

**CITY OF SANTA ANA  
CONSTRUCTION CONTRACT**

PROJECT 22-1390  
STORMWATER CHANNEL FENCING UPGRADES PHASE II

This CONSTRUCTION CONTRACT is made and entered into this 5<sup>th</sup> day of April, 2022 by and between the City of Santa Ana, California, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (hereinafter "CITY"), and Lightning Fence Company, Inc. (hereinafter "CONTRACTOR").

WITNESSETH:

The CITY and the CONTRACTOR, for the consideration hereinafter named, mutually agree as follows:

1. CONTRACTOR agrees to perform all the work and furnish all the materials at its own cost and expense necessary to construct and complete in a good and workmanlike manner and to the satisfaction of the City Engineer of the CITY, the Stormwater Channel Fencing Upgrades Phase II (hereinafter referred to as the "WORK OF IMPROVEMENT") identified in and in accordance with the Contract Documents prepared by the City's Public Works Agency and approved by the City Council.
2. The complete Construction Contract consists of the "Contract Documents" as defined by the Standard Specifications for Public Works Construction and which include the following:
  - Notice Inviting Bids
  - Information to Bidders
  - Bid Proposal
  - Bid Bond
  - Contract Form
  - Contract Bonds
  - General Provisions
  - Special Provisions
  - Technical Provisions and Project Plans
  - Community Workforce Agreement
  - Appendices

In case of conflict between the Contract Documents, the precedence of documents shall be as established in the Standard Specifications for Public Works Construction.

3. CITY agrees to pay and CONTRACTOR agrees to accept in full payment to complete the WORK OF IMPROVEMENT the sum total amount not to exceed Six Hundred Sixty Nine Thousand Three Hundred Forty-Eight Dollars and No Cents (\$669,348.00), as set forth and identified in the BID PROPOSAL, which is attached hereto and incorporated herein as Exhibit "A."

The BID PROPOSAL contains a schedule of unit price(s) or lump sum(s) based on approximate quantities only, and the City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work or to omit portions of the work as may be deemed necessary or advisable.

4. CONTRACTOR agrees to complete the WORK OF IMPROVEMENT within the time specified in the Time for Completion of Improvements section of the BID PROPOSAL (Exhibit "A") including commencing construction within the timeframe therein specified after issuance of a Notice to Proceed.
5. The CONTRACTOR will pay, and will require all subcontractors to pay, all employees on the WORK OF IMPROVEMENT a salary or wage at least equal to the prevailing salary or wage established for such work as set forth in the wage determinations for this work in accordance with applicable State and Federal law.
6. If applicable, the CONTRACTOR shall adhere to the CITY'S Community Workforce Agreement (CWA), a pre-hire collective bargaining agreement, which establishes the labor relations policies and procedures for CONTRACTOR to follow in the crafts persons employed to complete the WORK OF IMPROVEMENT as more fully described in the CWA. The CWA may be found on the City's website at: <http://www.santa-ana.org/pwa/documents/CWA.pdf>
7. CONTRACTOR shall, after award of this Contract, furnish two bonds to be approved by the CITY, one in the amount of One Hundred Percent (100%) of the Contract price, to guarantee the faithful performance of the work (Performance Bond), and one in the amount of One Hundred Percent (100%) of the Contract price to guarantee payment of all claims for labor and materials furnished (Payment Bond). This Contract shall not become effective until such bonds are supplied to and approved by the CITY.
8. CONTRACTOR shall, prior to the release of the performance and payment bonds or the retention payment, furnish a warranty performance and payment bond (Warranty Bond). Said Warranty Bond shall also be required as a condition of project acceptance. For projects up to Five Hundred Thousand Dollars (\$500,000), the Warranty Bond amount shall be the greater of Ten Thousand Dollars (\$10,000) or Twenty Percent (20%) of the final contract price. For projects above Five Hundred Thousand Dollars (\$500,000), the Warranty Bond amount shall be the greater of One Hundred Thousand Dollars (\$100,000) or Ten Percent (10%) of the final contract price.
9. CONTRACTOR shall, after award of this Contract, furnish Certificates of Liability Insurance and Worker's Compensation Insurance as outlined in the General Provisions, to be approved by the CITY.
10. INDEMNIFICATION.  
To the fullest extent allowed by law, CONTRACTOR and its Subcontractors hereby agree to defend, indemnify, and hold harmless CITY, its City Council, boards and commissions, officers, agents, employees, representatives and volunteers (hereinafter collectively referred to as "Indemnitees"), through legal counsel acceptable to CITY, from and against any liability, claims, actions, costs, damages or losses, including reasonable costs and attorney's fees, for injury, including death to any person or damage to any property, arising directly or indirectly from, or in any manner relating to, any of the following:
  - (i) Performance or nonperformance of the Work of Improvement by CONTRACTOR or its Subcontractors of any lower tier;
  - (ii) Performance or nonperformance by CONTRACTOR or its Subcontractors of any lower tier, of any of the obligations under the Contract Documents;



- (iii) The construction activities of CONTRACTOR or its Subcontractors of any lower tier, either on the project site or on other properties;
- (iv) The payment or nonpayment by CONTRACTOR of any of its Subcontractors of any lower tier, for Work of Improvement performed on or off the project site; and
- (v) Any personal injury, property damage or economic loss to third persons related to and arising from the performance or nonperformance by CONTRACTOR or its Subcontractors of any lower tier, of the Work of Improvement.
- (vi) The indemnity obligations of Subcontractors provided by this Section shall be included in all subcontract documents issued by CONTRACTOR.

Nothing in the Contract Documents shall be construed to give rise to any implied right of indemnity in favor of CONTRACTOR against CITY or any other Indemnitee.

IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract on the day and year first above written.

**ATTEST:**

**CITY OF SANTA ANA**

\_\_\_\_\_  
DAISY GOMEZ  
Clerk of the Council


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KRISTINE RIDGE  
City Manager

**APPROVED AS TO FORM:**

SONIA R. CARVALHO  
City Attorney

**CONTRACTOR:**  
Lightning Fence Company, Inc.

By: John M. Funk  
JOHN FUNK  
Senior Assistant City Attorney

  
NAME:  
TITLE:  
Dan Flud  
President

**RECOMMENDED FOR APPROVAL:**

\_\_\_\_\_  
NABIL SABA, PE  
Executive Director  
Public Works Agency

**CITY OF SANTA ANA  
PROPOSAL**

PROJECT NO.: 22-1390

STORMWATER CHANNEL FENCING UPGRADES PHASE II

ADDENDUM NO. 2  
PROJECT NO. 22-1390

Exhibit A

**BID PROPOSAL**

TO: CITY COUNCIL OF THE CITY OF SANTA ANA

FROM: Lightning Fence Co., Inc.

REQUIREMENT:

The undersigned bidder declares that they have carefully examined the location of the proposed work, that they have examined the Contract Documents in its entirety and hereby proposes to furnish all material and do all the work required to complete the said work in accordance with said plans (if any) and the specifications for the unit price(s) or lump sum(s) set forth in the following schedule:

Item	Description	Qty	Unit	Unit Price	Amount
1	Remove and Dispose existing chain link fence, posts and foundations, complete.	3,960	LF	\$ 9 -	\$ 35,640 -
2	Furnish and Install, complete, 8-Foot High Securifor 4D fence and concrete foundation per plan.	3,960	LF	\$ 137 -	\$ 542,520 -
3	Furnish and Install Complete 8-Foot High by 6-Foot Wide Securifor 4D single swing gate per plan.	10	EA	\$ 5,000 -	\$ 50,000 -
4	Furnish and Install sign on fence (CSA).	13	EA	\$ 300 -	\$ 3,900 -
5	Traffic Signs.	24	EA	\$ 250 -	\$ 6,000 -
6	Pedestrian Barricade.	2	EA	\$ 500 -	\$ 1,000 -
7	Vandalism - Maintenance Period (90 Calendar Days).	1	LS	\$15,000	\$ 15,000 -
8	Mobilization	1	LS	\$ 5,000 -	\$ 5,000 -
9	Construction Permit	1	LS	\$9,288	\$9,288
10	Project Sign	1	LS	\$ 1,000 -	\$ 1,000 -



CITY OF SANTA ANA  
PROPOSAL

ADDENDUM NO. 2  
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TOTAL BASE BID	\$ 669,348 —
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The lowest responsible bidder shall be selected based on the total base bid. The City reserves the right to award the Base Bid, and any, all, or none of the add-alternate bid items (if any).

\* The quantity for this bid item is shown for bid comparison only. This bid item shall not be subject to the "25%" limit as stated in Section 3-2 of the Standard Specifications. The actual amount for this item will be dictated by the actual quantity used, and the Agency reserves the right to increase or decrease the quantity of this item accordingly.

† This bid item is considered a Specialty Item per Section 2-3.2 of the Standard Specifications.

TIME FOR COMPLETION OF IMPROVEMENTS AND LIQUIDATED DAMAGES

The undersigned bidder hereby proposes to complete the Work for the total base bid amount shown above, within 170 working days after the commencement date stated in the Notice to Proceed. The first 80 working days of which is for construction, and the last 90 working days for the vandalism-maintenance period. **The contractor shall order any material specified in the contract document requiring a long lead-time immediately after the Notice to Proceed. The lead-time for the items is including in the total working days.**

The liquidated damages amount, in lieu of the amount specified in Subsection 6-9 of the Standard Specifications, shall be \$1,300 per calendar day.

Name of Firm Lightning Fence Co., Inc

Signature of BIDDER [Signature]

Title President

(If an individual, so state. If a firm or co-partnership, state the firm name and give the names of all individual co-partners composing the firm. If a corporation, state legal name of corporation, and names of President, Secretary, Treasurer and Manager, thereof.)