

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda date: September 18, 2023
Reviewed by: NA

Subject: Annual Storm Drain Rehabilitation Program (CIP No. 35000) – 2023 Storm Drain Repair Project – Award of Construction Contract No. C23-39 and Construction Management Services Contract No. C23-66

Report By: David Lam, Associate Engineer
Allison Carrillo, CIP Program Manager
Devora Zauderer, Public Works Program Manager
Mark Hurley, Public Works Director/City Engineer

SUMMARY

The 2023 Storm Drain Repair Project (Project) is ready to proceed to construction. The issue before Council is to award Construction Contract No. C23-39 to GradeTech Inc. (GradeTech) in the amount of \$135,660.00 and an associated Construction Management Contract No. C23-66 to CAP Engineering in the not-to-exceed amount of \$28,525.00. The Project is part of the City’s Annual Storm Drain Rehabilitation Program (CIP No. 35000). No program budget adjustments are recommended at this time.

STAFF RECOMMENDATION

That the Council adopt Resolution No. 2023-66:

1. Authorizing the City Manager to award Contract No. C23-39 to GradeTech to construct the 2023 Storm Drain Repair Project for the not-to-exceed amount of \$135,660.00; and
2. Authorizing the City Manager to execute Contract No. C23-66 with CAP Engineering to provide construction management services for the not-to-exceed amount of \$28,525.00

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The project is Categorically Exempt from CEQA pursuant to Section 15301 “Existing Facilities” of the CEQA Guidelines, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing sewer with negligible expansion of use.

BACKGROUND

The City owns and maintains approximately 12 miles of storm drain pipelines and culverts. Maintenance staff is responsible for day-to-day management of the storm drain system, including annual storm drain flushing ahead of the wet season, visual monitoring for accumulated material, and cleaning storm drain inlets of leaves and debris before and during large rain events. The City also engages in street sweeping and trash capture services to ensure that debris from the roadway on a regular basis, emergency response to flooding and other problems during rain events.

Projects under the Annual Storm Drain Rehabilitation Program (CIP No. 35000) currently focus on localized storm drain repairs and rehabilitation of issues identified during maintenance and operation of the storm drain system. Generally, storm drain repairs may be completed by staff, aggregated into dedicated storm drain repair projects under the Program, or implemented as part of a road rehabilitation project under the Annual Street Rehabilitation Program (CIP No. 21000).

The Project scope consists of repairs that were best executed independent of other planned projects. Project designs were completed by HydroScience Engineers and work consists of repairs and replacements at 18 locations around the city, including:

- Tread plate replacements with higher load bearing plates (9)
- Drain inlet and junction box replacements (5)
- Drain concrete repairs (2)
- Drain grate replacement (1), and
- Storm drain pipeline and manhole replacement (1).

On June 20, 2023, Council authorized the City Manager to advertise the Notice Inviting Bids for the Project (Resolution No. 2023-45). The Notice Inviting Bids was twice advertised in the local newspaper, posted on the City website, and distributed to several Bay Area builder’s exchanges. The Project was advertised for bid beginning on July 27, 2023.

DISCUSSION

On August 29, 2023, the City received and opened seven (7) bids for the construction of the 2023 Storm Drain Repair Project. The engineer’s estimate for this work is \$187,000.

The range of the seven bids is tabulated below.

BIDDER	BASE BID AMOUNT
FJ&I Engineering	\$186,990.00
Smelly Mel’s Plumbing	\$151,750.00
Pipe and Plant Solutions	\$324,740.24
Golden Bay Construction	\$211,469.00
Corcus Construction, Inc.	\$267,260.00
GradeTech Inc.	\$135,660.00
Glosage Engineering	\$224,530.50

The bids were reviewed and the lowest apparent bidder was found to be responsive and complete.

Per the process described in AMC §13-16, Public Works Department staff recommends that the construction contract be awarded to the lowest responsible bidder, GradeTech, with a base bid of \$135,660.00.

Additionally, staff requested a proposal from CAP Engineering (CAP) for construction management services. CAP Engineering has a strong understanding of the Project and has demonstrated a good working relationship with Albany and its residents in past projects, such as with Albany’s stormwater business inspections and the Marin Undergrounding Phase 1 projects. Staff reviewed the proposal and determined that it was competitive with expected management costs for a project of similar size to the 2023 Storm Drain Repair Project.

The contractor is required to complete the Project within 150 calendar days from the commencement date which included similar storm drain related repairs and improvements.

ENVIRONMENTAL CLEARANCE

The project is Categorically Exempt from CEQA pursuant to Section 15301 “Existing Facilities” of the CEQA Guidelines, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing sewer with negligible expansion of use.

SUSTAINABILITY & SOCIAL EQUITY CONSIDERATIONS

Storm drain rehabilitation projects help reduce the risk of flooding by improving inlet conditions and improving maintenance access. Storm drain improvements reduce standing water and improve pedestrian and bicycle accessibility. This reduces water-borne pollution and promotes pedestrian pathway and bicycling accessibility, benefiting community health.

FINANCIAL SUMMARY

The 2023 Storm Drain Repair Project is part of the City’s Annual Storm Drain Rehabilitation Program (CIP No. 35000). The budget for this program was appropriated by Council as part of the City’s Capital Improvement Program in November 2020 (Resolution No. 2020-108).

The following are the estimated costs of construction:

Project Expenditures	Cost
Construction (C23-39)	\$135,660
Construction Management (C23-66)	\$28,525
Contingency (10%)	\$16,500
Total Expenditures (estimated)	\$180,685

The following is the appropriated budget for the program:

<u>Funding Source</u>	<u>Amount</u>
Measure F Street & Storm Drain Parcel Tax (Fund 2006)	\$750,000
Total	\$750,000

As of September 1, 2023, the City has spent or encumbered approximately \$104,000 of the appropriated program budget to date. No budget adjustments are recommended at this time.

Attachments:

- 1. Resolution No. 2023-66
- 2. Bid Tabulation for Contract No. C23-39
- 3. Contract No. C23-39 GradeTech Inc.
- 4. Contract No. C23-66 CAP Engineering, Construction Management
- 5. 2023 Storm Drain Repair Project Locations Map

1 C23-66 with CAP Engineering to provide construction management services for the not-to-
2 exceed amount of \$28,525.00, using funds previously appropriated as part of the Annual Storm
3 Drain Rehabilitation Program (CIP No. 35000).

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AARON TIEDEMANN, MAYOR
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No.	Description	Est. Qty.	Unit	Engineer's Estimate		F&I Engineering		Smelly Mel's Plumbing		Pipe and Plant Solutions	
				Bid Unit amount	Total Amount	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount
General Bid Items											
1	Mobilization	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 8,000.00	\$ 8,000.00	\$ 2,500.00	\$ 2,500.00	\$ 7,697.81	\$ 7,697.81
2	Water Pollution Control	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 1,000.00	\$ 1,000.00	\$ 4,618.69	\$ 4,618.69
3	Traffic Control	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00	\$ 15,395.63	\$ 15,395.63
4	Sheeting, Shoring, & Bracing	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,000.00	\$ 3,000.00	\$ 14,625.84	\$ 14,625.84
5	Disposal	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 4,000.00	\$ 4,000.00	\$ 3,848.91	\$ 3,848.91
Masonic St and Dartmouth Ave: Curb and Gutter Replacement											
6	Demo - Existing Curb and Gutter	38	LF	\$ 75.00	\$ 2,850.00	\$ 25.00	\$ 950.00	\$ 100.00	\$ 3,800.00	\$ 174.07	\$ 6,614.66
7	Install - New Curb & Gutter	38	LF	\$ 120.00	\$ 4,560.00	\$ 75.00	\$ 2,850.00	\$ 200.00	\$ 7,600.00	\$ 261.11	\$ 9,922.18
Tread Plate Replacement											
8	Reconstructing and Grinding for Bearing	9	EA	\$ 220.00	\$ 1,980.00	\$ 2,000.00	\$ 18,000.00	\$ 400.00	\$ 3,600.00	\$ 1,288.56	\$ 11,597.04
9	Furnish and Install New Type A Tread Plate	5	EA	\$ 2,000.00	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00	\$ 850.00	\$ 4,250.00	\$ 4,015.92	\$ 20,079.60
10	Furnish and Install New Type B Tread Plate	5	EA	\$ 2,000.00	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00	\$ 1,150.00	\$ 5,750.00	\$ 3,631.03	\$ 18,155.15
11	Demo and Sawcut Existing Concrete Sidewalk	2	EA	\$ 220.00	\$ 440.00	\$ 2,500.00	\$ 5,000.00	\$ 500.00	\$ 1,000.00	\$ 1,673.45	\$ 3,346.90
12	Sawcut and Remove Curb and Gutter	29	LF	\$ 75.00	\$ 2,175.00	\$ 25.00	\$ 725.00	\$ 100.00	\$ 2,900.00	\$ 174.54	\$ 5,061.66
13	Form and Pour Concrete - Form New Sidewalk	42	SF	\$ 75.00	\$ 3,150.00	\$ 35.00	\$ 1,470.00	\$ 200.00	\$ 8,400.00	\$ 88.85	\$ 3,731.70
14	Form and Pour Concrete - New Curb and Gutter	33	LF	\$ 150.00	\$ 4,950.00	\$ 75.00	\$ 2,475.00	\$ 200.00	\$ 6,600.00	\$ 88.85	\$ 2,932.05
15	Furnish and Install read Plate - Terrace Park Outlet	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 800.00	\$ 800.00	\$ 5,216.78	\$ 5,216.78
16	Furnish and Install New 2'x2' Rectangular Tread Plate	1	EA	\$ 1,650.00	\$ 1,650.00	\$ 2,500.00	\$ 2,500.00	\$ 850.00	\$ 850.00	\$ 4,811.11	\$ 4,811.11
Neilson St & Terrace St: Storm Drain Improvement											
17	Demo - Existing Inlets and Junction Structures	1	LS	\$ 1,500.00	\$ 1,500.00	\$ 2,500.00	\$ 2,500.00	\$ 12,000.00	\$ 12,000.00	\$ 31,402.06	\$ 31,402.06
18	Demo - Abandon SD Chnnels and Structures by Filling with 2 Sack Slurry	25	CF	\$ 100.00	\$ 2,500.00	\$ 250.00	\$ 6,250.00	\$ 800.00	\$ 20,000.00	\$ 178.45	\$ 4,461.25
19	18" N-12 HDPE Pipe	67	LF	\$ 550.00	\$ 36,850.00	\$ 350.00	\$ 23,450.00	\$ 400.00	\$ 26,800.00	\$ 657.81	\$ 44,073.27
20	Precast Type "A" Inlet	1	EA	\$ 6,600.00	\$ 6,600.00	\$ 8,000.00	\$ 8,000.00	\$ 2,000.00	\$ 2,000.00	\$ 11,898.68	\$ 11,898.68
21	Precast SD Manhole	1	EA	\$ 12,100.00	\$ 12,100.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 16,263.27	\$ 16,263.27
22	Inside Drop	1	LS	\$ 5,500.00	\$ 5,500.00	\$ 8,000.00	\$ 8,000.00	\$ 4,000.00	\$ 4,000.00	\$ 11,762.65	\$ 11,762.65
23	New Curb and Gutter	10	LF	\$ 120.00	\$ 1,200.00	\$ 75.00	\$ 750.00	\$ 200.00	\$ 2,000.00	\$ 467.69	\$ 4,676.90
1041 Santa Fe Ave: Storm Drain Repair											
24	Sawcut and Demo Existing Frame and Gutter	3	EA	\$ 900.00	\$ 2,700.00	\$ 2,500.00	\$ 7,500.00	\$ 100.00	\$ 300.00	\$ 769.78	\$ 2,309.34
25	Sawcut and Remove Curb and Gutter	8	LF	\$ 75.00	\$ 600.00	\$ 25.00	\$ 200.00	\$ 100.00	\$ 800.00	\$ 826.74	\$ 6,613.92
26	Install New Curb & Gutter	8	LF	\$ 120.00	\$ 960.00	\$ 75.00	\$ 600.00	\$ 200.00	\$ 1,600.00	\$ 1,116.18	\$ 8,929.44
27	Install New Type "C" Frames, Grates, and Concrete	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 400.00	\$ 400.00	\$ 8,467.59	\$ 8,467.59
Cleveland Ave: Drain Inlet Grate Replacement											
28	Remove Existing and Install Bike Friendly Grate	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 2,500.00	\$ 2,500.00	\$ 900.00	\$ 900.00	\$ 5,656.25	\$ 5,656.25
1026 Talbot Ave: Storm Drain Inlet Replacement & Improvement											
29	Sawcut and Demo Existing Frame and Grate	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00	\$ 1,150.00	\$ 1,150.00	\$ 3,079.13	\$ 3,079.13
30	Sawcut and Remove Curb	7	LF	\$ 75.00	\$ 525.00	\$ 25.00	\$ 175.00	\$ 100.00	\$ 700.00	\$ 577.32	\$ 4,041.24
31	Install New Curb	7	LF	\$ 120.00	\$ 840.00	\$ 75.00	\$ 525.00	\$ 200.00	\$ 1,400.00	\$ 923.73	\$ 6,466.11
32	Install New Type "A" Frame, Grate, and Concrete Apron	1	EA	\$ 11,000.00	\$ 11,000.00	\$ 8,000.00	\$ 8,000.00	\$ 600.00	\$ 600.00	\$ 2,768.11	\$ 2,768.11
1435 Thousand Oaks Blvd & San Carlos Ave: Concrete Curb Repair											
33	Demo Existing Curb	9	LF	\$ 75.00	\$ 675.00	\$ 25.00	\$ 225.00	\$ 40.00	\$ 360.00	\$ 269.42	\$ 2,424.78
34	Demo Sidewalk	27	SF	\$ 75.00	\$ 2,025.00	\$ 25.00	\$ 675.00	\$ 10.00	\$ 270.00	\$ 192.44	\$ 5,195.88
35	Form and Pour Concrete - For New Sidewalk	27	SF	\$ 150.00	\$ 4,050.00	\$ 35.00	\$ 945.00	\$ 50.00	\$ 1,350.00	\$ 76.97	\$ 2,078.19
36	Form and Pour Concrete - New Curb Conform	9	LF	\$ 120.00	\$ 1,080.00	\$ 75.00	\$ 675.00	\$ 200.00	\$ 1,800.00	\$ 153.95	\$ 1,385.55
37	Reinforce Concrete Mesh	27	SF		\$ -	\$ 150.00	\$ 4,050.00	\$ 10.00	\$ 270.00	\$ 115.96	\$ 3,130.92
TOTAL items (Base Bid) 1 -37					\$ 186,960.00	\$ 186,990.00	\$ 151,750.00	\$ 324,740.24			

Italicized highlighted numbers denote corrected dollar amount based on bid unit amount and estimated quantity.

* Contractor Bid Corrected

** APPARENT LOW BIDDER (based on lowest total of base bid ONLY)

Abbreviations: = Allowance LF = Linear Foot
CF = Cubic Feet LS = Lump Sum
CY = Cubic Yard SF = Square Feet
EA = Each TON = Ton (2000 lbs)
LB = Pounds

				Engineer's Estimate		Golden Bay Construction		Corcus Constrution, Inc		GradeTech Inc**		Glosage Engineering	
No.	Description	Est. Qty.	Unit	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount	Bid Unit amount	Total Amount
General Bid Items													
1	Mobilization	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 35,980.00	\$ 35,980.00	\$ 13,000.00	\$ 13,000.00	\$ 4,200.00	\$ 4,200.00	\$ 8,800.00	\$ 8,800.00
2	Water Pollution Control	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 1,000.00	\$ 1,000.00	\$ 13,000.00	\$ 13,000.00	\$ 2,125.00	\$ 2,125.00	\$ 6,300.00	\$ 6,300.00
3	Traffic Control	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 19,200.00	\$ 19,200.00	\$ 13,000.00	\$ 13,000.00	\$ 900.00	\$ 900.00	\$ 7,000.00	\$ 7,000.00
4	Sheeting, Shoring, & Bracing	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 1,800.00	\$ 1,800.00	\$ 13,000.00	\$ 13,000.00	\$ 2,000.00	\$ 2,000.00	\$ 3,200.00	\$ 3,200.00
5	Disposal	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 12,000.00	\$ 12,000.00	\$ 13,000.00	\$ 13,000.00	\$ 1,000.00	\$ 1,000.00	\$ 4,000.00	\$ 4,000.00
Masonic St and Dartmouth Ave: Curb and Gutter Replacement													
6	Demo - Existing Curb and Gutter	38	LF	\$ 75.00	\$ 2,850.00	\$ 30.00	\$ 1,140.00	\$ 40.00	\$ 1,520.00	\$ 131.60	\$ 5,000.80	\$ 22.00	\$ 836.00
7	Install - New Curb & Gutter	38	LF	\$ 120.00	\$ 4,560.00	\$ 120.00	\$ 4,560.00	\$ 160.00	\$ 6,080.00	\$ 71.10	\$ 2,701.80	\$ 52.00	\$ 1,976.00
Tread Plate Replacement													
8	Reconstructing and Grinding for Bearing	9	EA	\$ 220.00	\$ 1,980.00	\$ 1,000.00	\$ 9,000.00	\$ 1,600.00	\$ 14,400.00	\$ 1,344.40	\$ 12,099.60	\$ 3,600.00	\$ 32,400.00
9	Furnish and Install New Type A Tread Plate	5	EA	\$ 2,000.00	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00	\$ 2,400.00	\$ 12,000.00	\$ 1,598.20	\$ 7,991.00	\$ 3,500.00	\$ 17,500.00
10	Furnish and Install New Type B Tread Plate	5	EA	\$ 2,000.00	\$ 10,000.00	\$ 2,500.00	\$ 12,500.00	\$ 2,400.00	\$ 12,000.00	\$ 1,598.20	\$ 7,991.00	\$ 3,600.00	\$ 18,000.00
11	Demo and Sawcut Existing Concrete Sidewalk	2	EA	\$ 220.00	\$ 440.00	\$ 800.00	\$ 1,600.00	\$ 1,050.00	\$ 2,100.00	\$ 1,250.00	\$ 2,500.00	\$ 2,300.00	\$ 4,600.00
12	Sawcut and Remove Curb and Gutter	29	LF	\$ 75.00	\$ 2,175.00	\$ 90.00	\$ 2,610.00	\$ 60.00	\$ 1,740.00	\$ 86.20	\$ 2,499.80	\$ 22.00	\$ 638.00
13	Form and Pour Concrete - Form New Sidewalk	42	SF	\$ 75.00	\$ 3,150.00	\$ 40.00	\$ 1,680.00	\$ 120.00	\$ 5,040.00	\$ 35.50	\$ 1,491.00	\$ 43.00	\$ 1,806.00
14	Form and Pour Concrete - New Curb and Gutter	33	LF	\$ 150.00	\$ 4,950.00	\$ 160.00	\$ 5,280.00	\$ 120.00	\$ 3,960.00	\$ 61.10	\$ 2,016.30	\$ 53.00	\$ 1,749.00
15	Furnish and Install read Plate - Terrace Park Outlet	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 3,500.00	\$ 3,500.00	\$ 2,800.00	\$ 2,800.00	\$ 1,598.20	\$ 1,598.20	\$ 3,800.00	\$ 3,800.00
16	Furnish and Install New 2'x2' Rectangular Tread Plate	1	EA	\$ 1,650.00	\$ 1,650.00	\$ 3,100.00	\$ 3,100.00	\$ 2,800.00	\$ 2,800.00	\$ 1,598.20	\$ 1,598.20	\$ 3,800.00	\$ 3,800.00
Neilson St & Terrace St: Storm Drain Improvement													
17	Demo - Existing Inlets and Junction Structures	1	LS	\$ 1,500.00	\$ 1,500.00	\$ 5,300.00	\$ 5,300.00	\$ 16,000.00	\$ 16,000.00	\$ 2,200.00	\$ 2,200.00	\$ 7,500.00	\$ 7,500.00
18	Demo - Abandon SD Chnnels and Structures by Filling with 2 Sack Slurry	25	CF	\$ 100.00	\$ 2,500.00	\$ 35.00	\$ 875.00	\$ 350.00	\$ 8,750.00	\$ 392.00	\$ 9,800.00	\$ 44.50	\$ 1,112.50
19	18" N-12 HDPE Pipe	67	LF	\$ 550.00	\$ 36,850.00	\$ 450.00	\$ 30,150.00	\$ 750.00	\$ 50,250.00	\$ 354.70	\$ 23,764.90	\$ 678.00	\$ 45,426.00
20	Precast Type "A" Inlet	1	EA	\$ 6,600.00	\$ 6,600.00	\$ 5,635.00	\$ 5,635.00	\$ 10,000.00	\$ 10,000.00	\$ 6,552.10	\$ 6,552.10	\$ 4,500.00	\$ 4,500.00
21	Precast SD Manhole	1	EA	\$ 12,100.00	\$ 12,100.00	\$ 12,650.00	\$ 12,650.00	\$ 14,500.00	\$ 14,500.00	\$ 8,883.00	\$ 8,883.00	\$ 14,800.00	\$ 14,800.00
22	Inside Drop	1	LS	\$ 5,500.00	\$ 5,500.00	\$ 2,600.00	\$ 2,600.00	\$ 9,000.00	\$ 9,000.00	\$ 11,527.80	\$ 11,527.80	\$ 6,300.00	\$ 6,300.00
23	New Curb and Gutter	10	LF	\$ 120.00	\$ 1,200.00	\$ 240.00	\$ 2,400.00	\$ 300.00	\$ 3,000.00	\$ 270.00	\$ 2,700.00	\$ 52.00	\$ 520.00
1041 Santa Fe Ave: Storm Drain Repair													
24	Sawcut and Demo Existing Frame and Gutter	3	EA	\$ 900.00	\$ 2,700.00	\$ 500.00	\$ 1,500.00	\$ 1,050.00	\$ 3,150.00	\$ 183.30	\$ 549.90	\$ 1,800.00	\$ 5,400.00
25	Sawcut and Remove Curb and Gutter	8	LF	\$ 75.00	\$ 600.00	\$ 115.00	\$ 920.00	\$ 50.00	\$ 400.00	\$ 68.80	\$ 550.40	\$ 53.00	\$ 424.00
26	Install New Curb & Gutter	8	LF	\$ 120.00	\$ 960.00	\$ 160.00	\$ 1,280.00	\$ 120.00	\$ 960.00	\$ 221.90	\$ 1,775.20	\$ 53.00	\$ 424.00
27	Install New Type "C" Frames, Grates, and Concrete	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 7,000.00	\$ 7,000.00	\$ 5,500.00	\$ 5,500.00	\$ 4,256.40	\$ 4,256.40	\$ 6,800.00	\$ 6,800.00
Cleveland Ave: Drain Inlet Grate Replacement													
28	Remove Existing and Install Bike Friendly Grate	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 1,300.00	\$ 1,300.00	\$ 2,500.00	\$ 2,500.00	\$ 1,675.90	\$ 1,675.90	\$ 5,000.00	\$ 5,000.00
1026 Talbot Ave: Storm Drain Inlet Replacement & Improvement													
29	Sawcut and Demo Existing Frame and Grate	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 1,300.00	\$ 1,300.00	\$ 1,000.00	\$ 1,000.00	\$ 275.00	\$ 275.00	\$ 2,750.00	\$ 2,750.00
30	Sawcut and Remove Curb	7	LF	\$ 75.00	\$ 525.00	\$ 115.00	\$ 805.00	\$ 40.00	\$ 280.00	\$ 39.30	\$ 275.10	\$ 15.00	\$ 105.00
31	Install New Curb	7	LF	\$ 120.00	\$ 840.00	\$ 160.00	\$ 1,120.00	\$ 150.00	\$ 1,050.00	\$ 75.00	\$ 525.00	\$ 52.00	\$ 364.00
32	Install New Type "A" Frame, Grate, and Concrete Apron	1	EA	\$ 11,000.00	\$ 11,000.00	\$ 4,900.00	\$ 4,900.00	\$ 3,200.00	\$ 3,200.00	\$ 1,327.10	\$ 1,327.10	\$ 2,200.00	\$ 2,200.00
1435 Thousand Oaks Blvd & San Carlos Ave: Concrete Curb Repair													
33	Demo Existing Curb	9	LF	\$ 75.00	\$ 675.00	\$ 115.00	\$ 1,035.00	\$ 50.00	\$ 450.00	\$ 30.60	\$ 275.40	\$ 17.00	\$ 153.00
34	Demo Sidewalk	27	SF	\$ 75.00	\$ 2,025.00	\$ 20.00	\$ 540.00	\$ 50.00	\$ 1,350.00	\$ 10.20	\$ 275.40	\$ 13.00	\$ 351.00
35	Form and Pour Concrete - For New Sidewalk	27	SF	\$ 150.00	\$ 4,050.00	\$ 40.00	\$ 1,080.00	\$ 120.00	\$ 3,240.00	\$ 10.20	\$ 275.40	\$ 48.00	\$ 1,296.00
36	Form and Pour Concrete - New Curb Conform	9	LF	\$ 120.00	\$ 1,080.00	\$ 160.00	\$ 1,440.00	\$ 120.00	\$ 1,080.00	\$ 30.60	\$ 275.40	\$ 60.00	\$ 540.00
37	Reinforce Concrete Mesh	27	SF		\$ -	\$ 7.00	\$ 189.00	\$ 80.00	\$ 2,160.00	\$ 7.70	\$ 207.90	\$ 80.00	\$ 2,160.00
TOTAL items (Base Bid) 1 -37					\$ 186,960.00		\$ 211,469.00		\$ 267,260.00		\$ 135,660.00		\$ 224,530.50

Italicized highlighted numbers denote corrected dollar amount based on bid unit amount and estimated quantity.

* Contractor Bid Corrected

** APPARENT LOW BIDDER (based on lowest total of base bid ONLY)

Abbreviations: = Allowance
CF = Cubic Feet
CY = Cubic Yard
EA = Each
LB = Pounds
LF = Linear Foot
LS = Lump Sum
SF = Square Feet
TON = Ton (2000 lbs)

Contract

This public works contract ("Contract") is entered into by and between City of Albany ("City") and GradeTech Inc. ("Contractor"), for work on the 2023 Storm Drain Repair Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On _____, 20____, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
 - 2.1 Notice Inviting Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment, Performance and Warranty Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Drawings and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Award;
 - 2.12 Notice to Proceed; and
 - 2.13 City of Albany Standard Specifications
 - 2.14 City of Albany Standard Details
 - 2.15 Technical Provisions
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.
4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor \$ 135,660.00 ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project within 150 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of \$1,000 per day for each day of

unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

7. Labor Code Compliance.

- 7.1 General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
- 7.2 Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
- 7.3 DIR Registration.** City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code section 1725.5, subject to limited legal exceptions.
- 8. Workers' Compensation Certification.** Under Labor Code section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."
- 9. Conflicts of Interest.** Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or policy or in violation of any California law, including under Government Code section 1090 et seq. and under the Political Reform Act as set forth in Government Code section 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.
- 10. Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.
- 11. Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

Dept: Albany City Hall
Address: 1000 San Pablo Avenue
City/State/Zip: Albany, CA 94706
Phone: (510) 528-5710
Attn: Anne Hsu, City Clerk
Email: AHsu@albanyca.org
Copy to: Mark Hurley, Director of Public Works (MHurley@albanyca.org)

Contractor:

Name: GradeTech Inc.
Address: 299 W. Jack London Blvd
City/State/Zip: Livermore CA 94551
Phone: 925-401-5092
Attn: Sam Rivinius
Email: gradetinc@sbcglobal.net
Copy to: Chris Jordan

12. General Provisions.

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.
- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Alameda County, and no other place.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code section 313.

[Signatures are on the following page.]

The parties agree to this Contract as witnessed by the signatures below:

CITY:

Approved as to form:

s/ _____

s/ _____

Nicole Almaguer, City Manager

Malathy Subramanian, City Attorney

Date: _____

Date: _____

Attest:

s/ _____

Anne Hsu, City Clerk

Date: _____

CONTRACTOR: GradeTech Inc.
Business Name

s/ Michelle Wright

Seal:

Michelle Wright V.P.
Name/Title

Date: Sept. 8, 2023

Second Signature (See Section 12.7):

s/ SR

Sam Rivinius - Pres.
Name/Title

Date: 9-8-23

628365 A 9-30-25
Contractor's California License Number(s) and Expiration Date(s)



END OF CONTRACT

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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 Alameda)

On 9-8-23 before me, Lori Barry - Notary Public
DATE INSERT NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC

personally appeared, Michelle Wright and Sam Rivinius

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.

L. Barry (SEAL)
NOTARY PUBLIC SIGNATURE



OPTIONAL INFORMATION

THIS OPTIONAL INFORMATION SECTION IS NOT REQUIRED BY LAW BUT MAY BE BENEFICIAL TO PERSONS RELYING ON THIS NOTARIZED DOCUMENT.

TITLE OR TYPE OF DOCUMENT Contract

DATE OF DOCUMENT _____ NUMBER OF PAGES _____

SIGNERS(S) OTHER THAN NAMED ABOVE _____

SIGNER'S NAME _____ SIGNER'S NAME _____

RIGHT THUMBPRINT

RIGHT THUMBPRINT

**CONTRACT #C23-66
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF ALBANY
AND
CAP ENGINEERING, LLC
FOR PROJECT:
2023 STORM DRAIN REPAIR CM SUPPORT**

This AGREEMENT FOR CONSULTANT SERVICES ("AGREEMENT"), is made and entered into this ___ day of _____ 20__ by and among the City of Albany a California charter city ("CITY") and CAP Engineering, [a California LLC] ("CONSULTANT").

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of SECTION 19 "TERMINATION OF AGREEMENT" of this AGREEMENT, the term of this AGREEMENT shall be for a period of 12 months from the date of execution of this AGREEMENT, as first shown above. Such term may be reduced or extended upon written agreement of both parties to this AGREEMENT.

SECTION 2. SCOPE OF SERVICES.

CONSULTANT agrees to perform the services set forth in EXHIBIT "A" "SCOPE OF SERVICES" and made a part of this AGREEMENT.

SECTION 3. ADDITIONAL SERVICES.

CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to or outside of those set forth in this AGREEMENT or listed in EXHIBIT "A" "SCOPE OF SERVICES", unless such additional services are authorized in advance and in writing by the City Council or City Manager of CITY. CONSULTANT shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Council or City Manager.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this AGREEMENT, CITY agrees to pay CONSULTANT the amounts specified in EXHIBIT "B" "COMPENSATION" and made a part of this AGREEMENT. The total compensation, including reimbursement for actual

expenses, shall not exceed \$28,525.00 unless additional compensation is approved in writing by the City Council or City Manager.

Each month CONSULTANT shall furnish to CITY an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, sub-consultant contracts and miscellaneous expenses. CITY shall independently review each invoice submitted by the CONSULTANT to determine whether the work performed and expenses incurred are in compliance with the provisions of this AGREEMENT. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth below. In the event any charges or expenses are disputed by CITY, the original invoice shall be returned by CITY to CONSULTANT for correction and resubmission.

Except as to any charges for work performed or expenses incurred by CONSULTANT which are disputed by CITY, CITY will use its best efforts to cause CONSULTANT to be paid within thirty (30) days of receipt of CONSULTANT's invoice.

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

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

CITY may inspect and accept or reject any of CONSULTANT's work under this AGREEMENT, either during performance or when completed. CITY shall reject or finally accept CONSULTANT's work within sixty (60) days after submitted to CITY. CITY shall reject work by a timely written explanation, otherwise CONSULTANT's work shall be deemed to have been accepted. CITY's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of CONSULTANT's work by CITY shall not constitute a waiver of any of the provisions of this AGREEMENT including, but not limited to, SECTIONS 15 and 16, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by CONSULTANT in the course of providing any services pursuant to this AGREEMENT shall become the sole property of CITY and may be used, reused or otherwise disposed of by CITY without the permission of the CONSULTANT. Upon completion, expiration or termination of this AGREEMENT, CONSULTANT shall turn over to CITY all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

CONSULTANT shall maintain any and all documents and records demonstrating or relating to CONSULTANT's performance of services pursuant to this AGREEMENT. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to CITY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONSULTANT pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for three years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon written request by CITY or its designated representative. Copies of such documents or records shall be provided directly to the CITY for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

(c) Where CITY has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of CONSULTANT's business, CITY may, by written request, require that custody of such documents or records be given to the requesting party and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to CITY, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

(a) CONSULTANT is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of CITY. CONSULTANT shall have no authority to bind CITY in any manner, nor 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.

(b) The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner

represent that CONSULTANT or any of CONSULTANT's officers, employees or agents are in any manner officials, officers, employees or agents of CITY.

(c) Neither CONSULTANT, nor any of CONSULTANT'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. CONSULTANT expressly waives any claim CONSULTANT may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

CONSULTANT 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. CONSULTANT shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONSULTANT under this AGREEMENT.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS, PERMITS, AND LICENSES.

CONSULTANT shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this AGREEMENT. CONSULTANT shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this AGREEMENT. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

CONSULTANT shall obtain and maintain in full force and effect during the term of this AGREEMENT a Business License from the CITY's Finance Department. Provide City of Albany Business License number and Expiration Date on Page 11 of this contract.

SECTION 11. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

SECTION 12. UNAUTHORIZED ALIENS.

CONSULTANT 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 M., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONSULTANT 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, CONSULTANT 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.

SECTION 13. CONFLICTS OF INTEREST.

(a) CONSULTANT 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 CONSULTANT's performance of services under this AGREEMENT. CONSULTANT 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 City Manager. CONSULTANT 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.

(b) CITY understands and acknowledges that CONSULTANT is, or may be, as of the date of execution of this AGREEMENT, independently involved in the performance of non-related services for other governmental agencies and private parties. CONSULTANT is unaware of any stated position of CITY relative to such projects. Any future position of CITY on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 14. CONFIDENTIAL INFORMATION AND RELEASE OF INFORMATION.

(a) All information gained or work product produced by CONSULTANT in performance of this AGREEMENT shall be considered confidential, unless such information is in the public domain or already known to CONSULTANT. CONSULTANT shall not release or disclose any such information or work product to persons or entities other than CITY without prior written authorization from the City Administrator, except as may be required by law.

(b) CONSULTANT, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of CITY, voluntarily provide 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 CONSULTANT gives CITY notice of such court order or subpoena.

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

(d) CONSULTANT shall promptly notify CITY should CONSULTANT, 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 thereunder. CITY retains the right, but has no obligation, to represent CONSULTANT or be present at any deposition, hearing or similar proceeding. CONSULTANT agrees to cooperate fully with CITY and to provide CITY with the opportunity to review any response to discovery requests provided by CONSULTANT. However, this right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

SECTION 15. INDEMNIFICATION.

(a) To the fullest extent permitted by law, CITY and its elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "INDEMNITEES") shall have no liability to CONSULTANT or any other person for, and CONSULTANT shall indemnify, defend, protect and hold harmless INDEMNITEES from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which INDEMNITEES may suffer or incur or to which INDEMNITEES may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by the CONSULTANT's performance of or failure to perform any services under this AGREEMENT or by the negligent or *willful* acts or omissions of CONSULTANT, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT except CLAIMS caused by the sole negligence or willful misconduct of INDEMNITEES.

(b) If any action or proceeding is brought against INDEMNITEES by reason of any of the matters against which CONSULTANT has agreed to indemnify INDEMNITEES as provided above, CONSULTANT, upon notice from CITY, shall defend INDEMNITEES at CONSULTANT's expense by counsel acceptable to CITY, such acceptance not to be unreasonably withheld. INDEMNITEES need not have first paid for any of the matters to which INDEMNITEES are entitled to indemnification in order to be so indemnified. The insurance required to be maintained by CONSULTANT

under SECTION 16 shall ensure CONSULTANT's obligations under this section, but the limits of such insurance shall not limit the liability of CONSULTANT hereunder. The provisions of this section shall survive the expiration or earlier termination of this AGREEMENT.

(c) If CONSULTANT's obligation to defend, indemnify, and/or hold harmless arises out of CONSULTANT's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, CONSULTANT's indemnification obligation shall be limited to CLAIMS that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, and, upon CONSULTANT obtaining a final adjudication by a court of competent jurisdiction, CONSULTANT's liability for such claim, including the cost to defend, shall not exceed the CONSULTANT's proportionate percentage of fault.

SECTION 16. INSURANCE.

CONSULTANT agrees to obtain and maintain in full force and effect during the term of this AGREEMENT the insurance policies set forth in EXHIBIT "C" "INSURANCE" and made a part of this AGREEMENT. All insurance policies shall be subject to approval by CITY as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Administrator. CONSULTANT agrees to provide CITY with copies of required policies upon request.

SECTION 17. ASSIGNMENT.

The expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CITY has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon CONSULTANT under this AGREEMENT. In recognition of that interest, CONSULTANT shall not assign or transfer this AGREEMENT or any portion of this AGREEMENT or the performance of any of CONSULTANT's duties or obligations under this AGREEMENT without the prior written consent of the CITY. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this AGREEMENT entitling CITY to any and all remedies at law or in equity, including summary termination of this AGREEMENT. CITY acknowledges, however, that CONSULTANT, in the performance of its duties pursuant to this AGREEMENT, may utilize subcontractors.

SECTION 18. CONTINUITY OF PERSONNEL.

CONSULTANT shall make every reasonable effort to maintain the stability and continuity of CONSULTANT's staff assigned to perform the services required under this AGREEMENT. CONSULTANT shall notify CITY of any changes in CONSULTANT's

staff assigned to perform the services required under this AGREEMENT, prior to any such performance.

SECTION 19. TERMINATION OF AGREEMENT.

(a) CITY may terminate this AGREEMENT, with or without cause, at any time by giving thirty (30) days written notice of termination to CONSULTANT. In the event such notice is given, CONSULTANT shall cease immediately all work in progress.

(b) CONSULTANT may terminate this AGREEMENT at any time upon thirty (30) days written notice of termination to CITY. In the event such notice is given, CONSULTANT shall cease immediately all work in progress.

(c) If either CONSULTANT or CITY fail to perform any material obligation under this AGREEMENT, then, in addition to any other remedies, either CONSULTANT, or CITY may terminate this AGREEMENT immediately upon written notice.

(d) Upon termination of this AGREEMENT by either CONSULTANT or CITY, all property belonging exclusively to CITY which is in CONSULTANT's possession shall be returned to CITY. CONSULTANT shall furnish to CITY a final invoice for work performed and expenses incurred by CONSULTANT, prepared as set forth in SECTION 4 of this AGREEMENT. This final invoice shall be reviewed and paid in the same manner as set forth in SECTION 4 of this AGREEMENT.

SECTION 20. DEFAULT.

In the event that CONSULTANT is in default under the terms of this AGREEMENT, the CITY shall not have any obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and may terminate this AGREEMENT immediately by written notice to the CONSULTANT.

SECTION 21. EXCUSABLE DELAYS.

CONSULTANT shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of CONSULTANT. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of CITY, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this AGREEMENT shall be equitably adjusted for any delays due to such causes.

SECTION 22. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to CITY as public records, and which are necessary for carrying out the work as outlined in the EXHIBIT "A" "SCOPE OF SERVICES", shall be furnished to CONSULTANT in every reasonable way to facilitate, without undue delay, the work to be performed under this AGREEMENT.

SECTION 23. NOTICES.

All notices required or permitted to be given under this AGREEMENT shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To CITY: Nicole Almaguer
City Manager
City of Albany
1000 San Pablo Avenue
Albany, CA 94706

To CONSULTANT: David Craighead
P.O. Box 2937
Granite Bay, CA 95746

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 24. AUTHORITY TO EXECUTE.

The person or persons executing this AGREEMENT on behalf of CONSULTANT represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONSULTANT to the performance of its obligations hereunder.

SECTION 25. BINDING EFFECT.

This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 26. MODIFICATION OF AGREEMENT.

No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by the CONSULTANT and by the CITY. The parties

agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 27. 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, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by CITY of any work or services by CONSULTANT shall not constitute a waiver of any of the provisions of this AGREEMENT.

SECTION 28. LAW TO GOVERN; VENUE.

This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in Alameda County. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 29. CLAIMS.

All claims arising out of or related to this agreement must be presented not later than six (6) months after the accrual of the cause of action. Such claims shall be governed by the provisions of the Albany Municipal Code and such claims shall further be governed by the provisions of section 930.4 of the Government Code for the purposes of filing leave to present a later claim. It is further provided that subdivision (b) of section 911.4 sections 911.6 to 912.2, inclusive and section 946.6 are applicable to all such claims, and the time specified in this agreement shall be deemed the "time specified" in section 911.2 within the meaning of sections 911.6 and 946.6.

SECTION 30. W-9 FORM

Complete the attached EXHIBIT "D W-9 FORM" that will be removed from this contract and forwarded to our Finance Department for use during invoice processing.

SECTION 31. ENTIRE AGREEMENT.

This AGREEMENT, including the attached EXHIBITS "A" through "D", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONSULTANT and CITY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No

amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).

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

CITY OF ALBANY:

By _____
Nicole Almaguer, City Manager

Date _____

CONSULTANT:

By DCG _____
(Authorized Officer)

Name: David Craighead

Title: Principal

By _____
(Authorized Officer)

Name:

Title:

City of Albany Business License

BL # 7275

Expiration Date:

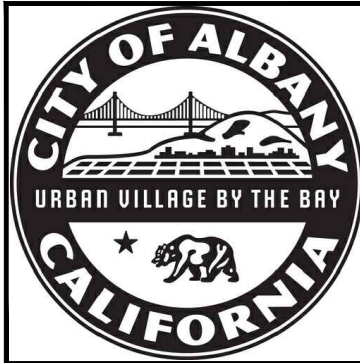
8/31/2024

Date _____

ATTEST:

Anne Hsu, City Clerk

Date _____



City of Albany
Maintenance Center
540 Cleveland Avenue
Albany, CA 94706
(510) 524-9543

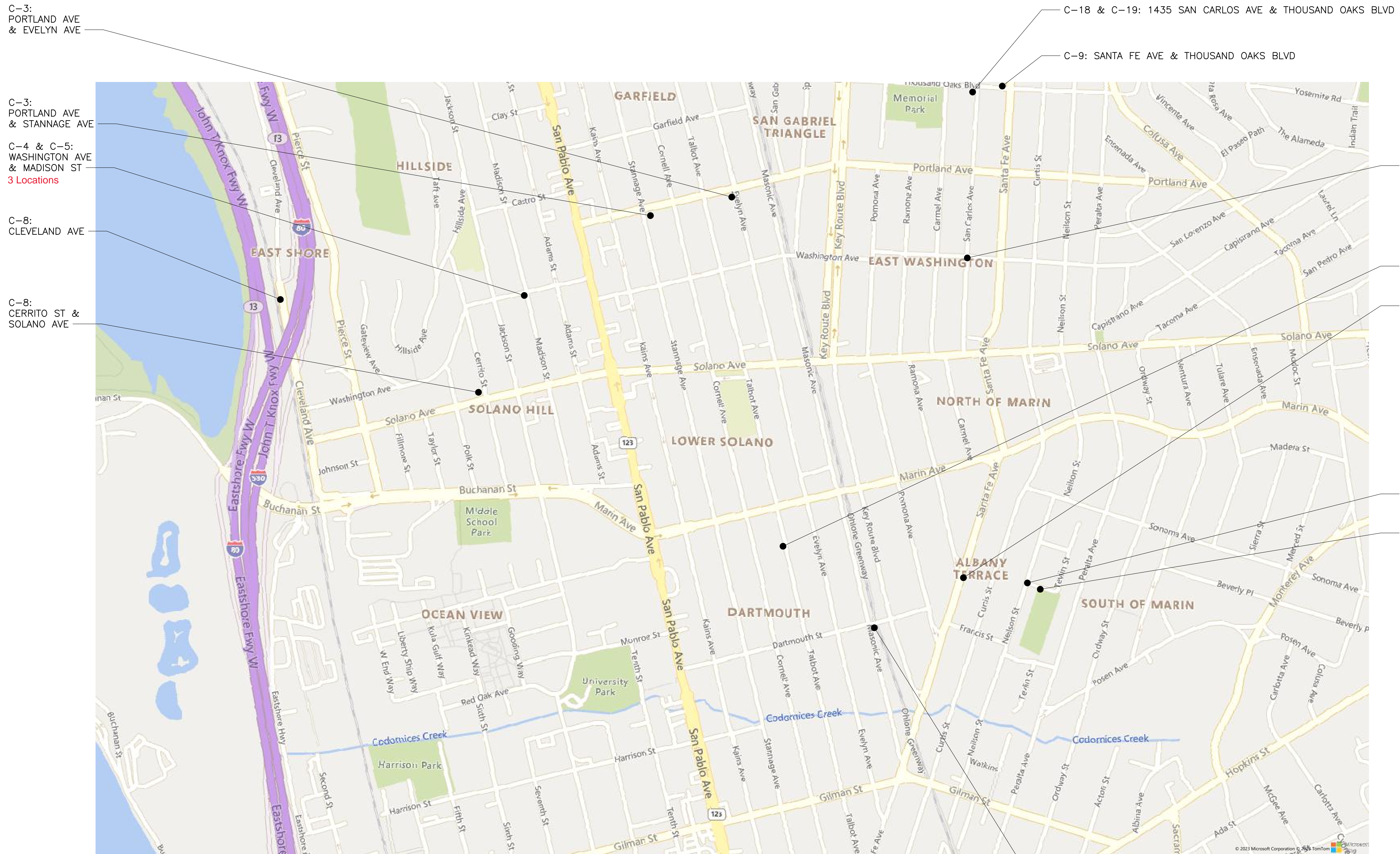


PROJECT SITE MAP
CITY OF ALBANY
2023 STORM DRAIN REPAIR PROJECT

Submittal / Revision:	

Job No: 340-003
Drawn By: ARM
Checked By: CML
Date: 05-20-2022

Sheet Number:
G-3
3 of 22



PROJECT SITE MAP
NO SCALE

NOT FOR CONSTRUCTION

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