips, two (2) service trucks, one (1) slurry pump, one (1) laydown box, and the required labor to complete the application process for an approximate One Million Seven Hundred Ninety-Two Thousand Four Hundred Eight-Three (1,792,483) square foot project.
- B. PMI will provide and apply up to 72,593 gallons of Type I and 72,007 gallons of Type II Central-Mix REAS in-place of Type I and Type II Central-Mix REAS in-place on the streets as specified in Exhibit "A-2."
- C. PMI will deliver the Type II Central-Mix REAS from their Manufacturing Plant in South Gate to the various project locations in Carson. The trailers and tractors to haul the material from the Plant will be included in the Delivery Charges.
- D. PMI will furnish the necessary amount of applicator trucks to apply REAS on the streets and parking areas.
- E. PMI will provide the required number of service trucks, slurry pumps, and slurry boxes to facilitate the application of the material.
- F. PMI will furnish the necessary labor to apply the Central-Mix REAS in-place on the streets and parking areas.
- G. PMI will obtain a subcontractor for sweeping the streets.
- H. PMI will obtain a subcontractor for striping the streets.

II. As part of the Agreement, Manufacturer will prepare and deliver the following Services and materials to the City:

- A. 72,593 gallons of Type I and 72,007gallons gallons of Type II Central-Mix REAS in-place.
- B. PMI will provide the Labor and Equipment to deliver REAS from the South Gate Plant to the Project Locations, cover manholes and water valves, and apply Type I and Type II to the streets and parking areas in Carson.
- C. PMI will obtain the most competent and cost-effective subcontractors to perform the required sweeping, striping, to ready the streets for Central-Mix REAS.

- III. In addition to the requirements of Section 6.2, during performance of the Services and delivery of the Materials, Manufacturer will keep the City apprised of the status of performance by delivering the following status reports:**
- A. Pre-Construction Meeting Report**
 - B. Work and Street Schedule**
 - C. Daily Weight Tickets for Type II REAS**
 - D. Financial Status Recap after each Week**
- IV. All work product is subject to review and acceptance by the City, and must be revised by the Manufacturer without additional charge to the City until found satisfactory and accepted by City.**
- V. Manufacturer will utilize the following Key Personnel to accomplish the Services:**
- A. Frank Hoffman**, is Chief of Operations and CFO for PMI, will serve as the Project Director for this effort with Carson. He has access to the CEO.
 - B. Charlie Hoffman** will serve as the Project Superintendent in charge of the work crews, work scheduling, quality assurance.
 - C. Manny Orsini** will function in the Project Supervisor Role for this effort and will be responsible for project coordination between subcontractors and PMI, preparing required reports identified in Section III, above.
 - D. Jose Morales** will function as the Lead Operator for the work crews and will be assisting in the supervision of the squeegee team.

EXHIBIT "A-1"

SLURRY SEAL SURVEY PROCEDURES TO DETERMINE THE PERCENTAGE OF FAILED SLURRY SEAL ON STREET SEGMENTS UP TO FIVE (5) YEARS IN AGE

When conducting the survey the following information shall be collected for each street segment:

Information

- Name, limits of street surveyed
- Date of survey
- Time of day surveyed.
- Weather conditions
- Remarks
- Percent of slurry seal remaining

Definition Of Terms

Street segment means the asphalt concrete portion of a street measured from the centerline of the adjacent cross street running longitudinally down the street to the centerline of the next adjacent cross street.

Cul-de-sac or dead end street segments shall begin at a line running transversely to the center line of the dead end street from the outer edge of the Portland Cement Concrete (PCC) gutter on one side of the street to the outer edge of the PCC gutter on the opposite side of the street and running longitudinally down the street until the end of the asphalt concrete portion of the street. In the case of no PCC gutters the segment shall begin at a line running transversely to the centerline of the dead end street from the face of the curb on one side to the face of the curb on the opposite side of the street.

Test Methods

The assessment of the area of slurry seal remaining in a specified street segment shall be made initially through a visual windshield inspection by driving a vehicle up one side of the street and down the other side. The segment shall be then visually inspected on foot up one side of the street and down the other side. The total length and width of each street segment shall be determined using a rolo tape. All changes in segment width, utility cuts, street improvements, and repairs shall be measured with a rolo tape and the area subtracted from the total area of the segment. The measurement of areas within the segment that appear to not have slurry seal remaining or a complex pattern of areas with and without slurry seal remaining shall be made with a rolo tape using two methodologies. Method A for areas with simple patterns and Method 13 for complex patterns and shapes.

Tools

- Notebook and pencil

- Rolo Tape Measuring Wheel (RTMW) for lineal feet
- I 'Xi ' Cardboard Square
- Can of white marking paint
- Pocket knife
- 12-inch Ruler
- Black felt tip pen

Method A

Areas in all street segments that appear to not have slurry seal remaining in simple relatively easily defined shapes shall have the length and width of the shape measured with a rolo tape and the square footage subtracted from the total street segment square footage.

Method B

Areas in all street segments that appear to not have slurry seal remaining in complex patterns and relatively difficult to define shapes shall have the length and width of the shape measured with a rolo tape. Within the defined shape a representative one foot square box shall be created using a piece of cardboard, one (1) foot by one (1) foot, placed directly on the street and the outline of the box transferred to the surface of the street using a can of white marking paint. Within the box all areas without slurry seal remaining shall be measured with a 12-inch ruler. These measurements shall be added together and a percentage of slurry seal not remaining in the box shall be calculated and that percentage applied to the square footage of the entire shape. The shapes total square footage of slurry seal not remaining on the street shall be subtracted from the total street segment square footage.

The majority of complex patterns of areas with and without slurry seal shall include the tops of all aggregates in the asphalt concrete without slurry seal and the areas between the larger aggregate having slurry seal. To determine the percentage of area within the box that did not have slurry seal, every aggregate top without slurry seal within the square shall be measured, marking each counted aggregate top with a black felt tip marking pen, summing the total square inch area without slurry seal and dividing that figure by 144 square inches to determine the total percentage of area without slurry seal within one (1) square foot. The total percentage of area without slurry seal within one (1) square foot shall be multiplied by the total area of complex shapes and divided by 100 to determine the number of square feet without slurry seal within the shape. The total square feet without slurry seal for all shapes shall be deducted from the total square feet of each street segment to determine the percentage of slurry seal remaining within each street segment.

EXHIBIT “A-2”

SLURRY PROJECT LOCATIONS

[SEE ATTACHED]

Exhibit-A-2 Map

Street Name	From	To	S.F.	Type
E. 213th st	Avolon bl	Wilmington Ave	286,850	II
E. 219th st	Water st	E. End	5,230	I
Jay st	Cluff st	Edgar st	19,750	I
Renton st	Edgar st	Beck	17,000	I
E. 218th pl	Main	E. End	26,690	I
E. 218th st	Main	E. End	29,143	I
	Acarus ave	W. End	5,632	I
	Vera	E. End	15,550	I
Oakford ave	213th st	N. End	18,675	I
Water st	218th st	Albia st	17,430	I
Abila st	Martin	E. End	16,465	I
	Vera	E. End	15,550	I
Millpoint ave	213th st	N. End	8,990	I
	Balard	S. End	5,985	I
	213th st	Califon	19,277	I
Lostine ave	218th st	S. End	7,850	I
	215th pl	213th st	21,475	I
Legend ave	218th st	S. End	8,115	I
	213th st	215th pl	21,895	I
Pontine ave	Balard	S. End	9,715	I
	213th st	N. End	10,125	I
Abri st	Pontine ave	E. End	16,405	I
	Lostine ave	E. End	14,172	I
Bach st	Pontine ave	E. End	14,769	I
	Lostine ave	E. End	17,112	I
E. 220th st	Martin	Lostine	18,120	II
	Lostine ave	Badeau	10,730	II
	Badeau	Bach	9,480	II
	Bach	Vera	22,253	II
	Bonita st	Edgar st	43,060	II
Acarus ave	Vera	Carson	63,095	II
Ashmill st	Acarus ave	W. End	5,715	I
Cloverbrook	Acarus ave	W. End	9,181	I
Weiser ave	Acarus ave	N. End	7,032	I
	213th st	216th	32,357	I
Martin st	213th st	N. End	48,500	I
	213th st	Albreda st	9,805	I
	Albreda st	215th pl	20,435	I
Clarion dr	Pontine ave	E. End	5,575	I
	Oakford ave	E. End	3,515	I
Water st	Balard st	213th st	38,895	I
	213th	215th	26,513	I
Balard st	Water st	Pontine	19,680	I
215th pl	Vera st	E. End	86,362	II

Exhibit-A-2 Map

	Rosita	Peralta	7,512	I
	Weiser	E. End	9,850	I
	Perry	W. End	19,150	I
215thst	Water st	E. End	12,317	I
	Weiser	E. End	9,850	I
214th st	Water st	E. End	13,700	I
	Weiser	E. End	9,850	I
	Vera	E. End	18,750	I
Califon st	Millpoint	Martin	22,027	I
Albreda st	Martin	E. End	19,835	I
Susan dr	Perry	Peralta	16,161	I
Rosita dr	Susan	S. End	5,127	I
	215th	216th	8,691	I
Peralta dr	Susan	S. End	7,507	I
	215th	216th	8,691	I
Vera st	213th st	214th st	34,086	II
	214th st	215th pl	23,357	II
Troyton ln	213th st	S. End	23,248	I
Silvan pl	Troyton	E. End	12,690	I
Thomas dr	213th	Wingate	22,313	I
Wingate dr	Thomas	Alvar	7,911	I
Alvar pl	213th	215th	28,740	I
Perry st	213th	Susan	16,918	I
	Susan	Carson	31,333	I
216th st	Perry	Weiser	23,855	I
	Weiser	E. End	10,476	I
Bonita st	Renton	223rd st	24,465	II
	Carson	220th st	48,968	II
Dablon	Acarus ave	N. End	11,208	I
Vera st	220th st	Carson	49,240	II
Ackmar ave	220th st	N. End	12,175	I
Stevenson Park	Parking lot A		10,676	I
Stevenson Park	Parking lot B		22,779	I
Dominguez Park	Parking lot		30,348	I
Calas	Parking Lot		7,505	I
Del Amo	Parking lot		21,021	I
On Schedule S.F.			1,792,483	
Type I / II S.F.	1,072,417	720,066		

EXHIBIT “A-3”
SPECIFICATIONS AND “2018 GREEN BOOK”

[SEE ATTACHED]

TABLE 203-5.3.2

Sieve Size	Percentage Passing Sieves							
	Type Fine		Type I		Type II		Type III	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
3/8 inch (9.5 mm)	100	---	100	---	100	---	100	---
No. 4 (4.74 mm)	100	---	100	---	90	100	70	90
No. 8 (2.36 mm)	95	100	90	100	65	90	45	70
No. 16 (1.18 mm)	75	92	65	90	45	70	28	50
No. 30 (600 μ m)	50	75	40	60	30	50	19	34
No. 50 (300 μ m)	35	50	25	42	18	36	12	25
No. 100 (150 μ m)	15	30	15	30	10	24	7	18
No. 200 (75 μ m)	10	20	10	20	5	15	5	15

203-5.4 Emulsion-Aggregate Slurry (EAS).

203-5.4.1 General. EAS shall be a mixture of polymer modified cationic quick-set emulsified asphalt, aggregate, water, and a set control agent. EAS shall be specified by combined aggregate gradation and emulsified asphalt grade, i.e. Type II-PMCQS-1h-EAS. The combined aggregate gradation and emulsified asphalt grade shall be as specified in the Special Provisions or shown on the Plans.

203-5.4.2 Materials.

203-5.4.2.1 Aggregate. Aggregate shall be Type I, Type II, or Type III conforming to 203-5.3.

203-5.4.2.2 Emulsified Asphalt. Emulsified asphalt shall be PMCQS-1h conforming to the requirements shown in Table 203-3.4.5 (B) unless otherwise specified or shown on the Plans.

The percentage of emulsified asphalt and residual asphalt content shall conform to the requirements shown in Table 203- 5.4.2.2.

TABLE 203-5.4.2.2

	Test Method	Type I	Type II	Type III
Emulsified Asphalt %, by weight of dry aggregate.	---	17-20	14-18	11-15
Residual Asphalt	ASTM D6307 ¹	10 min.	7.5 min.	6.5 min.
Content, % by weight of dry aggregate ¹ .	or CT 382 ¹			

1. Sample size shall be 500 g minimum.

203-5.4.2.3 Water. Water shall conform to 203-3.2.

203-5.4.2.4 Not Used.

203-5.4.2.5 Set Control Agents. Set control agents shall be either Type II or Type V Portland cement conforming to 201-1.2.1, aluminum sulfate, or other material approved by the Engineer.

203-5.4.3 Mixing. Mixing shall conform to 302-4.

203-5.5 Rubberized Emulsion Aggregate Slurry (REAS).

203-5.5.1 General. REAS shall be a stable mixture of RPME, aggregate, water, and Portland cement. REAS shall be specified by combined aggregate gradation, i.e. Type II-REAS. The combined aggregate gradation shall be as specified in the Special Provisions or shown on the Plans.

203-5.5.2 Materials.

203-5.5.2.1 Aggregate. Aggregate shall be Type Fine, Type I, Type II, or Type III conforming to 203-5.3.

203-5.5.2.2 Rubberized Polymer Modified Emulsion. RPME shall conform to 203-3.4.5. The percentage of RPME and residual RPME solids shall conform to the requirements shown in Table 203-5.5.2.2.

TABLE 203-5.5.2.2

Test	Test Method	Type Fine		Type I		Type II		Type III	
		Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
RPME % by weight of dry aggregate ¹	ASTM D6307 ² or CT 382 ²	61	85	50	57	33	40	28	35
Residual RPME Solids ³		31	47	26	31	17	22	15	19

1. Must meet Residual RPME Solids.

2. Sample size shall be 500 g minimum.

3. Residual RPME Solids shall be determined by multiplying RPME % (ASTM D6307 or CT 382) by Residue by Evaporation of RPME % (ASTM D6934).

203-5.5.2.3 Water. Water shall conform to 203-3.2.

203-5.5.2.4 Portland Cement. Portland cement may be added to modify the viscosity and curing characteristics accordance with the approved mix design.

Portland cement shall be Type I/II or II/V conforming to 201-1.2.1 and shall not exceed 1.5 percent of the dry weight of the aggregate.

203-5.5.3 Central Plant Mixing.

203-5.5.3.1 General. Mixing at a central mixing plant shall conform to the following requirements:

- Component materials conforming to 203-5.5.2 shall be stored separately at the plant.
- Aggregate shall neither be stored nor transported in such a way that may cause segregation, degradation, or intermingling of different size aggregates.
- Materials shall be proportioned by weight into the mixing tank. Volumetric proportioning will not be permitted.
- The mixing tank shall be equipped with scales. The zero tolerance for the tank scales shall be 0.5 percent based on the total batch weight. The scales shall be calibrated and certified on a yearly basis in accordance with 4-1.7 or after every modification or repair.
- The mixing tank shall be equipped with a full sweep mixer/agitator with blades or paddles of a sufficient size and number and operated at a speed sufficient to produce a homogeneous mix. Should the blades, paddles, or other parts of the mixer/agitator become worn to such an extent to adversely affect the quality of the mix they shall be promptly replaced. Insufficient mixing or agitation within the mixing tank shall be corrected by either a reduction in the volume of component materials or other adjustments.
- Each batch shall be continuously mixed for 3 minutes or until all of the component materials are thoroughly blended, whichever is longer. The mixing time shall begin upon the introduction of the last component material. If the Engineer determines that the mixture is not thoroughly blended, the mixing time shall be increased.
- Mixed REAS shall be stored at the central mixing plant site in storage tanks equipped with an agitator of a similar configuration to the agitator in the mixing tank. The agitator shall be capable of continuous operation.

203-5.5.3.2 Transporting. REAS shall be transported from the central mixing plant to the Work site in trucks specifically designed for this purpose equipped with an agitator. REAS shall be continuously agitated during transport.

203-5.5.4 Work Site Mixing. Mixing at the Work site in continuous-flow mixers shall conform to 302-4.

203-6 ASPHALT CONCRETE.

203-6.1 General. Asphalt concrete shall be the product of mixing mineral aggregate and up to 20 percent reclaimed asphalt pavement (RAP) with asphalt binder at a central mixing plant.

When so specified in the Special Provisions, asphalt concrete may contain greater than 20 percent RAP and/or be produced using a warm mix asphalt (WMA) technology.

Unless otherwise specified in the Special Provisions or shown on the Plans, asphalt concrete mixtures shall conform to 203-6.4.

203-6.2 Materials.

203-6.2.1 Asphalt Binder. Asphalt binder shall be paving asphalt conforming to 203-1 or liquid asphalt conforming to 203-2.

203-6.2.2 Rock Products for Asphalt Concrete Mixtures. Coarse aggregate shall be crushed rock conforming to 200-1.2. Rock dust shall conform to 200-1.2. Sand shall conform to 200-1.5.2. Fine aggregate shall be sand, rock dust, mineral filler, or a blend of these materials.

203-6.2.3 Rock Products for Type III Asphalt Concrete Mixtures. Coarse aggregate shall be defined as material retained on the No. 4 (4.75 mm) sieve. Fine aggregate shall be defined as material passing the No. 4 (4.75 mm) sieve.

Aggregate for alternate asphalt concrete mixtures shall conform to 203-6.2.2 except as follows:

- a) Coarse and fine aggregate shall consist of one or a mixture of the following:
 - i. Broken or crushed rock or crushed gravel.
 - ii. Natural material having sufficient roughness to conform to the stabilometer requirements when confined within the grading limits shown in Table 203-6.5.4 (B).
- b) The percentage by weight of crushed particles, as determined in accordance with California Test 205, shall be:
 - i. For coarse aggregate, a minimum of 25 percent.
 - ii. For fine aggregate, a minimum of 20 percent for the portion passing the No. 4 (4.75 mm) sieve and retained on the No. 8 (2.36 mm) sieve.
- c) The weight loss, as determined in accordance with ASTM C131, shall neither exceed 15 percent during 100 revolutions nor exceed 52 percent during 500 revolutions.

203-6.2.4 Mineral Filler. Mineral filler shall consist of Portland cement or mechanically reduced rock. Mechanically reduced rock shall conform to the grading shown in Table 203-6.2.4 when tested in accordance with AASHTO T88.

signs. Requests for changes in the approved schedule shall be submitted to the Engineer for approval at least 3 Working Days before the street is scheduled to be sealed.

Streets where slurry seal is scheduled to be applied shall be closed from the time the Contractor begins to clean the street surface until the Engineer determines the slurry seal has achieved sufficient set to be opened to traffic.

Rock dust or sand shall be spread, as directed by the Engineer, to eliminate tracking or damage and to provide vehicular or pedestrian crossings. Rock dust or sand used for this purpose shall conform to 200-1.2 and 200-1.5, respectively.

302-4.6 Emulsion-Aggregate Slurry (EAS).

302-4.6.1 General. EAS shall conform to 203-5.4. Field adjustments to the set control agents may be made in accordance with the approved mix design. The amount of set control agents to be included shall be that amount necessary to ensure that quick-set EAS can support vehicular traffic within 60 minutes after the completion of application.

302-4.6.2 Mixing. Mixing shall be performed on the Work site by the use of continuous flow mixers conforming to 302-4.3.

302-4.6.3 Application Temperature. EAS shall not be applied if either the pavement or the ambient temperature is less than 50°F (10°C) and falling, but may be applied when the pavement and ambient temperatures are both above 45°F (7°C) and rising.

302-4.6.4 Aggregate Application Rate.

302-4.6.4.1 General. The aggregate application rate shall conform to the requirements shown in Table 302-4.6.4.1 unless otherwise specified in the Special Provisions or shown on the Plans.

TABLE 302-4.6.4.1

Aggregate Type	Aggregate Application Rate	
	MINIMUM	MAXIMUM
Type I	8 lbs/yd ² (4.3 kg/m ²)	10 lbs/yd ² (5.4 kg/m ²)
Type II	12 lbs/yd ² (6.5 kg/m ²)	15 lbs/yd ² (8.1 kg/m ²)
Type III	20 lbs/yd ² (10.8 kg/m ²)	25 lbs/yd ² (13.5 kg/m ²)

302-4.6.4.2 Corrective Action. When the aggregate application rate is less than the minimum shown in Table 302-4.6.4.1, the Contractor shall apply additional slurry seal material to the nonconforming areas as necessary to conform to the Specifications.

When the aggregate application rate exceeds the maximum shown in Table 302-4.6.4.1, the nonconforming material shall be removed and replaced, or be left in place at no additional cost to the Agency, as determined by the Engineer.

302-4.7 Rubberized Emulsion Aggregate Slurry (REAS).

302-4.7.1 General. REAS shall conform to 203-5.5.

302-4.7.2 Mixing. REAS shall be mixed by one of the following methods as specified in the Special Provisions:

- a) in a continuous flow mixer conforming to 302-4.3 at the Work site, or
- b) at a central mixing plant conforming to 203-5.5.3.

302-4.7.3 Transporting. Transporting of REAS mixed at a central mixing plant shall conform to 203-5.5.3.2.

302-4.7.4 Work Site Storage. REAS mixed at a central mixing plant may be stored at the Work site in tanks specifically designed for this purpose and which are equipped with an agitator similar to that in a central mixing plant. The agitator shall be capable of continuous operation.

302-4.7.5 Application Temperature. REAS shall not be applied if either the pavement or the ambient temperature is less than 55°F (13°C) and falling, but may be applied when the pavement and ambient temperatures are both above 50°F (10°C) and rising.

302-4.7.6 Application Rate.

302-4.7.6.1 Continuous-Flow Mixer. The aggregate application rate of REAS mixed on the Work site in a continuous-flow mixer shall conform to the requirements shown in Table 302-4.7.6.1 unless otherwise specified in the Special Provisions or shown on the Plans.

TABLE 302-4.7.6.1

Type	Aggregate Application Rate	
	Minimum	Maximum
Type Fine REAS	2.8 lbs/yd ² (1.5 kg/m ²)	3.4 lbs/yd ² (1.8 kg/m ²)
Type I REAS	4.4 lbs/yd ² (2.4 kg/m ²)	5.2 lbs/yd ² (2.8 kg/m ²)
Type II REAS	7.5 lbs/yd ² (4.1 kg/m ²)	10.0 lbs/yd ² (5.4 kg/m ²)
Type III REAS	15.7 lbs/yd ² (8.5 kg/m ²)	21.8 lbs/yd ² (14.7 kg/m ²)

302-4.7.6.2 Central Mixing Plant. The application rate of REAS mixed at a central mixing plant shall conform to the requirements shown in Table 302-4.7.6.2 unless otherwise specified in the Special Provisions or shown on the Plans.

TABLE 302-4.7.6.2

Type	Application Rate (REAS)	
	Minimum	Maximum
Type Fine REAS	5.0 lbs/yd ² (2.7 kg/m ²)	6.0 lbs/yd ² (3.2 kg/m ²)
Type I REAS	7.1 lbs/yd ² (3.8 kg/m ²)	8.4 lbs/yd ² (4.5 kg/m ²)
Type II REAS	11.3 lbs/yd ² (6.1 kg/m ²)	15.0 lbs/yd ² (8.1 kg/m ²)
Type III REAS	22.5 lbs/yd ² (12.2 kg/m ²)	28.1 lbs/yd ² (15.2 kg/m ²)

302-4.7.6.3 Corrective Action. When the application rate is less than the minimum shown in the tables above, the Contractor shall apply additional REAS to the nonconforming areas as necessary to conform to the Specifications.

When the application rate exceeds the maximum shown in the tables above, the nonconforming material shall be removed and replaced, or be left in place at no additional cost to the Agency, as determined by the Engineer.

302-4.8 Spreading and Application. Prior to spreading, the Contractor shall clean the existing pavement unless otherwise specified. Immediately ahead of the spreader truck, the existing pavement shall be pre-wetted by a pressurized water distribution system equipped with a fog-type spray bar capable of completely covering the surface of the pavement.

Slurry seal mixed at the Work site shall be spread by a spreader box attached to a continuous-flow mixer truck conforming to 302-4.3. REAS produced at a central mixing plant shall be spread by a spreader box attached to an agitator truck conforming to 203-5.5.3.2.

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

(new text shown in ***bold italics***, deleted text in ~~strikethrough~~)

I. Section 1.5, "Familiarity with Work," of the Agreement, is hereby revised to read in its entirety as follows:

"1.5 Familiarity with Work."

(a) By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder.

(b) Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any: (i) material Contractor believes may be hazardous waste as defined in Section 25117 of the Health & Safety Code required to be removed to a Class I, II, or III disposal site in accordance with existing law; (ii) subsurface, unknown or latent conditions, materially different from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different from those ordinarily encountered and generally recognized as inherent in services of the character provided for in this Agreement, and will materially affect the performance of the services hereunder.

(c) City shall promptly investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the services, shall issue a change order per Section 1.8 of this Agreement.

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

II. A new Section 1.10, "Product Warranties," is added to the Agreement, to read in its entirety as follows:

"1.10 Product Warranties"

(a) PMI hereby warrants that the Central Mix product ("Product") will not Fail (as defined in subsection (b), below) for 5 years from the date of application (the "Useful Life"), provided all persons involved in the installation of the Product substantially follow the guidelines, instructions, recommendations, and best practices published and/or provided by PMI, and PMI

warrants that all work that it or its subcontractors perform will conform to PMI's guidelines and best practices. The City hereby grants PMI and its representatives, in consultation with the City's inspector, the right to inspect, observe, monitor, provide instructions and recommend corrective actions to the City and any person installing the Product on all applications of the Product, including, without limitation, compliance with the guidelines and best practices for the application of the Product. The granting of this right to PMI and its representatives does not impose any additional duty on PMI or its representatives in addition to those duties outlined in this Agreement.

(b) Should the Product Fail, PMI shall, at its election, and within 30 days after determination of Failure, either repair or pay for the material cost of the Product to repair those areas of the Product covered by this warranty that Fail during its Useful Life, as well as for labor and other incidental costs (the "Labor and Incidental Costs"), including, but not limited to, any affected striping, markings, and reflective pavement markers; provided, however, that such Failure shall occur within one year from the date of Product application. For any Failure that occurs thereafter but during the Useful Life, PMI shall only be responsible for the repair or payment for the material cost of the Product, which shall also occur within 30 days after determination of Product Failure. For purposes of this Agreement, whether the Product has Failed must be evaluated using the Slurry Seal Survey Procedures set forth in Exhibit "A-1," attached hereto and incorporated herein by this reference. The term "Fail," "Fails," "Failure" or "Failed" shall mean that, prior to the expiration of the Useful Life, more than 10% of the native asphalt for any street segment (as defined in Exhibit "A-1") becomes uncovered (i.e., no longer covered by the Product), and such uncovering does not arise out of conditions outside of PMI's control, including, but not limited to, subgrade conditions, improper subbase and/or compaction, cracks, earthquakes, over watering, frequent sprinkler overspray, standing or ponding water, heavy truck or equipment traffic, corrosive or acid materials that may leak or spill on the Product, or a Force Majeure event.

(c) Provided PMI and the City mutually agree, either Steve Marvin, of LaBelle Marvin, or Steve Escobar, of Asphalt Pavement and Recycling Technology, shall make the exclusive determination of whether the Product Failed during its Useful Life and, if so, identify the areas and the square footage of Failure. If PMI elects not to perform the repair itself, then PMI shall pay 100% of the Product material cost for the percentage of Failed square footage, and for any related Labor and Incidental Costs to the extent there may be any such costs during the first year of the Product's Useful Life. If Steve Marvin or Steve Escobar are unavailable to make the determination of whether the Product Failed, an independent engineer approved by both the City and PMI with qualifications and experience as extensive as Steve Marvin's or Steve Escobar's shall be used. This warranty only applies to the Project that is the subject of this Agreement and no other location. If the evaluator concludes the Product Failed, PMI will bear the cost of the evaluation. If the evaluator concludes the Product did not Fail, the City will bear the cost of the evaluation.

(d) This warranty shall be ineffective unless the City provides PMI written notice of any problems, defects or perceived Failures of the Product within forty five (45) days of the City's discovery of the problem, defect or perceived Failure. PMI shall be given the opportunity to inspect, investigate, test, repair and remediate any alleged problems, defects or failures in connection with the Product prior to any repair by the City, and, repair without notice shall void and waive this warranty. Inspection, investigation, testing, repair, and remediation by PMI shall not operate as an admission of liability by PMI.

(e) EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, PMI HEREBY DISCLAIMS ALL OTHER EXPRESSED OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

III. A new Section 1.11, "Prevailing Wages," is added to the Agreement, to read in its entirety as follows:

"1.7 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, ("Prevailing Wage Laws"), which require the payment of prevailing wage rates, that Contractor and all subcontractors be registered with and pay the registration fee to the Department of Industrial Relations ("DIR"), Contractor be subject to the monitoring and enforcement by the DIR, and the performance of other requirements on "Public Works" and "Maintenance" projects. If the services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected and appointed officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws."

IV. A new Section 3.5, "Inspection and Final Acceptance," is hereby added to the Agreement, to read in its entirety as follows:

"3.5 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's work within forty-five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as to amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Articles 1 and 5, pertaining to warranty and indemnification and insurance, respectively."

V. The heading of Article 5, "INSURANCE AND INDEMNIFICATION" of the Agreement is hereby amended to read as follows:

“ARTICLE 5. INSURANCE, ~~AND~~ INDEMNIFICATION *AND BONDS*”

VI. Section 5.4, “Sufficiency of Insurer,” is hereby renamed “Performance, Labor, and Warranty Bonds” and amended to read in its entirety as follows:

“5.4 Performance, Labor, and Warranty Bonds.

Concurrently with execution of this Agreement, Contractor shall deliver to the City the following bonds:

(a) A performance bond securing the faithful performance of this Agreement, in an amount not less than 100% of the total compensation for this Agreement, as stated in Section 2.1.

(b) A labor and materials bond, securing the payment of all persons furnishing labor and/or materials in connection with the work under this Agreement, in an amount not less than 100% of the total compensation for this Agreement, as stated in Section 2.1.

All bonds shall be on a form approved by the City Clerk. The bonds shall each contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his/her power of attorney. The bonds shall be unconditional and remain in force during the entire term of the Agreement.

VII. A new Section 5.5, “Substitution of Securities,” is hereby added to the Agreement, to read in its entirety as follows:

“5.5 Substitution of Securities.

(a) In conformance with the State of California Public Contract Code, Part 5, Section 22300, Contractor may substitute securities for any monies withheld by the City to ensure performance under this Agreement.

(b) At the request and expense of Contractor, Contractor has the option of establishing an escrow account with a state or federally chartered bank which shall serve as an escrow agent, for Contractor’s direct deposit of securities as a substitute for retention earnings required to be withheld by the City. Upon Contractor’s completion of its obligations hereunder, as evidenced by the City’s acceptance of the work pursuant to Section 3.5 hereof, the escrow agent shall return the securities to Contractor. The escrow agent shall notify the City within ten (10) days after deposit of the securities. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention. Securities shall be held in the name of the City and shall designate Contractor as the beneficial owner. Alternatively, on written request of Contractor, the City shall make payments of the retention earnings directly to the escrow account.

VIII. Section 5.4, “Sufficiency of Insurer,” is hereby renumbered to Section 5.6.

IX. A new Section 7.10 “Liquidated Damages,” is hereby added to the Agreement, to read in its entirety as follows:

“7.10 Liquidated Damages

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of One Thousand Dollars (\$1,000.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit “D”). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.”

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks at the following rates:

		Quantity	Rate	Total Cost
A.	Furnish Type I REAS	72,593 gallons	\$2.49	\$180,756.57
	Furnish Type II REAS	72,007 gallons	\$2.11	\$151,934.77
B.	Total REAS Gallons/Cost	144,600 gallons		\$332,691.34
C.	Deliver to Project	144,600 gallons	14,090	\$14,090.00
D.	Tax	9.5%		\$32,944.28
Total Material and Delivery Cost plus Tax.				\$379,725.62

Equipment to Apply REAS.

Applicator Trucks.	2	4,032/day	\$60,480
Service Truck.	2	\$400/day	\$ 6,000.00
Slurry Pump.	1	\$500/day	\$ 7,500.00
Slurry Box.	1	\$250/day	\$ 3,750.00
Trailers Tanker	37	\$200/each	\$ 7,800.00
Door Hanger	1	\$600/Each	\$ 600.00
Total Equipment Cost**			\$86,130.00

F.	Labor			
	Apply REAS	15 days	5,320/day	\$79,800.00
	(2 drivers & pumper)			(\$34,200.00)
	(4 crew)			(\$45,600.00)
	Cover manholes,	15 days, 1 pp	\$760/day	\$11,400.00
	Water valves & Storm drains			
	Posting and Notifying	15 days 2 pp	\$1,520/day	\$22,800.00
	Traffic Control	15 days	\$1,500/day	\$22,500.00
Total Labor Cost.				\$136,500.00

	Bond Cost			\$6,391.00
Bond Cost				\$6,391.00

G.	Subcontractors			
	Sweeping	19 days	\$1,600/day	\$30,400.00

Total Subcontract Cost				\$30,400.00
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H.	TOTAL Cost	not to exceed		\$639,146.62*
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**** The rates for all equipment required to complete the Project will include any costs for fuel and maintenance thereof. The Total Estimated Cost includes the material, labor, equipment, and taxes.**

**** Traffic plan and permit are not included in the cost.**

- II. A retention of five percent (5%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Work is approved per Section 1.8.**
- IV. The City will compensate Contractor for the services performed upon submission of a valid invoice in accordance with Section 2.4. Each invoice is to include:**
 - A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.**
 - B. Line items for all materials and equipment properly charged to the Services.**
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.**
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.**
- V. The total compensation for the services shall not exceed the Contract Sum of \$639,146.62 as provided in Section 2.1 of this Agreement.**
- VI. The Contractor's billing rates for all personnel are indicated above.**

EXHIBIT "C-1"

EXECUTED CONTRACT BETWEEN PMI AND CITY OF LOS ANGELES

[SEE ATTACHED]

CITY OF LOS ANGELES

City of Los Angeles Purchasing Agent
111 E 1ST STREET
ROOM 110
LOS ANGELES CA 90012



ANNUAL REQUIREMENTS CONTRACT

Contract Number	Description	RFQ Number
ARC 40 59680 7	Slurry, Premix R.E.A.S.	
Contract Dates	Payment Terms	Delivery Days ARO
01-01-16 to 12-31-19	1% Net 30	1
Central Purchasing	Vendor	Bill To
Contact: Daisy Curaming Phone: (213) 978-0812 E-mail: daisy.curaming@lacity.org	000034616 PETROCHEM MATERIALS INNOVATION,LLC 6168 INNOVATION WAY CARLSBAD, CA 92008	City of Los Angeles Supply Svcs., Accounts Payable 555 Ramirez St., Space 312 Los Angeles CA 90012

Reason for Modification

Amendment 02-changed expiration date from 12/31/2018 to 12/3/2019. Discontinued Line 3, per End-user item is the same as Line 31.

Renewal Period Options

Option	Effective Date	Expiration Date
2	01-01-19	12-31-19
3	01-01-20	12-31-20
4	01-01-21	12-31-21
5	01-01-22	12-31-22

Line Items

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
1	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type I	GLL	\$2.3800		
Extended Description: Premix, Rubberized Emulsion, Aggregate Slurry, Type I: Slurry made in accordance with Standard Specifications for Public Works Construction 2012 Edition, Sections 203-3.4.4 to 203- 5.54, 302-4.6.4.1 to 302-5.1 and GSD/BSS Specifications for Modified Asphalts, Pavements and Processes, as well as any changes or updates going forward. Prices reflect asphalt prices at 1/1/2016 to \$355/ton (liquid)						
2	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type II	GLL	\$2.0100		
Extended Description: Premix, Rubberized Emulsion, Aggregate Slurry, Type II: All in accordance with Standard Specifications for Public Works Construction 2012 Edition, Sections 203-3.4.4 to 203- 5.54, 302-4.6.4.1 to 302-5.1 and GSD/BSS Specifications for Modified Asphalts, Pavements and Processes, as well as any changes or updates going forward.						
3	30121601	Premix, Rubberized Emulsion Aggregated Slurry, Type III	GLL	\$2.0100		
*** THIS LINE IS NOT ACTIVE *** Extended Description: Premix, Rubberized Emulsion Aggregated Slurry, Type III						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
4	30121400	Service, Regular Time Labor only (application of Central Pla	HUR	\$95.0000		
Extended Description: SERVICE, LABOR, PER PERSON: Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Regular rate: \$ 95.00 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
5	30121400	Service, Overtime Labor only (application of Central Plant M	HUR	\$142.0000		
Extended Description: SERVICE, LABOR, PER PERSON: Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Overtime rate: \$ 142.50 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
6	721417	Rental, Service/Haul Trucks (Bare)	DAY	\$200.0000		
Extended Description: Rental, Service/Haul Trucks (Bare) DAILY, WEEKLY & MONTHLY RENTAL RATES: (Bare) Daily: \$200.00 Minimum rental time: 1 Day Number of units available: 9						
7	721417	Rental, Application Trucks (Bare).	HUR	\$252.0000		
Extended Description: APPLICATION TRUCKS: (Bare) HOURLY RENTAL RATES: Within the City of Los Angeles, City Limits Hourly: \$252.00 Overtime: \$252.00 Sunday/Holiday: \$252.00 **Minimum rental time: 4 Hours** Number of units available: 22 APPLICATION TRUCKS: (Bare) HOURLY RENTAL RATES: NOT Within the City of Los Angeles, City Limits Hourly: \$252.00						
8	721417	Job Tankers, for delivery of Premix, R.E.A.S in trailer moun	EA	\$600.0000		
Extended Description: Job Tankers, for delivery of Premix, R.E.A.S. in trailer mounted 4,000 gallon tank to any location within the City of Los Angeles. JOB TANKER: As needed Delivery of Premix, R.E.A.S in trailer mounted 4,000 gallon tank to any location within the City of Los Angeles. \$600 Per Load						
9	301216	Asphalt Binder, Heavy Traffic, Structurally Modified Binder	STN	\$800.0000		
Extended Description: Heavy Traffic Binder: Structurally Modified Binder PG 76-10 (City of Los Angeles Custom Mix) Specifications as called in Attachment B of EV 4672, as provided by GSD Bureau of Standards.						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
10	78121603	Delivery, Trucking to AP1 Asphalt Binder, PG 76-10	STN	\$17.0000		
Extended Description: Delivery, Trucking to Asphalt Plant 1 of Asphalt Binder, Heavy Traffic, Structural Modified PG-10 (City of Los Angeles Custom Mix). Delivery, Trucking to Asphalt Plant I of Custom Blend, Heavy Traffic Asphalt Binder, Structural Modified PG-10.						
11	78121603	Delivery, Trucking - AP2, Asphalt Binder, PG 76-10	STN	\$19.0000		
Extended Description: Delivery, Trucking to Asphalt Plant II Asphalt Binder, Heavy Traffic, Structural Modified PG-10 (City of Los Angeles Custom Mix). Delivery, Trucking to Asphalt Plant II of Custom Blend, Heavy Traffic Asphalt Binder, Structural Modified PG 10.						
12	721417	Rental, of Job Tankers, for Delivery of Premix, R.E.A.S. not	SMI	\$3.0000		
Extended Description: Rental, of Job Tankers, for Delivery of Premix, R.E.A.S. not within the City of L.A., (price to include delivery fee and mileage from PMI's shipping Plant). For any location outside the City of L.A., delivery change from PMI Shipping Plant \$3.00 per mile (\$600.00 Minimum) For any location outside the City of L.A., delivery change from PMI Shipping Plant\$3.00 per mile (\$600.00 Minimum)						
13	301216	Fine Aggregate Slurry Mix: Premixed REAS.	GLL	\$3.0000		
Extended Description: Fine Aggregate Slurry Mix: Premixed REAS. Specifications as called in Attachment B of EV 4672, as provided by GSD Bureau of Standards.						
14	721417	Pump Rental, Specialized Slurry Pump, (pump capable of 250	DAY	\$500.0000		
Extended Description: Pump Rental, Specialized Slurry Pump. (Pump capable of 250 gallons centralized mix slurry/minute). DAILY RENTAL RATES: Daily: \$500.00 Minimum rental time: 1 day Number of units available: 12						
15	78121603	Delivery, Trucking (common carrier) AP1, Asphalt, Hvy Bndr	STN	\$17.0000		
Extended Description: Delivery, Trucking (common carrier) to Asphalt Plant I of Asphalt, Heavy Traffic Binder, (City of LA Custom Mix) Note* Please include Proof of Delivery/Bill of Lading from common carrier trucking along with their invoice to ensure prompt payment.						
16	78121603	Delivery, Trucking (common carrier) to AP2 of Asphalt, Heavy	STN	\$19.0000		
Extended Description: Delivery, Trucking (common carrier) to Asphalt Plant II of Asphalt, Heavy Traffic Binder, (City of LA Custom Mix). Note* Please include Proof of Delivery/Bill of Lading from common carrier trucking along with their invoice to ensure prompt payment.						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
17	721116	Plant Opening	EA	\$1,500.0000		
Extended Description: Plant Opening: For, Saturday, Sunday or Holidays Saturday \$ 1,500 Sunday \$ 1,500 Holiday \$ 1,500						
18	801116	Per Diem for Los Angeles.	DAY	\$150.0000		
Extended Description: Per Diem for Temp Los Angeles personnel						
19	721417	Rental, Storage Tank Portable for Jobsite Work.	DAY	\$1,000.0000		
Extended Description: Rental, Storage Tank Portable for Jobsite Work. PORTABLE STORAGE TANK RENTAL: DAILY, RENTAL RATES: Daily: \$ 1,000.00 Minimum rental time: 1 Day Number of units available: 5						
20	721417	Rental, Slurry Box	DAY	\$250.0000		
Extended Description: SLURRY BOX RENTAL: DAILY, RENTAL RATES: Daily: \$ 250.00 Minimum rental time: 1 Day Number of units available: 5						
21	721417	Rental, Delivery, Tanker - Bare, each load.	EA	\$200.0000		
Extended Description: TANKER (Bare) DELIVERY, RENTAL: DAILY, RENTAL RATES: \$ 200.00 per load Number of units available: 28						
22	801116	Labor, Posting & Notifying Affected Traffic Disruptions	HUR	\$0.0100		
*** THIS LINE IS NOT ACTIVE *** Extended Description: NOTE: THIS LINE IS BEING REPLACED BY LINES 26 (REG.RATE) & LINES 27 (OVERTIME RATE) LABOR: Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Regular rate: \$95.00 Overtime rate: \$142.50 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
23	551215	Hangtag/Doorknob Notices of Affected Traffic Disruptions	EA	\$0.3000		
Extended Description: HANG TAG NOTICES: \$0.30 Per Hang Tag Notice \$300.00 Minimum per job = (1,000 hang tags)						
24	55121710	Traffic Control, To furnish, place/maintain traffic signage,	DAY	\$1,500.0000		
Extended Description: Traffic Control, To furnish, place/maintain traffic signage, excluding electronic, of affected areas, (NO LABOR INVOLVED).						
25	721417	Rental, Sweeper, Mobile Units.(only if no showCity Sweepers)	HUR	\$0.0100		
*** THIS LINE IS NOT ACTIVE *** Extended Description: NOTE: THIS LINE IS BEING REPLACED BY LINES 28 (REG.RATE), LINES 29 (OVERTIME RATE) & LINES 30 (SUNDAY & HOLIDAY) HOURLY RENTAL RATES: Regular Rate Hourly: \$ 200.00 Overtime Rate Hourly: \$ 300.00 Sunday/Holiday Rate Hourly: \$ 400.00 Minimum rental time: 8 Hours Number of units available: 2						
26	801116	Labor, Reg .Rate, Posting & Notify Affected TrafficDisrupt	HUR	\$95.0000		
Extended Description: NOTE: THIS LINE IS REPLACEMENT FOR LINES 22 (REG.RATE)LABOR: Labor, Posting and Notifying of Affected Traffic Disruptions Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Regular rate: \$95.00 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
27	801116	Labor, Overtime Rate, Posting & Notify Affected Traffic	HUR	\$142.5000		
Extended Description: NOTE: THIS LINE IS REPLACEMENT FOR LINES 22 (Overtime Rate) LABOR: Labor, Posting and Notifying of Affected Traffic Disruptions Labor for work performed in accordance with the RFQ/Contract specifications and requirements attached. Overtime rate: \$142.50 Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon supplier's written notification to the Purchasing Agent.						
28	721417	Rental, Sweeper, Mobile Unit, Regular rate	HUR	\$200.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (REG.RATE), Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Regular Rate Hourly: \$ 200.00 Minimum rental time: 8 Hours Number of units available: 2						

Line	Commodity Code	CL Description	UOM	Unit Price	Markdown %	Markup %
29	721417	Rental, Sweeper, Mobile Units, Overtime Rate.	HUR	\$300.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (OVERTIME RATE) Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Overtime Rate Hourly: \$ 300.00 Minimum rental time: 8 Hours Number of units available: 2						
30	721417	Rental, Sweeper, Mobile Units, Sunday/ Holiday Rate.	HUR	\$400.0000		
Extended Description: NOTE: THIS LINE REPLACES LINES 25 (Sunday & Holiday RATE) Rental, Sweeper, Mobile Units, to be used "only" should City Sweepers not show up. HOURLY RENTAL RATES: Overtime Rate Hourly: \$ 400.00 Minimum rental time: 8 Hours Number of units available: 2						
31	30121601	1781 Slurry, Pilot Program	GLL	\$1.9600		
Extended Description: Pilot Program: 1781 Slurry						
32	30121601	Cold in Place Recycling, CIR, Pilot Program	GLL	\$3.6500		
Extended Description: Pilot Program: CIR						
33	30121601	Reclaimed Asphalt Pavement RAP, Central Mixed Slurry, Pilot	GLL	\$2.0100		
Extended Description: Pilot Program: Reclaimed Asphalt Pavement RAP, Centrally Mixed Slurry						
34	30121601	Emulsion, Cold Patch, Modified Emulsion, Pilot Program	GLL	\$3.6500		
Extended Description: Pilot Program: Emulsion Cold Patch, Modified Emulsion						

Authorized By

Annual Requirements Contract Clauses, Terms, and Conditions

Line Item Provisions

Clauses and Comments on PDF

Document Provisions

Section intentionally left blank.

Supporting Documents

CONTRACT COMMENTS

Document ID 59680	Document Phase Final	Document Description Slurry, Premix R.E.A.S.	Page 8 of 13
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Procurement Analyst: Daisy Curaming
E-mail address: daisy.curaming@lacity.org

Phone Number: 213-978-0812
Fax Number: 213-928-9511

Requirements Contract for: **Slurry, Pre-Mix R. E. A. S. ** Award No. 59680

Payment Terms: 1.88% net 30 days Delivery: 1 Days ARO RFQ No.:EV4672 Previous Contract: 59180

You are hereby notified of the award of this contract with the City of Los Angeles in accordance with RFQ Number EV4672, to furnish the City's annual requirements for the items and/or services identified in this document. The entire RFQ (including Attachment A and specifications) or any items thereof, addendums, and general conditions comprise the contract. The Quotation document signed by the appropriate contractor and by duly authorized City officials is on file in the Purchasing Agent's office.

NOTE: SALES TAX WILL BE ADDED AT TIME OF ORDER.

The following listed item(s) cover the only product(s) or service(s) approved for purchase under this contract. Products or services requested by the City and not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

SUPPLIER CONTACT:

Contact Person: Frank B. Hoffman
Title: C. F. O.
Telephone No.: 760-603-0961
Fax No.: 760-603-0962
E-Mail Address: frank@pmitechnology.com
24 Hour Contact No.: 760-271-0197

CONTRACT PURCHASE ORDERS:

Contract Purchase Orders will be issued during the contract period for materials or services as required. Supplier shall deliver no goods or services until a City department issues a Contract Purchase Order.

APPROVED CONTRACT ITEM PURCHASES:

The listed items cover the only products approved for purchase under this contract.

The City of Los Angeles will not pay any invoice covering the delivery of any merchandise that is not explicitly authorized by this contract. Any products requested by the City not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

RENEWAL OPTION:

The City reserves the right to renew this contract for five additional one(1) year period(s). All renewals shall be on an annual basis and under the same terms and conditions of the original contract.

ANNUAL PRICE ADJUSTMENT FOR LONG TERM FIXED PRICE CONTRACTS:

Unit Prices for each line item shall be fixed for one year from the contract start date. On contract anniversaries and renewals, unit prices may be adjusted for the next year in accordance with manufacturer's published price adjustments. Any price adjustments shall be mutually agreed upon by the City Purchasing Agent and the supplier. Price increases will not exceed a reasonable amount, supported by written documentation as indicated in the paragraph below and as determined by the City Purchasing Agent, for any price adjustment. Price reductions may be issued at any time.

The City reserves the right to terminate contract without further obligation by either party in event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied by each manufacturer(s) price list(s) with appropriate supporting documents acceptable to the City. Such documents shall include, but not be limited to manufacturer/distributor/dealer invoices, insurance bills, utility bills, freight bills, payroll records, etc.

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The request shall state the percentage increase and the revised price for each affected contract item.

No increases will be granted without prior approval of the City Purchasing Agent.

ESTIMATED EXPENDITURES:

Total expenditures for the life of this contract, including the initial term and all renewals or extensions, are estimated to be \$67,788,010. No guarantee can be given that this total will be reached or that it will not be exceeded. Supplier agrees to furnish more or less in accordance with actual contract requirements.

AUTHORIZED DISTRIBUTOR/DEALER:

The supplier indicates it is an authorized factory distributor/dealer for the manufacturer quoted, or has provided a formal Letter of Certification from the manufacturer, stating that the manufacturer will honor any warranty claims by the City for equipment, parts, and/or materials provided by the supplier.

The manufacturer will be responsible for any default of the supplier that is not corrected by the supplier in a timely and efficient manner. This responsibility includes replacing incorrect or defective parts, trouble shooting, and correcting problems that are traceable to the manufacturer.

LIQUIDATED DAMAGES FOR LATE DELIVERY:

Delivery delays beyond the Contract/Purchase Order delivery date will result in added expense to the City. The City of Los Angeles shall be paid damages for such delay. Inasmuch as the amount of damage is extremely difficult to ascertain, the supplier agrees to compensate the City in the amount of \$100.00 per calendar day beyond the delivery date specified. This amount shall be fixed as liquidated damages that the City will suffer by reason of such delay, and not as a penalty. The City shall have the right to deduct and retain the amount of such liquidated damages from any monies due the supplier.

The supplier shall be entitled to a reasonable extension of time for unavoidable delay in delivery due to causes not reasonably foreseeable by the parties at the time of the Contract/Purchase Order execution, and that are entirely beyond the control and without the fault or negligence of the supplier, including, but not limited to, acts of God or the public enemy, war or other national emergency making delivery temporarily impossible or illegal, acts or omissions of other suppliers, strikes and labor disputes not brought on by any act or omission of the supplier, fire, flood, epidemics, quarantines, or freight embargoes.

INSURANCE:

The suppliers General Liability and Workers Compensation Insurance Certificates are recorded in the City Administrative Officer's Risk Management Track4LA database.

REPRESENTATIVE SAMPLE TESTING:

Representative samples may be taken from each delivery and tested for compliance with specifications. Testing costs will be paid by the City for samples that comply. If samples do not comply with requirements, the expense of testing will be charged to the supplier, and delivery will be rejected. The supplier will be required to pick up the rejected material and to make a new delivery within 5 days of notification by the City. Notification will be made by the most effective means to the supplier's designated representative.

SALES/USE TAX PAID DIRECTLY TO STATE:

Since the supplier has not indicated it has a permit to collect California State sales tax, the City will pay use tax directly to the State of California. No sales tax will be paid to the supplier.

OTHER GOVERNMENT AGENCY PURCHASES:

Other government agencies may make purchases using the prices, terms and conditions of this contract.

OFF-PEAK DELIVERY AND PICK-UP HOURS:

The City of Los Angeles requires off-peak delivery and pickup of all commodities by City suppliers between the hours of 9:00 AM and 3:30 PM, Monday through Friday, to reduce traffic and vehicle

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emissions during morning and afternoon commute times. Suppliers are determined in compliance if the actual delivery or pickup time provides for arrival at the City location on or after 9:00 AM and on or before 3:30 PM.

Unless otherwise instructed by authorized City personnel, suppliers are required to schedule deliveries and/or pickups during the off-peak period. City departments sharing facilities that order products from the same supplier shall make every effort to coordinate off-peak deliveries and pickups with the supplier.

Emergency and critical need orders, or other non-conforming deliveries and pickups specifically requested by City departments shall not constitute a violation of this requirement. In addition, circumstances that are outside of the supplier's control and documented by the supplier to the ordering department's or the City Purchasing Agent's satisfaction shall not constitute a violation of this requirement.

Noncompliance with this requirement may result in cancellation of a Purchase Order(s) or termination of Contract(s) between the City and the supplier.

If circumstances related to department operations preclude regularly scheduled deliveries between the hours of 9:00 AM and 3:30 PM, Monday through Friday, the affected City department shall notify the supplier of any allowable exception(s).

SHIPPING CHARGES:

Please prepay and add shipping or delivery charges to your invoice. Please include a copy of your freight bill with your invoice.

Document ID	Document Phase	Document Description	Page
Procurement Analyst: Martha Medina		Phone Number: 213-928-9536	11
E-mail Address: Martha.Medina@lacity.org		Slurry, Pre-Mix R.E.A.S. 213-928-9511	of 13

Requirements Contract for: ****Slurry, Pre-Mix R.E.A.S. **** Award No. 59680

Payment Terms: 1.88% net 30 days Delivery: 1 Days ARO RFQ No.:EV4672 Previous Contract: 59180

Renewal Options: 5 Option Date 1 = --/--/-- Option Date 2 = --/--/-- Option Date 3 = --/--/--
Options Granted: 0 Option Date 4 = --/--/-- Option Date 5 = --/--/--

You are hereby notified of the award of this contract with the City of Los Angeles in accordance with RFQ Number EV4672, to furnish the City's annual requirements for the items and/or services identified in this document. The entire RFQ (including Attachment A and specifications) or any items thereof, addendums, and general conditions comprise the contract. The Quotation document signed by the appropriate contractor and by duly authorized City officials is on file in the Purchasing Agent's office.

NOTE: SALES TAX WILL BE ADDED AT TIME OF ORDER.

The following listed item(s) cover the only product(s) or service(s) approved for purchase under this contract. Products or services requested by the City and not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

SUPPLIER CONTACT:

Contact Person: Frank B. Hoffman, Title: C. F. O.
Telephone No.: 760-603-0961
Fax No.: 760-603-0962
E-Mail Address: frank@pmitechnology.com
24 Hour Contact No.: 760-271-0197

CONTRACT PURCHASE ORDERS:

Contract Purchase Orders will be issued during the contract period for materials or services as required. Supplier shall deliver no goods or services until a City department issues a Contract Purchase Order.

APPROVED CONTRACT ITEM PURCHASES:

The listed items cover the only products approved for purchase under this contract.
The City of Los Angeles will not pay any invoice covering the delivery of any merchandise that is not explicitly authorized by this contract. Any products requested by the City not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

RENEWAL OPTION:

The City reserves the right to renew this contract for 5 additional one (1) year period(s). All renewals shall be on an annual basis and under the same terms and conditions of the original contract.

ANNUAL PRICE ADJUSTMENT FOR LONG TERM FIXED PRICE CONTRACTS:

Unit Prices for each line item shall be fixed for one year from the contract start date. On contract anniversaries and renewals, unit prices may be adjusted for the next year in accordance with manufacturer's published price adjustments. Any price adjustments shall be mutually agreed upon by the City Purchasing Agent and the supplier. Price increases will not exceed a reasonable amount, supported by written documentation as indicated in the paragraph below and as determined by the City Purchasing Agent, for any price adjustment. Price reductions may be issued at any time.

The City reserves the right to terminate contract without further obligation by either party in event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied by each manufacturer(s) price list(s) with appropriate supporting documents acceptable to the City. Such documents shall include, but not be limited to manufacturer/distributor/dealer invoices, insurance bills, utility

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Contractor shall perform all work timely in accordance with the following schedule:

	<u>Days to Perform</u>	<u>Deadline Date</u>
A. Pre-construction meeting	1	10 days after contract is awarded by the City
B. Apply material (all areas)	15 working days	From the starting date specified in the Notice to Proceed
C. Striping/First Coat (all areas)	1	After the 16 working days specified in the Notice to Proceed
D. Striping/Second Coat (all areas)	1	After 21 working days specified in the Notice to Proceed

II. Contractor shall deliver the following tangible work products to the City by the following dates.

- A. Pre-Construction Meeting Agenda by _____ (Pre-Construction Meeting)
- B. Work and Street Schedule to be presented at the Pre-Construction Meeting
- C. Daily Weight Tickets for Types I and II REAS
- D. Financial Status Recap after each week

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.