

## CONTRACT

This public works contract ("Contract") is entered into by and between the City of Morgan Hill ("City") and STB Stone, Inc. ("Contractor") for work on the Aquatics Center Deck Renovation and Resurfacing Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform work on the Project, and on March 1, 2017, (contract date) City authorized award of this Contract to Contractor for the amount of Contractor's bid.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
  - 2.1 Notice Inviting Bids;
  - 2.2 Instructions to Bidders;
  - 2.3 Addenda, if any;
  - 2.4 Bid Proposal and attachments thereto;
  - 2.5 Contract;
  - 2.6 Payment and Performance Bonds;
  - 2.7 General Conditions;
  - 2.8 Special Conditions;
  - 2.9 Project Drawings and Technical Specifications;
  - 2.10 Change Orders, if any;
  - 2.11 Notice of Award;
  - 2.12 Notice to Proceed.
3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor Three hundred thirty-nine thousand Dollars (\$339,000) (the "Contract Price"), in accordance with the payment provisions in the General Conditions. The Contract Price includes all applicable federal, state, and local taxes.
5. **Time for Completion.** Contractor will fully complete the Work for the Project within **30** calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of five hundred Dollars (\$500) for each day of unexcused delay in completion, and the Contract Price will be reduced accordingly.
7. **Labor Code Compliance.**
  - 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
  - 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
  - 7.3 **DIR Registration.** City will not enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Under Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."
9. **Notice.** Any notice, billing, or payment required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email as a PDF (or comparable)

file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
Phone: (409) 779-7259  
Attn: City Clerk  
Email: michelle.wilson@morganhill.ca.gov  
Copy to: anthony.eulo@morganhill.ca.gov

Contractor:

Name: STB Stone, Inc.  
Address: 1611 6<sup>th</sup> Avenue  
City/State/Zip: Los Angeles, CA 90019  
Phone: (323) 988-0088  
Attn: Suntae Bae  
Email: stbstone@gmail.com  
Copy to:

## **10. General Provisions.**

- 10.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's successors and permitted assigns.
- 10.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 10.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Santa Clara County, and no other place.
- 10.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 10.5 Integration; Severability.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract Documents,

or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.

- 10.6 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two (2) officers of the corporation are required pursuant to California Corporation Code Section 313.

*[Signatures are on the following page.]*

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND  
2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

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

**CITY OF MORGAN HILL:**

\_\_\_\_\_  
Steve Rymer  
City Manager

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
Irma Torrez  
City Clerk

Date: \_\_\_\_\_

**Approved as to Form:**

\_\_\_\_\_  
Donald A. Larkin  
City Attorney

Date: \_\_\_\_\_

**CONTRACTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
Name/Title [print]

Date: \_\_\_\_\_

*Corporate entities must provide a  
second signature:*

\_\_\_\_\_  
\_\_\_\_\_  
Name/Title [print]

Date: \_\_\_\_\_

\_\_\_\_\_  
Contractor's License Number(s)

\_\_\_\_\_  
Expiration Date(s)

Seal:

\_\_\_\_\_  
DIR Registration Number

END OF CONTRACT