

**CITY OF SANTA ANA
CONSTRUCTION CONTRACT**

PROJECT 22-1341
FIRST STREET SLOPE STABILIZATION

This CONSTRUCTION CONTRACT is made and entered into this 6th day of December, 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 EverLevel Holdings, LLC (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 First Street Slope Stabilization (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
 - 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 Four Million, Four Hundred Eighty-Two Thousand, Eight Hundred Ninety-Two Dollars and No Cents (\$4,482,892.00), as set forth and identified in the BID PROPOSAL, which is attached hereto and incorporated herein as Exhibit "B."

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 Indemnatee.

11. FEDERAL PROVISIONS.

Funds from the Coronavirus State Fiscal Recovery Fund and/or the Coronavirus Local Fiscal Recovery Fund, together known as the Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”) program, will be used to fund all or a portion of this Construction Contract. CONTRACTOR shall comply with all applicable federal requirements including, but not limited to, the following, all of which are expressly incorporated herein by reference:

- a. Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021 (the “Act”);
- b. U.S. Department of the Treasury (“Treasury”) Final Rule for the Act;
- c. Treasury Compliance and Reporting Guidance for the Act;
- d. 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, other than such provisions as the U.S. Department of the Treasury may determine are inapplicable to the CSLFRF program and subject to such exceptions as may be otherwise provided by the U.S. Department of the Treasury;
- e. Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions; and
- f. Federal contract provisions attached hereto as Exhibit “A” and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in this Construction Contract. With respect to any conflict between such federal requirements and the terms of this Construction Contract and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

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

ATTEST:

CITY OF SANTA ANA

Clerk of the Council

KRISTINE RIDGE
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

CONTRACTOR:
EverLevel Holdings, LLC

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

Craig Roth
NAME: CRAIG ROTH
TITLE: PRESIDENT / COO

RECOMMENDED FOR APPROVAL:

NABIL SABA, PE
Executive Director
Public Works Agency

EXHIBIT A
FEDERAL CONTRACT PROVISIONS

During the performance of this Construction Contract, CONTRACTOR shall comply with all applicable federal laws and regulations including, but not limited to, the federal contract provisions in this Exhibit "A".

1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

(a) Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. The Contract Documents include remedies for breach and termination for cause and convenience.

(b) Appendix II to Part 200 (C) – Equal Employment Opportunity: During the performance of this Construction Contract, CONTRACTOR agrees as follows:

(i) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.

(iv) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Construction Contract or with any of the said rules, regulations, or orders, this Construction Contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

The CITY further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the CITY so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Construction Contract.

The CITY agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of the CONTRACTOR and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the

supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The CITY further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the CITY agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee) for this project; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Appendix II to Part 200 (D) – Davis-Bacon Act: Not applicable to this Construction Contract since it is funded by CSLFRF.

(d) Appendix II to Part 200 (D) – Copeland “Anti-Kickback” Act: Not applicable to this Construction Contract since it is funded by CSLFRF.

(e) Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

(i) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(ii) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (ii) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (ii) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (ii) of this section.

(iii) Withholding for unpaid wages and liquidated damages. The CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is

held by the CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (iii) of this section.

(iv) Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.

(f) Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement:
Not applicable to this Construction Contract.

(g) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act:

(i) Pursuant to the Clean Air Act, (1) CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (2) CONTRACTOR agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000.

(ii) Pursuant to the Federal Water Pollution Control Act, (1) CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., (2) CONTRACTOR agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000.

(h) Appendix II to Part 200 (H) – Debarment and Suspension:

(i) This Construction Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(ii) CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(iii) This certification is a material representation of fact relied upon by CITY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(iv) CONTRACTOR warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. CONTRACTOR also agrees to verify that all

subcontractors performing work under this Construction Contract are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. CONTRACTOR further agrees to notify the CITY in writing immediately if CONTRACTOR or its subcontractors are not in compliance during the term of this Construction Contract.

(i) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: CONTRACTORS that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. CONTRACTOR must sign and submit to the CITY the certification regarding lobbying attached hereto as Attachment “I” and incorporated herein by this reference.

(j) Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:

(i) CONTRACTOR shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

(ii) In the performance of this Construction Contract, the CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

(iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iv) The CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

(k) Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

(i) CONTRACTOR shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Construction Contract. As described in Public Law 115–232, section 889, covered

telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(2) Telecommunications or video surveillance services provided by such entities or using such equipment.

(3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(ii) See Public Law 115-232, section 889 for additional information.

(l) Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

(i) CONTRACTOR shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts.

(ii) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2. COMPLIANCE WITH U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS

(a) Maintenance of and Access to Records. CONTRACTOR shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing. CONTRACTOR agrees to provide the CITY, Treasury Office of Inspector General and the Government Accountability Office, or any of their authorized representatives access to any books, documents, papers, and records (electronic and otherwise) of the CONTRACTOR which are directly pertinent to this Construction Contract for the purposes of conducting audits or other investigations. Records shall be maintained by CONTRACTOR for a period of five (5) years after completion of the project.

(b) Compliance with Federal Regulations. CONTRACTOR agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. CONTRACTOR also agrees to comply with all other applicable federal statutes, regulations, and executive orders, including, without limitation, the following:

(i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

(ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

(iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

(iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

(v) Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

(vi) New Restrictions on Lobbying, 31 C.F.R. Part 21.

(vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

(c) Compliance with Federal Statutes and Regulations Prohibiting Discrimination. CONTRACTOR agrees to comply with statutes and regulations prohibiting discrimination applicable to the CSLFRF program including, without limitation, the following:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

(ii) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

(iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

(v) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

(d) False Statements. CONTRACTOR understands that making false statements or claims in connection with the CSLFRF program is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

(e) Protections for Whistleblowers.

(i) In accordance with 41 U.S.C. § 4712, CONTRACTOR may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

(ii) The list of persons and entities referenced in the paragraph above includes the following:

- (1) A member of Congress or a representative of a committee of Congress;
- (2) An Inspector General;
- (3) The Government Accountability Office;
- (4) A Treasury employee responsible for contract or grant oversight or management;
- (5) An authorized official of the Department of Justice or other law enforcement agency;
- (6) A court or grand jury; or
- (7) A management official or other employee of CONTRACTOR, or a subcontractor who has the responsibility to investigate, discover, or address misconduct.

(f) Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), CONTRACTOR is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles, and encourage its subcontractors to do the same

(g) Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), CONTRACTOR should encourage its employees and subcontractors to adopt and

enforce policies that ban text messaging while driving, and CONTRACTOR should establish workplace safety policies to decrease accidents caused by distracted drivers.

(h) Assurances of Compliance with Civil Rights Requirements. The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to the Project, including, but not limited to, the following:

(i) CONTRACTOR ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

(ii) CONTRACTOR acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, are limited in their English proficiency. CONTRACTOR understands that the denial of access to persons to its programs, services and activities because of their limited proficiency in English is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964. Accordingly, CONTRACTOR shall initiate reasonable steps, or comply with Treasury's directives, to ensure meaningful access to its programs, services and activities to LEP persons. CONTRACTOR understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary to ensure effective communication in the Project.

(iii) CONTRACTOR agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.

(iv) CONTRACTOR acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon CONTRACTOR and CONTRACTOR's successors, transferees and assignees for the period in which such assistance is provided.

(v) CONTRACTOR agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the CONTRACTOR and the CONTRACTOR's subcontractors, successors, transferees and assignees:

The subcontractor, successor, transferee and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also extends protection to persons with "Limited English proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as

implemented by Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement).

(vi) CONTRACTOR understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the CONTRACTOR, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the CONTRACTOR for the period during which it retains ownership or possession of the property.

(vii) CONTRACTOR shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. CONTRACTOR shall comply with information requests, on-site compliance reviews, and reporting requirements.

(viii) CONTRACTOR shall maintain a complaint log and inform the Department of the Treasury of any accusations of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. CONTRACTOR must also inform the Department of the Treasury if CONTRACTOR has received no complaints under Title VI.

(ix) CONTRACTOR must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the CONTRACTOR and the administrative agency that made the finding. If the CONTRACTOR settles a case or matter alleging such discrimination, CONTRACTOR must provide documentation of the settlement. If CONTRACTOR has not been the subject of any court or administrative agency finding of discrimination, please so state.

(x) If CONTRACTOR makes sub-awards to other agencies or other entities, CONTRACTOR is responsible for assuring that sub-recipients also comply with Title VI and all of the applicable authorities covered in this assurance.

CITY OF SANTA ANA PROPOSAL

PROJECT NO.: 22-1341
FIRST STREET SLOPE STABILIZATION PROJECT

BID PROPOSAL

TO: CITY COUNCIL OF THE CITY OF SANTA ANA

FROM: EverLevel Holdings, LLC

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	Clearing and Grubbing	45,193	SF	\$ 10. ⁰⁰	\$ 451,930. ⁰⁰
2	Unclassified Excavation and Export of Excavated Material*	2,670	CY	\$ 100. ⁰⁰	\$ 267,000. ⁰⁰
3	Remove Existing Chainlink Fence	912	LF	\$ 35. ⁰⁰	\$ 31,920. ⁰⁰
4	Slope Irrigation System Removal and Abandonment	1	LS	\$ 20,000. ⁰⁰	\$ 20,000. ⁰⁰
5	Protection of Surface Utility Frames and Covers	1	LS	\$ 50,000. ⁰⁰	\$ 50,000. ⁰⁰
6	Reinforced Concrete Slope Paving	1,848	CY	\$ 970. ⁰⁰	\$ 1,792,560. ⁰⁰
7	Permeable Backfill (Class II Aggregate)	812	CY	\$ 135. ⁰⁰	\$ 109,620. ⁰⁰
8	Sandstone Lens - Stamped Concrete with Integral Color and Anti-Graffiti Coating	15,317	SF	\$ 25. ⁰⁰	\$ 382,925. ⁰⁰
9	4"-6" Cobblestone	17,375	SF	\$ 17. ⁰⁰	\$ 295,375. ⁰⁰
10	Mortar Bed	17,375	SF	\$ 12. ⁰⁰	\$ 208,500. ⁰⁰
11	River Lens - Exposed Aggregate Concrete, Integral color, and Anti-Graffiti Coating	11,401	SF	\$ 32. ⁰⁰	\$ 364,832. ⁰⁰
12	8' Tall Securifor 4D Fence and Two (2) - 8' Access Gates	937	LF	\$ 250. ⁰⁰	\$ 234,250. ⁰⁰

CITY OF SANTA ANA
PROPOSAL
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Item	Description	Qty	Unit	Unit Price	Amount
13	Asphalt Concrete Pavement (Incl. Aggregate Base)	3.8	TN	\$ 1,000. ⁰⁰	\$ 3,800. ⁰⁰
14	8" Thick PCC Drive Approach	268	SF	\$ 15. ⁰⁰	\$ 4,020. ⁰⁰
15	4" Thick PCC V-Ditch	46	SF	\$ 65. ⁰⁰	\$ 2,990. ⁰⁰
16	Variable Height Type A-2-8 PCC Curb & Gutter	29	LF	\$ 100	\$ 2,990. ⁰⁰
17	Cartridge Media Filter Vault	1	EA	\$ 50,000. ⁰⁰	\$ 50,000. ⁰⁰
18	FloGard +Plus Standard Catch Basin Insert Filter	1	EA	\$ 1,000. ⁰⁰	\$ 1,000. ⁰⁰
19	Low-Flow Grated Catch Basin	1	EA	\$ 6,000. ⁰⁰	\$ 6,000. ⁰⁰
20	10" SDR 26 PVC Pipe	8	LF	\$ 250. ⁰⁰	\$ 2,000. ⁰⁰
21	4" Perforated PVC Pipe	1,959	LF	\$ 30. ⁰⁰	\$ 58,770. ⁰⁰
22	2" PVC Weep Hole Drains, Sidewalk Remove & Replace	10	EA	\$ 1,200. ⁰⁰	\$ 12,000. ⁰⁰
23	Connection to Existing Catch Basin	1	EA	\$ 2,000. ⁰⁰	\$ 2,000. ⁰⁰
24	No Dumping Stencil	6	EA	\$ 500. ⁰⁰	\$ 3,000. ⁰⁰
25	Project Advertisement Sign	2	EA	\$ 2,500. ⁰⁰	\$ 5,000. ⁰⁰
26	SWPPP Risk Level 2	1	LS	\$ 68,000. ⁰⁰	\$ 68,000. ⁰⁰
27	As-Built Plans	1	LS	\$ 11,000. ⁰⁰	\$ 11,000. ⁰⁰
28	Construction Permits	1	LS	\$16,500	\$16,500
29	Remove & Salvage Changeable Sign and Footing	1	LS	\$ 15,000. ⁰⁰	\$ 15,000. ⁰⁰
30	Custom Concrete Stamp of City Logo	1	LS	\$ 10,000. ⁰⁰	\$ 10,000. ⁰⁰

CITY OF SANTA ANA
PROPOSAL
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	TOTAL BASE BID \$ <u>4,482,892.⁰⁰</u>
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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 3-2 of the Standard Specifications.

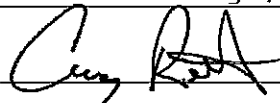
TIME FOR COMPLETION OF IMPROVEMENTS AND LIQUIDATED DAMAGES

The undersigned bidder hereby proposes to complete the Work for the total base bid amount shown above, within one hundred and thirty (130) working days after the commencement date stated in the Notice to Proceed.

The liquidated damages amount, in lieu of the amount specified in Subsection 6-9 of the Standard Specifications, shall be \$4,800 per calendar day.

Name of Firm EverLevel Holdings, LLC

Signature of BIDDER



Title Craig Roth - President/COO

(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.)