



Staff Report

Date: June 14, 2016
To: City Council
From: Valerie J. Barone, City Manager
Reviewed by: Victoria Walker, Director of Community and Economic Development
Prepared by: Robert Ovadia, City Engineer
Robert.ovadia@cityofconcord.org
(925) 671-3047

Subject: **Consideration of award of two contracts for the Pavement Rehabilitation Project – Salvio Street Complete Streets and Oak Grove Road, Project Nos. 2331 and 2355: (1) a Construction Contract in the amount of \$ 1,865,698 to MCK Services Inc.; and (2) a Professional Services Agreement with Swinerton Management and Consulting in the amount of \$119,799 for construction management services and \$20,250 for materials testing services for a total contract amount of \$140,049; authorize the City Manager to execute the agreements; approve associated budget transfers (Funded by Measure J, Measure J Bond, Information Technology Operating Fund - Fund 634, 511 Contra Costa, and Measure Q).**

This Project qualifies for a Categorical Exemption pursuant to the California Environmental Quality Act Regulations Section 15301(c) – Existing Facilities.

Report in Brief

The Pavement Rehabilitation Project – Salvio Street Complete Streets and Oak Grove Road (Project No. 2331) will construct pavement rehabilitation along Salvio Street, from Port Chicago Highway to Parkside Drive, and along Oak Grove Road, from Monument Boulevard to Whitman Road.

On Salvio Street, in addition to the pavement rehabilitation, the work includes: the installation of buffered bike lanes, construction of storm drain line, installation of fiber optic conduits and boxes, associated traffic signal loop replacement, signage, curb ramps, and pavement striping and marking. Additionally, the Salvio Street Complete

Streets Sidewalk Installation Project (Project No. 2355) includes a new sidewalk along the north side on Salvio Street. A significant portion of this roadway is across the street from Olympic High School.

On Oak Grove Road, additional work includes installation of fiber optic conduits and boxes, associated traffic signal loop replacement, signage, curb ramps, and pavement striping and marking. MCK Services Inc. of Concord was the low bidder for the construction contract.

Management of this construction project requires support from a construction management firm. Through a Request for Proposal process, staff selected Swinerton Management and Consulting to provide construction management (CM) and inspection services for a contract amount of \$119,799 (which equates to 6.4% of the construction costs). Swinerton will also be responsible for required materials testing for the project at a cost of \$20,250; the cost for managing the materials testing was incorporated into their agreement creating a total proposed Swinerton contract in the amount of \$140,049 (which equates to 7.5% of the construction costs).

Two budget transfers are required to fund construction of this project as further outlined in the Fiscal Impact section of this report.

If approved by Council, project construction is anticipated to begin in late June 2016 and be completed in late November 2016.

Recommended Action

Staff recommends that the City Council take the following actions:

1. Award a Construction Contract in the amount of \$1,865,698, for the Base Bid and all three Additive Bids A, B, and C, to MCK Services Inc. of Concord; authorize staff to utilize the available project contingency for contract change orders that become necessary up to 10% of the contract amount; and
2. Approve a Professional Services Agreement with Swinerton Management and Consulting of Concord in the total not-to-exceed amount of \$140,049 (\$119,799 for construction management and \$20,250 for materials testing) for construction management, construction inspection, and material testing services, and authorize the City Manager to execute the agreement; and
3. Approve a \$150,000 budget transfer from the approved Information Technology Operating Fund (Fund 634) to the Pavement Rehabilitation Project – Salvio Street Complete Streets and Oak Grove Road (Project No. 2331) for the installation of fiber optic conduits and boxes on Salvio Street (Additive Bid B) and on Oak Grove Road (Additive Bid C); and
4. Approve a \$227,000 budget transfer from the Salvio Street Complete Streets Installation project (Project No. 2355) to the Pavement Rehabilitation Project –

Salvio Street Complete Streets and Oak Grove Road (Project No. 2331) for the construction of new sidewalk along the north side on Salvio Street.

Background

The Pavement Rehabilitation – Salvio Street Complete Streets and Oak Grove Road Project (Project No. 2331) was approved by Council on March 24, 2014 to construct pavement rehabilitation improvements on Salvio Street (Parkside Drive to Port Chicago Highway) and Oak Grove Road (Monument Boulevard to Whitman Road). The work for this project includes pavement restriping and marking to include buffered bike lanes on Salvio Street, as well as pavement restriping and marking on Oak Grove Road. Construction of a new sidewalk on the north side of this segment of Salvio Street, where sidewalk is currently lacking, was approved by Council through the Salvio Street Complete Streets Sidewalk Installation (Project No. 2355), and has been incorporated into this project for concurrent construction. A significant portion of this segment of Salvio Street is across from Olympic High School.

Analysis

Salvio Street, from Parkside Drive to Port Chicago Highway

The design of the Salvio Street portion of the project (mainly the new striping layout) was conducted as part of a community-driven process in which residents, Olympic High School representatives, bicycle advocates, and other stakeholders had the opportunity to weigh-in on this project.

511 Contra Costa awarded funding of \$355,000 from Regional Measure J Program 21a to the City to restripe this segment of Salvio Street to include dedicated Class II bike lanes and other Complete Streets improvements near Olympic High School, a school area safety improvement project. These funds are designated for school area locations.

Underground fiber optic conduits and boxes were included to accommodate future traffic signal improvements identified by the City's Transportation Manager and as requested by the Information Technology Department.

Additionally, approximately 630 linear feet of storm drain line on the south side of Salvio Street from the intersection of Parkside Drive to about halfway to Olympic High School has been incorporated to mitigate flooding that occurs during rain events at the intersection of Salvio Street and Parkside Drive (at the crosswalk to the library). The existing "bubble up" drainage outlet at the street corner will be modified and connected to the downstream storm drain system in front of Olympic High School.

Oak Grove Road from Monument Boulevard to Whitman Road

This section of Oak Grove Road is a heavily traveled collector street which provides a connection between two major arterials and is considered high priority for pavement repair.

City Council Agenda Report

Award of two contracts for the Pavement Rehabilitation Project – Salvio Street

Complete Streets and Oak Grove Road, Project Nos. 2331 and 2335

June 14, 2016

Coordination of work on this project with the City's Highway Safety Improvement Program Project (Project No. 2293) is essential because the Highway Safety Improvement Project includes the installation of a new traffic signal at the Oak Grove and Sierra Roads intersection, which is within the limit of this project. Staff must carefully manage both of these projects to make sure that certain improvements are constructed with the right project and in the right order to avoid overlapping and conflict of construction activities. Additionally, the installation of underground fiber optic conduits and boxes was included in this project to accommodate future traffic signal improvements.

Budget Transfers

A budget transfer into this project in the amount of \$227,000 is required from the Salvio Street Complete Streets Sidewalk Installation project (Project No. 2355) to fund the sidewalk installation on the north side of Salvio Street, which has been incorporated into this project. A second budget transfer in the amount of \$150,000 from the Information Technology Operating Fund is required to fund the installation of the added fiber optic conduits and utility boxes incorporated into the project.

Procurement Process

Construction Contract

This project was put out to bid as required by State law and City policy. Two bids were received in the amounts of \$1,865,698 and \$1,985,997 for the Total Bid as shown on the Bid Summary (Attachment 2). The Engineer's Estimate for the Total Bid was \$2,039,766. MCK Services Inc. was the low bidder and submitted a responsible and responsive bid.

The basis of award for this project is the Total Bid, which includes the base bid (Salvio Street, between Port Chicago Highway and Parkside Drive; Oak Grove Road between Monument Blvd. and Whitman Road) and three additive bid alternates: Additive Bid A - Installation of storm drain line on Salvio Street; Additive Bid B - Installation of fiber optic conduit and boxes on Salvio Street; and Additive Bid C - Installation of fiber optic conduit and boxes on Oak Grove Road.

Staff contacted the low bidder to obtain confirmation of their bid amount. MCK Services Inc. confirmed that they are ready to perform the work as bid. Staff has completed its analysis of MCK Services Inc.'s bid, determining that they possess an appropriate and valid contractor's license; and are not on any debarred list. Additionally, they and all of their subcontractors, are registered with the Department of Industrial Relations as required by SB 854, have satisfactory references and are experienced in the construction of similar projects.

As noted above, the Total Bid includes the base bid and three Additive Bids A, B, and C. The City reserved the right to award any combination of the additive bids with the intention to complete as much work as the project budget could afford. With the desire

to expedite infrastructure improvements, the need to preserve City streets, and to take advantage of available economies of scale, staff recommends awarding a construction contract for the Total Bid amount including Additive Bids A, B and C.

Professional Services Agreement for Construction Management (CM)

During the construction bid period, staff solicited and received proposals for construction management, inspection and materials testing services for the project from three firms (Swinerton Management & Consulting; Park Engineering; and 4Leaf, Inc.). All three firms were pre-qualified for providing construction management services through the City's Master Services Agreement process in July of 2015. Based on their superior proposal, including project approach, proposed staffing and relevant work experience, Swinerton Management and Consulting (Swinerton) was selected by staff. Additionally, though not a key criteria in selection, their proposal was the least cost of those received.

Staff negotiated an agreement in the amount of \$119,799 with Swinerton for construction management services. This cost is approximately 6.4% of the total construction cost which falls within the lower range of costs for this type of work. Additionally, to provide for project management and contracting efficiencies, the City desired to incorporate materials testing services into the contract with the construction management firm selected. The additional cost for the materials testing services is \$20,250 and has been included into the total contract costs. The total proposed Swinerton contract with the materials testing services will be \$140,049 (which equates to 7.5% of the construction costs). Swinerton will use Kleinfelder for materials testing services.

Staff checked several references for similar projects that Swinerton has performed recently. Swinerton has also satisfactorily provided services to Concord for the recently completed Farm Bureau Road Improvements – Phase 1 (Project No. 2251) and the FY 2014-15 Pavement Maintenance project (Project No. 2329) which are similar in nature to this project. The proposed Agreement has been reviewed by the City Attorney's office (Attachment 3).

Environmental Review

This project is categorically exempt from further review under the provisions of the California Environmental Quality Act (CEQA) under CEQA Regulations Section 15301(c) "Existing Facilities" as the project consists of negligible or no expansion of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities (including road grading for the purpose of public safety). The Notice of Exemption was filed with the County Clerk's Office on March 3, 2016.

Financial Impact

After Council approval of the recommended budget transfers, there will be sufficient funds in the budget of Project No. 2331 for the award of the Base Bid and all Additive

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Award of two contracts for the Pavement Rehabilitation Project – Salvio Street

Complete Streets and Oak Grove Road, Project Nos. 2331 and 2335

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Bids, to provide for construction management, construction inspection, material testing services, and a construction contingency of 10% of the contract amount.

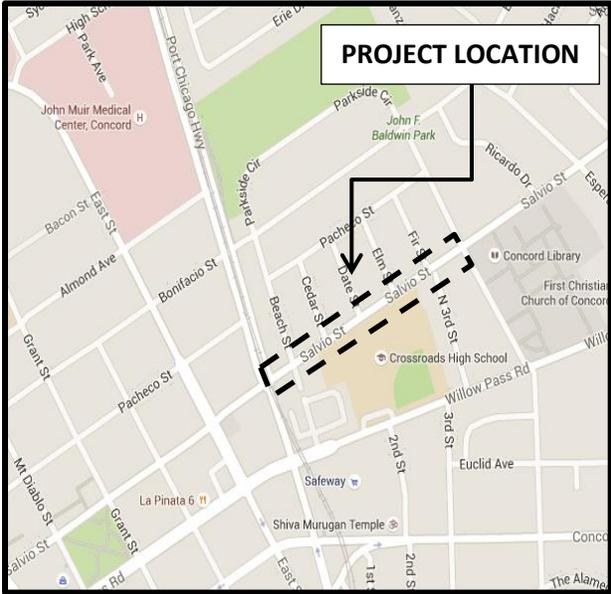
This project is funded as follows: from 511 Contra Costa (\$355,000) to implement construction of Salvio Street improvements; Measure J Bond funds from Contra Costa Transportation Authority (\$227,000) for construction of sidewalk on the north side of Salvio Street (Project 2355); from Information Technology Operating Fund (Fund 634) \$150,000 for fiber optic conduits and boxes on Salvio Street and Oak Grove Road, and from Measure J local funds and from Measure Q funds (\$2,200,000) for the pavement rehabilitation and storm drain line construction.

Public Contact

The City Council Agenda was posted.

Attachments

1. Location Map
2. Bid Summary
3. Professional Services Agreement - Swinerton



LOCATION MAP

PROJECT NO. 2331

FY14-15 PAVEMENT REHABILITATION – SALVIO ST. (PORT CHICAGO HWY. TO PARKSIDE DR.) & OAK GROVE RD. (MONUMENT BLVD. TO WHITMAN RD.)

NO SCALE

**City of Concord
Bid Sheet**

PROJECT #2331

FY 14-15 Pavement Rehabilitation Project

Bid Opening:

**Friday,
May 6, 2016
10:00 a.m.**

City Manager Conference Room

Engineer's Estimate: \$2,044,860

To be awarded: TBD

COMPANY	TOTAL BID
MCK Services, Inc. P.O. Box 5697 Concord, CA 94524	\$1,865,697.50
Graniterock 120 Granite Rock Way San Jose, CA 95136	\$1,985,997.00

Contact: Lourdes Barrozo x3059

AGREEMENT FOR PROFESSIONAL SERVICES

1 THIS AGREEMENT ("Agreement") is entered into on June 15, 2016 between the City
2 of Concord ("CITY") and **Swinerton Management & Consulting**, 260 Townsend Street,
3 San Francisco, CA 94107 ("CONSULTANT").

4 THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings
5 and intentions:

6 The CITY desires to contract with Swinerton Management & Consulting and Swinerton
7 Management & Consulting to contract with the CITY for provision by Swinerton Management &
8 Consulting to the City for professional services with **FY14-15 Pavement Maintenance (Project No.**
9 **2331)** as further described in Section 2 of this Agreement, upon the terms and conditions hereinafter
10 set forth.

11 NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the
12 parties herein contained, the parties hereto agree as follows:

13 **1. TERM.** This Agreement shall commence on **June 15, 2016** and expire on **June 1,**
14 **2017.**

15 **A. Extension of Term.** Upon mutual written agreement by the parties, the term of
16 this Agreement may be extended for one additional period(s) of one year(s) each commencing upon
17 the expiration of the initial or extended term, subject to the same terms and conditions of this
18 Agreement. CONSULTANT shall give written notice of its request for extension of the term of the
19 Agreement to the City's Authorized Representative, as identified in Section 4 below, at least thirty
20 (30) days prior to expiration of the initial or extended term.

21 The extension(s) of the term of this Agreement shall be subject to a review of
22 CONSULTANT'S performance in accordance with the terms and conditions of this Agreement and
23 shall be subject to City approval. Such extension of time shall be in writing by a duly executed
24 Amendment to this Agreement.

25 **2. SCOPE OF SERVICES.** Subject to such policy direction and approvals provided by
26 the CITY's Authorized Representative, CONSULTANT shall provide **Construction Management**
27 **and Inspection services** for FY14-15 Pavement Maintenance (Project No. 2331) described in detail
28 in Exhibit A, a proposal from Swinerton Management & Consulting dated May 16, 2016, attached

1 hereto and made a part hereof. CITY retains all rights of approval and discretion with respect to the
2 projects and undertakings contemplated by this Agreement.

3 **3. PAYMENT.** The compensation to be paid to CONSULTANT including payment for
4 professional services and reimbursable expenses, shall be at the rate and schedules in detail in Exhibit
5 A. However, in no event shall the amount CITY pays CONSULTANT exceed one hundred forty
6 thousand forty nine dollars (**\$140,049**) for the term of this Agreement. Any Amendment to this
7 Agreement that includes an increase to this compensation amount shall be made in accordance with
8 Section 5 below.

9 CONSULTANT may submit monthly statements for services rendered; all statements shall
10 include adequate documentation demonstrating work performed during the billing period. It is
11 intended that CITY review such statement and pay CONSULTANT for services rendered within 30
12 days of receipt of a statement that meets all requirements of this Agreement. Payment by CITY shall
13 not be deemed a waiver of unsatisfactory work, even if such defects were known to the CITY at the
14 time of payment.

15 **4. AUTHORIZED REPRESENTATIVES.** Authorized representatives shall represent
16 CITY and CONSULTANT in all matters pertaining to the services to be ordered by CITY or rendered
17 by CONSULTANT under this Agreement except where approval for the CITY is specifically required
18 by the City Council. The CITY's authorized representative is Robert Ovadia, City Engineer of the
19 Community & Economic Development Department. The CONSULTANT's authorized representative
20 is Robert Addiego, Project Executive.

21 **5. AMENDMENT TO AGREEMENT.** This Agreement may be amended in writing,
22 subject to approval by both parties. If additional services are requested by CITY other than as
23 described in the above Scope of Services, this Agreement may be amended, modified, or changed by
24 the parties subject to mutual consent and in accordance with the CITY's Municipal Code by execution
25 of an Amendment by authorized representatives of both parties setting forth the additional scope of
26 services to be performed, the performance time schedule, and the compensation for such services.

27 **A. Amendment for Additional Compensation.** CITY's Authorized
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1 Representative is authorized to execute amendments to the Agreement on behalf of CITY, including
2 amendments providing for additional compensation to CONSULTANT not to exceed \$50,000 during
3 the fiscal year, including the base contract amount, throughout the term of this Agreement. Any
4 additional compensation to CONSULTANT that is \$50,000 or more for the fiscal year, including the
5 base contract amount, must be approved by City Council.

6 Consultant's failure to secure CITY's written authorization for additional compensation or
7 changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the price
8 or time due, whether by way of compensation, restitution, quantum meruit, or similar relief.

9 **6. INDEPENDENT CONTRACTOR.** Both parties understand and acknowledge that
10 CONSULTANT, its agents, employers and subcontractors are and shall at all times remain as to the
11 CITY wholly independent contractors. Neither the CITY nor any of its officers or employees shall
12 have any control over the manner by which the CONSULTANT performs this Agreement and shall
13 only dictate the results of the performance. CONSULTANT shall not represent that CONSULTANT
14 or its agents, employees or subcontractors are agents or employees of the CITY, and CONSULTANT
15 shall have no authority, express or implied, to act on behalf of the CITY in any capacity whatsoever as
16 an agent, and shall have no authority, express or implied, to bind the CITY to any obligation
17 whatsoever, unless otherwise provided in this Agreement.

18 As an independent contractor, CONSULTANT shall not be eligible for any benefits, which the
19 City may provide to its employees and all persons, if any, hired by CONSULTANT shall be
20 employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of
21 the CITY in any respect. CONSULTANT shall receive no premium or enhanced pay for work
22 normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work
23 performed during non-standard business hours, such as in the evenings or on weekends.
24 CONSULTANT shall not receive a premium or enhanced pay for work performed on a recognized
25 holiday. CONSULTANT shall not receive paid time off for days not worked, whether it be in the
26 form of sick leave, administrative leave, or for any other form of absence. CONSULTANT shall pay
27 all taxes, assessments and premiums under the federal Social Security Act, any applicable
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1 unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use
2 taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by
3 reason of or in connection with the services to be performed by CONSULTANT.

4 **7. STANDARD OF PERFORMANCE.** CONSULTANT represents and warrants to
5 CITY that CONSULTANT is skilled and able to provide such services described in the Scope of
6 Work and that such services shall be performed in an expeditious manner, and with the degree of skill
7 and care that is required by current, good, and sound procedures and practices. CONSULTANT
8 further agrees that the services shall be in conformance with generally accepted professional standards
9 prevailing at the time work is performed.

10 **8. PERFORMANCE BY CONSULTANT.** CONSULTANT shall not employ other
11 consultants, subconsultants, experts, or contractors without the prior written approval of the CITY.
12 Notwithstanding the foregoing, CITY shall not be obligated or liable for payment hereunder to any
13 party other than the CONSULTANT. CONSULTANT hereby designates the CONSULTANT'S
14 representative as the person primarily responsible for the day-to-day performance of
15 CONSULTANT'S work under this Agreement. CONSULTANT shall not change the
16 CONSULTANT'S representative without the prior written consent of the CITY. Unless otherwise
17 expressly agreed by the CITY, CONSULTANT'S representative shall remain responsible for the
18 quality and timeliness of performance of the services, notwithstanding any permitted or approved
19 delegation hereunder.

20 **9. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.** All documents
21 furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT's
22 services in respect to this project. They are not intended nor are represented to be suitable for reuse by
23 others except CITY on extensions of this project or on any other project. Any reuse without specific
24 written verification and adoption by CONSULTANT for the specific purposes intended will be at
25 user's sole risk and without liability or legal exposure and expenses to CONSULTANT, including
26 attorney's fees arising out of such unauthorized reuse.

27 CONSULTANT's records, documents, calculations, and all other instruments of service
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1 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
2 reserves the right to specify the file format that electronic document deliverables are presented to the
3 CITY. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions
4 and other final work products compiled by the CONSULTANT under the Agreement shall be vested
5 in the CITY, none of which shall be used in any manner whatsoever, by any person, firm, corporation,
6 or agency without the expressed written consent of the CITY. Basic survey notes and sketches,
7 charts, computations, and other data prepared or obtained under the Agreement shall be made
8 available, upon request, to the CITY without restriction or limitations on their use. CONSULTANT
9 may retain copies of the above-described information but agrees not to disclose or discuss any
10 information gathered, discussed or generated in any way through this Agreement without the written
11 permission of CITY during the term of this Agreement, unless required by law.

12 **10. INDEMNIFICATION.**

13 **A. For Design Professional Services Only.** Pursuant to California Civil Code
14 Section 2782.8, CONSULTANT agrees to indemnify the CITY (including its officers, agents,
15 employees and volunteers) against liability for claims against the CITY that arise out of, pertain to, or
16 relate to the negligence, recklessness, or willful misconduct of CONSULTANT in the performance of
17 this Agreement. The CONSULTANT will reimburse the CITY for any expenditures, including
18 reasonable attorney fees, incurred by the CITY in defending against claims ultimately determined to
19 arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the
20 CONSULTANT.

21 **B. For All Other Services.** CONSULTANT agrees to defend, indemnify and
22 hold harmless the CITY (including its officers, officials, employees, agents and volunteers) from and
23 all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and
24 other litigation expenses) arising out of the CONSULTANT's performance under the terms of this
25 Agreement. This indemnification obligation on CONSULTANT's part shall not apply to the
26 demands, actions, losses, damages, injuries, and liability arising out of the sole negligence or willful
27 misconduct on the part of the CITY.

1 **11. INSURANCE.** CONSULTANT shall, at its own expense, procure and maintain in
2 full force at all times during the term of this Agreement the following insurance:

3 **A. Commercial General Liability Coverage.** CONSULTANT shall maintain
4 commercial general liability insurance with limits of no less than one million dollars (\$1,000,000)
5 combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily
6 injury, personal injury, and property damage.

7 **B. Automobile Liability Coverage.** CONSULTANT shall maintain automobile
8 liability insurance covering all vehicles used in the performance of this Agreement providing a one
9 million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury,
10 and property damage.

11 **C. Professional Liability Coverage (Errors and Omissions).** CONSULTANT
12 shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions
13 committed by CONSULTANT, its agents and employees in the performance of this Agreement. The
14 amount of this insurance shall be not less than one million dollars (\$1,000,000) on a claims made
15 annual aggregate basis or a combined single limit per occurrence basis.

16 **D. Compliance with State Workers' Compensation Requirements.**
17 CONSULTANT covenants that it will insure itself against liability for Workers' Compensation
18 pursuant to the provisions of California Labor Code §3700, et seq. CONSULTANT shall, at all
19 times, upon demand of the City, furnish proof that Workers' Compensation Insurance is being
20 maintained by it in force and effect in accordance with the California Labor Code. The insurer shall
21 also agree to waive all rights of subrogation against the CITY, its officers, officials, employees and
22 volunteers for losses arising from work performed by CONSULTANT for CITY. This provision
23 shall not apply upon written verification by CONSULTANT that CONSULTANT has no employees.

24 **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to
25 contain the following provisions:

26 **(1) Additional Insured.** CITY, its officers, agents, employees, and
27 volunteers are to be covered as an additional insured as respects: Liability arising out of activities
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1 performed by or on behalf of CONSULTANT and operations of CONSULTANT, premises owned,
2 occupied, or used by CONSULTANT. The coverage shall contain no special limitations on the scope
3 or protection afforded to CITY, its officers, officials, employees, or volunteers.

4 Except for worker's compensation and professional liability insurance, the policies mentioned
5 in this subsection shall name CITY as an additional insured and provide for notice of cancellation to
6 CITY. CONSULTANT shall also provide timely and prompt notice to CITY if CONSULTANT
7 receives any notice of cancellation or nonrenewal from its insurer.

8 (2) **Primary Coverage.** CONSULTANT'S insurance coverage shall be
9 primary insurance with respect to CITY, its officers, officials, employees, and volunteers. Any
10 insurance, risk pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
11 employees, or volunteers shall be in excess of CONSULTANT'S insurance and shall not contribute
12 with it.

13 (3) **Reporting Provisions.** Any failure to comply with the reporting
14 provisions of the policy shall not affect the coverage provided to the CITY, its officers, officials,
15 employees, or volunteers.

16 (4) **Verification of Coverage.** CONSULTANT shall furnish CITY with
17 certificates of insurance and the original endorsements effecting coverage required by this Agreement.
18 The certificates and endorsements for each insurance policy are to be signed by a person authorized by
19 that insurer to bind coverage on its behalf. The aforementioned policies shall be issued by an
20 insurance carrier having a rating of Best A-7 or better which is satisfactory to the City Attorney and
21 shall be delivered to CITY at the time of the execution of this Agreement or before work commences.
22 Such policies and certificates shall be in a form approved by the City Attorney. CITY reserves the
23 right to require complete certified copies of all required insurance policies at any time.

24 **12. TIME OF PERFORMANCE.** The time of performance of the services under this
25 Agreement is of the essence, and all time deadlines identified in this Agreement or Scope of Services
26 shall be strictly construed.

27 **13. SUSPENSION OF WORK.** CITY may, at any time, by ten (10) days' written notice,
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1 suspend further performance by CONSULTANT. All suspensions shall extend the time schedule for
2 performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services
3 performed and reimbursable expenses incurred prior to the suspension date. During the period of
4 suspension, CONSULTANT shall not receive any payment for services, or expenses, except for
5 reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

6 **14. TERMINATION.** CITY may terminate this Agreement for any reason upon ten (10)
7 days written notice to the other party. CITY may terminate the Agreement upon five (5) days written
8 notice if CONSULTANT breaches this Agreement. In the event of any termination, CONSULTANT
9 shall promptly deliver to the CITY any and all finished and unfinished reports or other written,
10 recorded, photographic, or visual materials, documents, data, and other deliverables (“Work
11 Materials”) prepared for the CITY prior to the effective date of such termination, all of which shall
12 become CITY’s sole property. After receipt of the Work Materials, CITY will pay CONSULTANT
13 for the services performed as of the effective date of the termination.

14 **15. COMPLIANCE WITH CIVIL RIGHTS.** During the performance of this contract,
15 CONSULTANT agrees as follows:

16 **A. Equal Employment Opportunity.** In connection with the execution of this
17 Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment
18 because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited
19 to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or
20 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and
21 selection for training including apprenticeship.

22 **B. Nondiscrimination Civil Rights Act of 1964.** CONSULTANT will comply
23 with all federal regulations relative to nondiscrimination in federally assisted programs.

24 **C. Solicitations for Subcontractors including Procurement of Materials and**
25 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
26 CONSULTANT for work to be performed under a subcontract including procurement of materials or
27 leases of equipment, each potential subcontractor, supplier or lessor shall be notified by
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1 CONSULTANT of CONSULTANT'S obligation under this Agreement and the regulations relative to
2 nondiscrimination on the grounds of race, religion, color, sex, or national origin..

3 **16. CONFLICT OF INTEREST.**

4 A. CONSULTANT covenants and represents that neither it, nor any officer or
5 principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in
6 any manner with the interests of CITY or which would in any way hinder CONSULTANT's
7 performance of services under this Agreement. CONSULTANT further covenants that in the
8 performance of the Agreement, no person having any such interest shall be employed by it as an
9 officer, employee, agent or subcontractor without the express written consent of the CITY.
10 CONSULTANT agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of
11 interest, with the interests of the CITY in the performance of this Agreement.

12 B. CONSULTANT is not a designated employee within the meaning of the
13 Political Reform Act because CONSULTANT:

14 (1) Will conduct research and arrive at conclusions with respect to its rendition
15 of information, advice, recommendation or counsel independent of the control and direction of the
16 CITY or of any CITY official, other than normal contract monitoring; and

17 (2) Possesses no authority with respect to any CITY decision beyond the
18 rendition of information, advice, recommendation or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

19 **17. COMPLIANCE WITH LAWS.** CONSULTANT shall comply with all applicable
20 Federal, State of California, and local laws, rules, and regulations and shall obtain all applicable
21 licenses, including a business license with the City of Concord, and permits for the conduct of its
22 business and the performance of the services.

23 **18. CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance
24 with the laws of the State of California, excluding any choice of law rules which may direct the
25 application of the laws of another jurisdiction. In the event that suit shall be brought by either party
26 hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the
27 County of Contra Costa, California.

1 **19. NON-WAIVER.** The waiver by either party of any breach of any term, covenant, or
2 condition contained in the Agreement, or any default in their performance of any obligations under the
3 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other
4 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default
5 constitute a continuing waiver of same.

6 **20. ENFORCEABILITY; INTERPRETATION.** In the event that any of the provisions
7 or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by
8 a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment
9 in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The
10 illegality or invalidity of any of the provisions or portions of application of any of the provisions of
11 the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of
12 application of any of the provisions of the Agreement. This Agreement shall be interpreted as though
13 it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the
14 ground that said party was solely or primarily responsible for drafting the language to be interpreted.

15 **21. INTEGRATION.** All exhibits identified in this Agreement are attached hereto and
16 incorporated herein by reference. The Agreement contains the entire agreement and understanding
17 between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or
18 contemporaneous agreements, commitments, representation, writings, and discussions between
19 CONSULTANT and CITY, whether oral or written.

20 **22. SUCCESSORS AND ASSIGNS: NO THIRD PARTY BENEFICIARIES; NO**
21 **JOINT VENTURE.** CITY and CONSULTANT respectively, bind themselves, their successors,
22 assigns, and legal representatives to the terms and obligations of this Agreement. CONSULTANT
23 shall not assign or transfer any interest in the Agreement without the CITY's prior written consent,
24 which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach
25 of this provision shall be void. This Agreement is not intended and shall not be construed to create
26 any third party benefit. This Agreement is not intended and shall not be construed to create a joint
27 venture or partnership between the parties. CONSULTANT, its officers, employees and agents shall
28

1 and the same instrument and shall become binding upon the parties when at least one copy hereof
2 shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary
3 to produce or account for more than one such counterpart.

4 **IN WITNESS WHEREOF**, the parties have executed this Agreement in one (1) or more
5 copies as of the date and year first written above.

6 **CONSULTANT**

CITY OF CONCORD, a Municipal Corporation

7
8
9 By: _____
10 Name: **Jeffrey Gee, AIA**
11 Title: **Vice President**
12 Address: **260 Townsend Street**
San Francisco, CA 94107
13 Telephone: **(415) 984-1239**

By: _____
Name: Valerie Barone
Title: City Manager
Address: 1950 Parkside Drive
Concord, CA 94519
Telephone: (925) 671-3150

14 APPROVED AS TO FORM:

ATTEST:

15 _____
City Attorney

_____ City Clerk

16
17 Date: _____, 2016

18
19 FINANCE DIRECTOR'S CERTIFICATION:

20 Concord, California

21 Date: _____, 2016

22
23 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED
24 DURING THE CURRENT FISCAL YEAR 2015/16 TO PAY THE ANTICIPATED
25 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.
26 THE SUM OF **\$140,049**

27 Account Code: 4089500C999/4082331117-74250

28 _____
Finance Director's Signature



May 16, 2016

Via email to Lourdes.Barrozo@cityofconcord.org

Ms. Lourdes Barrozo, P.E.
Project Manager
Department of Community and Economic Development
City of Concord
Engineering Services
1950 Parkside Drive
Concord, CA 94519

Subject: FY 14/15 Pavement Rehabilitation Project (City Project No. 2331)
Revised Proposal for Construction Management & Inspection Services

Dear Ms. Barrozo:

Swinerton Management & Consulting (Swinerton) is pleased to present this revised proposal to provide Construction Management and Inspection Services to the City of Concord for the FY 14/15 Pavement Rehabilitation Project (City Project No. 2331).

SCOPE OF SERVICES

Swinerton's goal is to always provide quality Construction Management and Inspection Services that are responsive to our client's needs by providing services aimed at optimizing a project's schedule, cost and quality, and staffing needs. We have reviewed the 100% contract documents, which you provided, in the preparation of our proposal. We have determined that the following services will be required per the Special Provisions and Construction Documents: Post-Award Services, Pre-Construction Activities, Construction Management Services, and Post-Construction Services. We have assumed the total base bid project as the basis for our scope of work: Salvio St., Oak Grove Rd. and Additive Bid Items A (Storm Drain line in Salvio), B (Fiber Optic Conduit in Salvio) and C (FO in Oak Grove).

Post-Award Services:

Swinerton will provide CM services described herein after the contract award. Swinerton will contact the Contractor to confirm all award and contract documents are completed (executed) and have been both received and transmitted to the City of Concord. Swinerton will assist in issuance of the Notice-to-Proceed (NTP).

Pre-Construction Activities:

Prior to commencing the construction work, Swinerton will prepare construction document control logs, Submittal log, RFI log, change order log, daily report log, and inspection log. We will review the Contract Documents to ensure Contractor's compliance with the general requirements and Special Provisions for staging and implementing his work.

We will prepare the Preconstruction Conference Agenda to review and discuss all the required submittals mandatory for the start of work including: Project CPM Schedule, WPCP, job site storage

and staging plans, Traffic Control Plans, OSHA Excavation Permits if required, Site Specific Safety Plan, and required encroachment permits; and the submittals for the materials to be incorporated into the work, such as Class II AB, storm drain pipe, HDPE duct, hot mix asphalt (HMA), rubberized hot mix asphalt (RHMA), pavement markings, and concrete mix designs. The Preconstruction Conference Agenda will be provided to the Contractor in advance of the Preconstruction Conference as many submittals must be provided by the Contractor at this meeting. The Contractor will be queried about his means and methods in the preparation of his Project CPM Schedule. We will discuss with the Contractor their approach for placing the HMA leveling course/ base lift and the final lift of RHMA on Salvio St.; as discussed, we believe there would be net savings to the City if the section were modified to be all HMA or all RHMA. We will also discuss with the Contractor their approach for the Cold In-Place Recycling (CIR) process and placement of HMA on Oak Grove Road. The Contractor is required to have a QC procedure for the CIR process, and we will closely review this for compliance with the specifications.

We will also assist with underground utility coordination with the various utility companies in order to synchronize the activities with the contractor. Swinerton will assist with the Community Outreach by meeting with the area residents in parallel with the Contractor's Public Notifications and throughout the duration of the project. We will ensure prompt responses to inquiries submitted by residents and businesses. It will also be essential to coordinate with the various other city projects in close proximity that will be underway during or after this project.

Construction Management Services:

Swinerton will conduct the Preconstruction Conference and distribute meeting minutes to all attendees.

We will set the day and time for the weekly project meeting. Procedures for the adequate notification for inspection service by Swinerton and the materials testing services firm will be discussed. After-hour telephone numbers will be logged into the Project Directory in case of emergency contacts during non-work hours.

Swinerton will manage the project records, including photo documentation, requests for information, submittals, and memorandum in a complete project filing system. Swinerton will chair all project meetings. Swinerton will verify quantities, measure progress, evaluate, and process contractor's progress payment applications including lien releases and certified payroll records. We will verify the project schedule and actual field progress with the monthly progress payment applications. Swinerton will monitor the project schedule to ensure completion of milestones in accordance with the accepted and approved project schedule.

Field inspections by Swinerton will also confirm presence of contractor's superintendent, safety practices per submitted safety plans, general housekeeping, traffic control measures, and public notifications to impacted property owners. During construction Swinerton will coordinate with the City engineers, design team, and local utilities. Swinerton will provide coordinated inspection services that tracks with the contractor's scheduled activities and assist with the project schedule monitoring. We will coordinate through the City, the Quality Assurance services provided by our sub-consultant special inspection and materials testing firm (Kleinfelder), to ensure compliance with technical specification requirements and plans. Onsite inspection shall be provided for all activities such as traffic control, safety, pavement cutting, AC paving, forming, concrete placement, excavation and backfill, and acceptable site restorations before weekends.

Swinerton will ensure that all work is performed in accordance with the Contract Documents, including City and Caltrans standards. We will also verify certified payroll documents are submitted and perform spot checks that payrolls reflect applicable prevailing wage rates.

Post Construction Services:

As the construction completion nears, Swinerton will proactively manage the close-out process with the Contractor to ensure timely submittals, warranties, record drawings, completion of punch list items and other required close-out documentation.

Swinerton will complete the project files including record drawings, warranty bond submittal, manuals, City of Concord Recycling Report, confirm removal of USA pavement markings, and provide progress photographs. We will resolve any outstanding cost issues including liquidated damages (if applicable) and reconcile against the contract budget. Swinerton will verify completion and backcheck of all punch list work with the designer (Engineer of Record) prior to acceptance and processing of the final progress payment application. We will assist with the City's final certification documentation to go to City Council for project acceptance. We will prepare the project files for inclusion with city files (hardcopy where appropriate, and electronic for the City "L" drive).

Swinerton Staffing:

Mr. Scott Christie will be Swinerton's Resident Engineer / Senior Project Manager and your primary point of contact for this assignment. Scott has extensive experience managing City projects as he comes to Swinerton after spending over 18 years as an Associate and Senior Engineer at a local East Bay city. Scott will lead the Swinerton construction management and inspection services and be the main point of contact for coordination with the utility companies and the local residents / businesses.

Assisting Scott, for backup and additional assistance where needed, will be **Mr. Robert Kagiya**. He has extensive project management experience with City Capital Improvement Projects and has successfully completed several pavement and undergrounding projects. His resume is attached.

Mr. Brett Lowther, Sr. Inspector, will assist Scott with field inspections. Brett has 15-years of experience performing special inspection on a variety of projects. Brett has completed several paving projects for the City of Concord, including Concord Boulevard, Farm Bureau Road, and the FY14/15 Paving Maintenance project. He has also worked on a large mass grading and slide repair project. Brett has experience in the soils lab testing compressive strength of concrete and preparing and testing soil and asphalt for project specifications. Brett's certifications include: ICC Certified Soils, Post Tensioning concrete, Reinforced concrete, Structural Masonry, Fire Proofing, Commercial Building Inspector, and ACI Concrete Field Testing Technician.

I will provide general operational and management oversight, and professional services administration to ensure successful project delivery.

The attached Matrix of CM Tasks and Fee Proposal detail the breakdown of our time and cost for the tasks and phases described in the above narrative. The Fee Proposal is \$119,799, plus an allowance of \$20,000 for special inspections and material testing and \$250 for reimbursables, such as reproduction and miscellaneous office supplies for project records. Our total fee proposal is a not-to-exceed amount of \$140,049.00.

If you have any questions or require additional clarification, please do not hesitate to call me at (925) 270-5636. Thank you for this opportunity to submit this proposal.

Very truly yours,

Robert Addiego

Robert Addiego, LEED® AP
Project Executive

CC: Jeff Gee
Myrna Wagner
Scott Christie
Robert Kagiyama

Attachments: Revised Matrix of CM Tasks and Fee Proposal (FY14/15 Pavement Rehabilitation Project (2331) - 2 pages)

CITY OF CONCORD - FY 14-15 Pavement Rehabilitation Project (PJ2331)

Matrix of CM Tasks and Fee Proposal for Construction Management Services (90 Working Days Construction)

5/16/2016

SWINERTON MANAGEMENT & CONSULTING

Rates are for work performed in 2016

		Robert Addiego - Project Executive SMC		Scott Christie / Robert Kagiyama - RE/PM SMC		Brett Lowther - Sr. Inspector SMC		
		Hours per Task	Rate/Hour	Hours per Task	Rate/Hour	Hours per Task	Rate/Hour	
			\$170		\$153		\$119	Total Cost
Task			Subtotal Per Task		Subtotal Per Task		Subtotal Per Task	Per Task
Construction Duration = 90 Working Days								
Construction Management Services:								
I - Pre-Award & Post Award Services								
1.1 Review Award Docs, Assist with Award & Notice-to-Proceed		0	\$0	8	\$1,224	0	\$0	\$1,224
II - Pre-Construction Activities								
2.1 Prepare Document Control Logs / Spreadsheets		0	\$0	4	\$612	0	\$0	\$612
2.2 Review Contract Documentation		0	\$0	8	\$1,224	0	\$0	\$1,224
2.3 Review Submittals (Work Plan, Traffic Control Plan, etc)		0	\$0	12	\$1,836	8	\$952	\$2,788
2.4 Coordinate with Local Utility Companies		0	\$0	8	\$1,224	0	\$0	\$1,224
2.5 SMC Contract Administration		12	\$2,040	4	\$612	0	\$0	\$2,652
III - Construction Management Services								
3.1 Conduct Pre-construction Meeting, agenda & minutes		2	\$340	8	\$1,224	2	\$238	\$1,802
3.2 Coordinate with City Staff, Agencies, Consultants		12	\$2,040	16	\$2,448	16	\$1,904	\$6,392
3.3 Coordinate with Local Utility Companies		0	\$0	16	\$2,448	16	\$1,904	\$4,352
3.4 Maintain Project Docs per City / Caltrans Standards		0	\$0	8	\$1,224	16	\$1,904	\$3,128
3.5 Process / Track RFI's		0	\$0	16	\$2,448	0	\$0	\$2,448
3.6 Process / Track Submittals		0	\$0	16	\$2,448	0	\$0	\$2,448
3.7 Receive / Review Certified Payroll Reports		0	\$0	8	\$1,224	0	\$0	\$1,224
3.8 Labor Compliance Field Interviews		0	\$0	0	\$0	0	\$0	\$0
3.9 Review and Process Monthly Progress Payments		0	\$0	16	\$2,448	0	\$0	\$2,448
3.10 Monitor Contractor's Progress Schedule		0	\$0	16	\$2,448	0	\$0	\$2,448
3.11 Provide On-Site Observation / Coordinate Special Inspections		0	\$0	50	\$7,650	360	\$42,840	\$50,490
3.12 Monitor/Enforce On-site Safety		0	\$0	8	\$1,224	16	\$1,904	\$3,128
3.13 Process & Issue Change Orders		0	\$0	16	\$2,448	0	\$0	\$2,448
3.14 Negotiate contract dispute, schedule delays and claims		0	\$0	4	\$612	0	\$0	\$612
3.15 Prepare Contract Amendment		0	\$0	8	\$1,224	0	\$0	\$1,224
3.16 Issue and Respond to Non-Compliance Issues		0	\$0	4	\$612	0	\$0	\$612
3.17 Conduct Project Meetings		0	\$0	24	\$3,672	0	\$0	\$3,672
3.18 Prepare Project Status Reports		0	\$0	30	\$4,590	0	\$0	\$4,590
3.19 Perform Final Inspection & Punch Lists w/ EOR		0	\$0	8	\$1,224	16	\$1,904	\$3,128
3.20 Provide Project Photos		0	\$0	5	\$765	16	\$1,904	\$2,669
3.21 Attend Meetings/ Management Oversight		0	\$0	16	\$2,448	0	\$0	\$2,448
3.22 Assist with Community Outreach		0	\$0	16	\$2,448	0	\$0	\$2,448
3.23 Prepare for Audit of Project Files (if needed)		0	\$0	0	\$0	0	\$0	\$0

IV - Post Construction Services								
4.1 Compile / Prepare As-Built Drawings		0	\$0	8	\$1,224	8	\$952	\$2,176
4.2 Prepare Final Estimate & Payment		0	\$0	8	\$1,224	0	\$0	\$1,224
4.3 Prepare Supporting Documents for Contract Acceptance		0	\$0	4	\$612	0	\$0	\$612
4.4 Compile Project Files		0	\$0	8	\$1,224	0	\$0	\$1,224
4.5 SMC Contract Administration		4	\$680	0	\$0	0	\$0	\$680
Subtotal Hours		30		381		474		
Subtotal Cost per Consultant Individual			\$5,100		\$58,293		\$56,406	
Consultant Subtotal								\$119,799
Allowance for Special Inspection and Materials Testing								
Kleinfelder - Special Inspection and Materials Testing Services	\$20,000							\$20,000
(Includes a 6% markup for Subcontract Administration)								
Additional Cost-Reproduction, Photos, Misc Office Supplies	\$250							\$250
Additional Cost-Allowance Subtotal	\$20,250							\$20,250
GRAND TOTAL								\$140,049

Assumptions / Qualifications:

1. The Project Executive will be overseeing the Swinerton Team and provide contract administration. Estimated level of effort is 6 hours per month throughout the duration of the Project.
2. The Resident Engineer / Project Manager will be the day-to-day lead for the Swinerton Team. The RE/PM is responsible for overseeing the overall field work and project coordination.
3. The Inspector will assist the RE/PM with onsite construction observation, coordination with the City, Special Inspection & Materials Testing sub-consultant, Utility Companies, Contractor, Residents and Businesses.
4. Allowance for Special Inspection and Materials Testing is an estimate - the actual costs will be dependent on the Contractor's schedule and efficiency in completing the work.
5. The above Swinerton Fee Proposal is dependent of the Contractor's schedule and efficiency. The Fee does not include time or effort for schedule delays, unforeseen conditions, or Contractor delays.
6. The above Swinerton Fee Proposal includes a project level of effort of approximately 3-4 hours per work day for the RE/PM, and approximately 4 (field) hours per work day for the Sr. Inspector for the 90 work day duration.
7. The Swinerton level of effort (Labor Hours) is based on award of the entire Construction Contract Scope of Work including Add Alts A, B and C.
8. The above Fee Proposal is a not-to-exceed estimate and is based on 90 working days. The above Fee also includes effort for three weeks to Close-out the Project.
9. The above Fee Proposal does not have built-in contingencies for significant changes in construction scope of work or schedule extensions.