

**CITY OF FERNDALE**

POB 1095

FERNDALE, CA 95536

*"A Historic Victorian Village"*



## **CITY OF FERNDALE**

### **PLANS, CONTRACT DOCUMENTS AND SPECIFICATIONS**

### **FIREMENS PARK IMPROVEMENTS PROJECT**

#### **BID OPENING:**

June 11, 2024, 2:00 p.m.

Ferndale City Hall

#### **NON-MANDATORY PRE-BID MEETING:**

May 28, 2024, at 2:00 p.m.

Firemens Park Picnic Area

**CITY OF FERNDALE**

834 MAIN STREET

P. O. BOX 1095

FERNDALE, CALIFORNIA 95536

PHONE: 707.786.4224 • FAX: 707.786.9314

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# NOTICE INVITING BIDS

1. **Bid Submission.** City of Ferndale (“City”) will accept sealed bids for its **Firemens Park Improvements** (“Project”), by or before **Tuesday, June 11, 2024, at 2:00 p.m.**, at Ferndale City Hall, 834 Main St., Ferndale CA 95536, at which time they will be transferred to the City Council Chambers where they will be publicly opened and read aloud by the City Engineer or his designated representative.
2. **Project Information.**
  - 2.1. **Location.** The Project is located at Firemans Park, 100 Berding St, Ferndale, CA 95536.
  - 2.2. **Project Description.** The City of Ferndale is soliciting bids for WORK consisting of furnishing all labor, materials, equipment, incidentals and performing all work required to complete the following: Construct a BBQ Pavilion and concrete sidewalk.
  - 2.3. **Time for Completion.** The Project must be completed within 90 calendar days from the start date set forth in the Notice to Proceed. City anticipates that the Work will begin in July, 2024, but the anticipated start date is provided solely for convenience and is neither certain nor binding.
  - 2.4. **Project Budget.** The project budget is \$50,000.
  - 2.5. **Retention Percentage.** The percentage of retention that will be withheld from progress payments is 5%.
  - 2.6. **Site Visit.** A site visit will be held on May 28, 2024 at 2:00 p.m., at the Firemens Park Picnic Area, Ferndale, CA, to acquaint all prospective bidders with the Contract Documents and the Worksite. The site visit is not mandatory.
3. **License and Registration Requirements.**
  - 3.1. **License.** This Project requires a valid California contractor’s license for the following classification(s): Class B General Contractor.
  - 3.2. **DIR Registration.** City may not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder is registered with the California Department of industrial Relations (“DIR”) to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.
4. **Contract Documents.** The plans, specifications, bid forms and contract documents for the project, and any addenda thereto (“Contract Documents”) may be downloaded from City’s website located at: <https://ci.ferndale.ca.us/> and at the Humboldt Builders Exchange website: [www.humbx.com](http://www.humbx.com).
5. **Bid Security.** The Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier’s or certified check made payable to City, or a bid bond executed by a surety licensed to do business in the State of California on the Bid Bond form included with the Contract Documents. The bid security must guarantee that within ten days after City issues the Notice of Potential Award, the successful bidder will execute the Contract and submit the payment and performance bonds, insurance certificates and endorsements, and any

other submittals required by the Contract Documents and as specified in the Notice of Potential Award.

6. **Prevailing Wage Requirements.**

6.1. **General.** Pursuant to California Labor Code § 1720 et seq., 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.

6.2. **Rates.** These prevailing rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.


6.3. **Compliance.** The Contract will be subject to compliance monitoring and enforcement by the DIR, under Labor Code § 1771.4.

7. **Performance and Payment Bonds.** The successful bidder will be required to provide performance and payment bonds, each for 100% of the Contract Price, as further specified in the Contract Documents.

8. **Substitution of Securities.** Substitution of appropriate securities in lieu of retention amounts from progress payments is permitted under Public Contract Code § 22300.

9. **Subcontractor List.** Each Subcontractor must be registered with the DIR to perform work on public projects. Each bidder must submit a completed Subcontractor List form with its Bid Proposal, including the name, location of the place of business, California contractor license number, DIR registration number, and percentage of the Work to be performed (based on the base bid price) for each Subcontractor that will perform Work or service or fabricate or install Work for the prime contractor in excess of one-half of 1% of the bid price, using the Subcontractor List form included with the Contract Documents.

10. **Instructions to Bidders.** All bidders should carefully review the Instructions to Bidders for more detailed information before submitting a Bid Proposal. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, as defined therein, including this Notice Inviting Bids.

By:  \_\_\_\_\_ Date: 5/15/2024

Brian K Ontiveros, City Engineer

Publication Date: May 15, 2024

END OF NOTICE INVITING BIDS

# INSTRUCTIONS TO BIDDERS

Each Bid Proposal submitted to the City of Ferndale (“City”) for the Firemens Park Improvements (“Project”) must be submitted in accordance with the following instructions and requirements:

1. **Bid Submission.**

- 1.1. **General.** Each Bid Proposal must be signed and submitted to City, using the form provided in the Contract Documents, by or before the date and time set forth in Section 1 of the Notice Inviting Bids, or as amended by subsequent addendum. Faxed or emailed Bid Proposals will not be accepted, unless otherwise specified. Late submissions will be returned unopened. City reserves the right to postpone the date or time for receiving or opening bids. Each bidder is solely responsible for all of its costs to prepare and submit its bid and by submitting a bid waives any right to recover those costs from City. The bid price(s) must include all costs to perform the Work as specified, including all labor, material, supplies, and equipment and all other direct or indirect costs such as applicable taxes, insurance and overhead.
- 1.2. **Bid Envelope.** The envelope containing the sealed Bid Proposal and all required forms and attachments must be clearly labeled and addressed as follows:

**BID PROPOSAL:**

Firemens Park Improvements Project

City Clerk  
834 Main  
PO Box 1095  
Ferndale, CA 95536  
Attn: Kristene Hall

The envelope must also be clearly labeled, as follows, with the bidder’s name, address, and its registration number with the California Department of Industrial Relations (“DIR”) for bidding on public works contracts (Labor Code §§ 1725.5 and 1771.1):

[Contractor company name]  
[street address]  
[city, state, zip code]  
DIR Registration No: \_\_\_\_\_

- 1.3. **DIR Registration.** Subject to limited legal exceptions for joint venture bids and federally-funded projects, City may not accept a Bid Proposal from a bidder without proof that the bidder is registered with the DIR to perform public work under Labor Code § 1725.5. If City is unable to confirm that the bidder is currently registered with the DIR, City may disqualify the bidder and return its bid unopened. (Labor Code §§ 1725.5 and 1771.1(a).)
2. **Bid Proposal Form and Enclosures.** Each Bid Proposal must be completed in ink using the Bid Proposal form included with the Contract Documents. The Bid Proposal form must be fully completed without interlineations, alterations, or erasures. Any necessary corrections must be

clear and legible and must be initialed by the bidder's authorized representative. A Bid Proposal submitted with exceptions or terms such as "negotiable," "will negotiate," or similar, will be considered nonresponsive. Each Bid Proposal must be accompanied by bid security, as set forth in Section 4 below, and by a completed Subcontractor List and Non-Collusion Declaration using the forms included with the Contract Documents.

3. **Authorization and Execution.** Each Bid Proposal must be signed by the bidder's authorized representative. A Bid Proposal submitted by a partnership must be signed in the partnership name by a general partner with authority to bind the partnership. A Bid Proposal submitted by a corporation must be signed with the legal name of the corporation, followed by the signature and title of two officers of the corporation with full authority to bind the corporation to the terms of the Bid Proposal, under California Corporation Code § 313.
4. **Bid Security.** Each Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's check or certified check, made payable to the City, or bid bond using the form included in the Contract Documents and executed by a surety licensed to do business in the State of California. The bid security must guarantee that, within ten days after issuance of the Notice of Potential Award, the bidder will: execute and submit the enclosed Contract for the bid price; submit payment and performance bonds for 100% of the maximum Contract Price; and submit the insurance certificates and endorsements and any other submittals, if any, required by the Contract Documents or the Notice of Potential Award. A Bid Proposal may not be withdrawn for a period of 60 days after the bid opening without forfeiture of the bid security, except as authorized for material error under Public Contract Code § 5100 et seq.
5. **Requests for Information.** Questions or requests for clarifications regarding the Project, the bid procedures, or any of the Contract Documents must be submitted in writing to Brian Ontiveros, City Engineer, at [brian.ontiveros@att.net](mailto:brian.ontiveros@att.net), and copied to Kristene Hall, City Clerk, at [cityclerk@ci.ferndale.ca.us](mailto:cityclerk@ci.ferndale.ca.us). Oral responses are not authorized and are not binding on the City. Bidders should submit any such written inquiries at least five Working Days before the scheduled bid opening. Questions received any later might not be addressed before the bid deadline. An interpretation or clarification by City in response to a written inquiry will be issued in an addendum.
6. **Pre-Bid Investigation.**
  - 6.1. **General.** Each bidder is solely responsible at its sole expense for diligent and thorough review of the Contract Documents, examination of the Project site, and reasonable and prudent inquiry concerning known and potential site and area conditions prior to submitting a Bid Proposal. Each bidder is responsible for knowledge of conditions and requirements which reasonable review and investigation would have disclosed. However, except for any areas that are open to the public at large, bidders may not enter property owned or leased by the City or the Project site without prior written authorization from City.
  - 6.2. **Document Review.** Each bidder is responsible for review of the Contract Documents and any informational documents provided "For Reference Only," e.g., as-builts, technical reports, test data, and the like. A bidder is responsible for notifying City of any errors, omissions, inconsistencies, or conflicts it discovers in the Contract Documents, acting solely in its capacity as a contractor and subject to the limitations of Public Contract Code

§ 1104. Notification of any such errors, omissions, inconsistencies, or conflicts must be submitted in writing to the City no later than five Working Days before the scheduled bid opening. (See Section 5, above.) City expressly disclaims responsibility for assumptions a bidder might draw from the presence or absence of information provided by City.

- 6.3. **Project Site.** Questions regarding the availability of soil test data, water table elevations, and the like should be submitted to the City in writing, as specified in Section 5, above. Any subsurface exploration at the Project site must be done at the bidder's expense, but only with prior written authorization from City. All soil data and analyses available for inspection or provided in the Contract Documents apply only to the test hole locations. Any water table elevation indicated by a soil test report existed on the date the test hole was drilled. The bidder is responsible for determining and allowing for any differing soil or water table conditions during construction. Because groundwater levels may fluctuate, difference(s) in elevation between ground water shown in soil boring logs and ground water actually encountered during Project construction will not be considered changed Project site conditions. Actual locations and depths must be determined by bidder's field investigation. The bidder may request access to underlying or background information on the Project site in City's possession that is necessary for the bidder to form its own conclusions, including, if available, record drawings or other documents indicating the location of subsurface lines, utilities, or other structures.
- 6.4. **Utility Company Standards.** The Project must be completed in a manner that satisfies the standards and requirements of any affected utility companies or agencies (collectively, "utility owners"). The successful bidder may be required by the third party utility owners to provide detailed plans prepared by a California registered civil engineer showing the necessary temporary support of the utilities during coordinated construction work. Bidders are directed to contact the affected third party utility owners about their requirements before submitting a Bid Proposal.
7. **Bidders Interested in More Than One Bid.** No person, firm, or corporation may submit or be a party to more than one Bid Proposal unless alternate bids are specifically called for. However, a person, firm, or corporation that has submitted a subcontract proposal or quote to a bidder may submit subcontract proposals or quotes to other bidders.
8. **Addenda.** Any addenda issued prior to the bid opening are part of the Contract Documents. Subject to the limitations of Public Contract Code § 4104.5, City reserves the right to issue addenda prior to bid time. Each bidder is solely responsible for ensuring it has received and reviewed all addenda prior to submitting its bid. Bidders should check City's website periodically for any addenda or updates on the Project at: <https://ci.ferndale.ca.us/>.
9. **Brand Designations and "Or Equal" Substitutions.** Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate quality and type of item desired, and bidders may request use of any equal material, product, thing, or service. All data substantiating the proposed substitute as an equal item must be submitted with the written request for substitution. A request for substitution must be submitted within 35 days after Notice of Potential Award unless otherwise provided in the Contract Documents. This provision does not apply to materials, products, things, or services

that may lawfully be designated by a specific brand or trade name under Public Contract Code § 3400(c).

10. **Bid Protest.** Any bid protest against another bidder must be submitted in writing and received by the City at PO Box 1095, Ferndale CA, 95536 or sent via email to the City Clerk at [cityclerk@ci.ferndale.ca.us](mailto:cityclerk@ci.ferndale.ca.us), before 5:00 p.m. no later than two Working Days following bid opening (“Bid Protest Deadline”) and must comply with the following requirements:
  - 10.1. **General.** Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by City, the protesting bidder must submit a non-refundable fee in the amount specified by City, based upon City’s reasonable costs to administer the bid protest. Any such fee must be submitted to City no later than the Bid Protest Deadline, unless otherwise specified. For purposes of this Section 10, a “Working Day” means a day that City is open for normal business, and excludes weekends and holidays observed by City. Pursuant to Public Contract Code § 4104, inadvertent omission of a Subcontractor’s DIR registration number on the Subcontractor List form is not grounds for a bid protest, provided it is corrected within 24 hours of the bid opening or as otherwise provided under Labor Code § 1771.1(b).
  - 10.2. **Protest Contents.** The bid protest must contain a complete statement of the basis for the protest and must include all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the protesting bidder and any person submitting the protest on behalf of or as an authorized representative of the protesting bidder.
  - 10.3. **Copy to Protested Bidder.** Upon submission of its bid protest to City, the protesting bidder must also concurrently transmit the protest and all supporting documents to the protested bidder, and to any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest, by email or hand delivery to ensure delivery before the Bid Protest Deadline.
  - 10.4. **Response to Protest.** The protested bidder may submit a written response to the protest, provided the response is received by City before 5:00 p.m., within two Working Days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the “Response Deadline”). The response must attach all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person responding on behalf of or representing the protested bidder if different from the protested bidder.
  - 10.5. **Copy to Protesting Bidder.** Upon submission of its response to the bid protest to the City, the protested bidder must also concurrently transmit by email or hand delivery, by or before the Response Deadline, a copy of its response and all supporting documents to the protesting bidder and to any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

- 10.6. **Exclusive Remedy.** The procedure and time limits set forth in this Section are mandatory and are the bidder's sole and exclusive remedy in the event of a bid protest. A bidder's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.
- 10.7. **Right to Award.** City reserves the right, acting in its sole discretion, to reject any bid protest that it determines lacks merit, to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a Notice to Proceed with the Work notwithstanding any pending or continuing challenge to its determination.
11. **Reservation of Rights.** City reserves the unfettered right, acting in its sole discretion, to waive or to decline to waive any immaterial bid irregularities; to accept or reject any or all bids; to cancel or reschedule the bid; to postpone or abandon the Project entirely; or to perform all or part of the Work with its own forces. The Contract will be awarded, if at all, within 60 days after opening of bids or as otherwise specified in the Special Conditions, to the responsible bidder that submitted the lowest responsive bid. Any planned start date for the Project represents the City's expectations at the time the Notice Inviting Bids was first issued. City is not bound to issue a Notice to Proceed by or before such planned start date, and it reserves the right to issue the Notice to Proceed when the City determines, in its sole discretion, the appropriate time for commencing the Work. The City expressly disclaims responsibility for any assumptions a bidder might draw from the presence or absence of information provided by the City in any form. Each bidder is solely responsible for its costs to prepare and submit a bid, including site investigation costs.
12. **Bonds.** Within ten calendar days following City's issuance of the Notice of Potential Award to the apparent low bidder, the bidder must submit payment and performance bonds to City as specified in the Contract Documents using the bond forms included in the Contract Documents. All required bonds must be calculated on the maximum total Contract Price as awarded, including additive alternates, if applicable.
13. **License(s).** The successful bidder and its Subcontractor(s) must possess the California contractor's license(s) in the classification(s) required by law to perform the Work. The successful bidder must also obtain a City business license within 10 days following City's issuance of the Notice of Potential Award. Subcontractors must also obtain a City business license before performing any Work.
14. **Building Permit.** The successful bidder must submit for a building permit from the City of Ferndale for the proposed work within 10 days following City's issuance of the Notice of Potential Award. There is no cost for the building permit.
15. **Ineligible Subcontractor.** Any Subcontractor who is ineligible to perform work on a public works project under Labor Code §§ 1777.1 or 1777.7 is prohibited from performing work on the Project.
16. **Safety Orders.** If the Project includes construction of a pipeline, sewer, sewage disposal system, boring and jacking pits, or similar trenches or open excavations, which are five feet or deeper, each bid must include a bid item for adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life or limb, which comply with safety orders as required by Labor Code § 6707

17. **Bid Schedule.** Each bidder must complete the Bid Schedule form with unit prices as indicated and submit the completed Bid Schedule with its Bid Proposal.
- 17.1. **Incorrect Totals.** In the event a computational error for any bid item (base bid or alternate) results in an incorrect extended total for that item, the submitted base bid or bid alternate total will be adjusted to reflect the corrected amount as the product of the estimated quantity and the unit cost. In the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid, and the amount entered as the base bid on the Bid Proposal form, the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid will be deemed the base bid price. Likewise, in the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for any bid alternate, and the amount entered for the alternate on the Bid Proposal form, the actual total of the itemized prices shown on the Bid Schedule for that alternate will be deemed the alternate price. Nothing in this provision is intended to prevent a bidder from requesting to withdraw its bid for material error under Public Contract Code § 5100 et seq.
- 17.2. **Estimated Quantities.** The quantities shown on the Bid Schedule are estimated and the actual quantities required to perform the Work may be greater or less than the estimated amount. The Contract Price will be adjusted to reflect the actual quantities required for the Work based on the itemized or unit prices provided in the Bid Schedule, with no allowance for anticipated profit for quantities that are deleted or decreased, and no increase in the unit price, and without regard to the percentage increase or decrease of the estimated quantity and the actual quantity.

END OF INSTRUCTIONS TO BIDDERS

# BID PROPOSAL

## Firemens Park Improvements Project

\_\_\_\_\_ ("Bidder") hereby submits this Bid Proposal to City of FERNDALE ("City") for the above-referenced project ("Project") in response to the Notice Inviting Bids and in accordance with the Contract Documents referenced in the Notice.

1. **BIDS**

- 1.1. **Base Bid.** Bidder proposes to perform and fully complete the Work for the Project as specified in the Contract Documents, within the time required for full completion of the Work, including all labor, materials, supplies, and equipment and all other direct or indirect costs including, but not limited to, taxes, insurance and all overhead for the following lump sum price ("Base Bid"):

\_\_\_\_\_ Dollars,  
\$ \_\_\_\_\_

2. **Addenda.** Bidder agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Bid. Bidder waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Bidder specifically acknowledges receipt of the following addenda:

Addendum:	Date Received :	Addendum:	Date Received:
#01	_____	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

3. **Bidder's Certifications and Warranties.** By signing and submitting this Bid Proposal, Bidder certifies and warrants the following:

- 3.1. **Examination of Contract Documents.** Bidder has thoroughly examined the Contract Documents and represents that, to the best of Bidder's knowledge, there are no errors, omissions, or discrepancies in the Contract Documents, subject to the limitations of Public Contract Code § 1104.
- 3.2. **Examination of Worksite.** Bidder has had the opportunity to examine the Worksite and local conditions at the Project location.
- 3.3. **Bidder Responsibility.** Bidder is a responsible bidder, with the necessary ability, capacity, experience, skill, qualifications, workforce, equipment, and resources to perform or cause the Work to be performed in accordance with the Contract Documents and within the Contract Time.
- 3.4. **Responsibility for Bid.** Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid. All statements and

information provided in this Bid Proposal and enclosures are true and correct to the best of Bidder's knowledge.

- 3.5. **Nondiscrimination.** In preparing this Bid, the Bidder has not engaged in discrimination against any prospective or present employee or Subcontractor on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status.
- 4. **Award of Contract.** By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, within ten days following issuance of the Notice of Potential Award to Bidder, Bidder will do all of the following:
  - 4.1. **Execute Contract.** Enter into the Contract with City in accordance with the terms of this Bid Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;
  - 4.2. **Submit Required Bonds.** Submit to City a payment bond and a performance bond, each for 100% of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and
  - 4.3. **Insurance Requirements.** Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.
- 5. **Bid Security.** As a guarantee that, if awarded the Contract, Bidder will perform its obligations under Section 4 above, Bidder is enclosing bid security in the amount of ten percent of its maximum bid amount in one of the following forms (check one):

- A cashier's check or certified check payable to City and issued by [Bank Name] \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.
- A bid bond, using the Bid Bond form included with the Contract Documents, payable to City and executed by a surety licensed to do business in the State of California.

This Bid Proposal is hereby submitted on \_\_\_\_\_, 2024.

s/ \_\_\_\_\_  
Name and Title

s/ \_\_\_\_\_  
[See Section 3 of Instructions to Bidders] Name and Title

\_\_\_\_\_  
Company Name License #, Expiration Date, and Classification

\_\_\_\_\_  
Address DIR Registration #

\_\_\_\_\_  
City, State, Zip Phone

\_\_\_\_\_  
Contact Name Contact Email

END OF BID PROPOSAL

# BID SCHEDULE

This Bid Schedule must be completed in ink and included with the sealed Bid Proposal. Pricing must be provided for each Bid Item as indicated. Items marked “(SW)” are Specialty Work that must be performed by a qualified Subcontractor. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the “Extended Total Amount” column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal form.

ACRE = Acre      CF = Cubic Feet      CY = Cubic Yard      EA = Each      LF = Linear Foot  
 LS = Lump Sum      SF = Square Feet      SY = Square Yard      TON = Ton (2000 lbs)

Bid ITEM NO.	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT COST	EXTENDED TOTAL AMOUNT
1	Mobilization/Demobilization	1	LS	\$	\$
2	Concrete Demolition & Disposal	1	LS	\$	\$
3	Minor Concrete - Walkway		SF	\$	\$
4	Extreme Duty Argentine Grill Pit Kit	1	LS	\$ 10,000	\$ 10,000
5	Pilot Rock Heavy-Duty Jumbo Steel Park-Style Charcoal Grills	2	EA	\$	\$
6	Construction of the BBQ Pavilion	1	LS	\$	\$

TOTAL BASE BID: Items 1 through 6 inclusive: \$ \_\_\_\_\_

\_\_\_\_\_ Dollars

*Note: The amount entered as the “Total Base Bid” should be identical to the Base Bid amount entered in Section 1 of the Bid Proposal form*

BIDDER NAME: \_\_\_\_\_



# NONCOLLUSION DECLARATION

## TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the \_\_\_\_\_ [title] of \_\_\_\_\_ [business name], the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid and will not pay, any person or entity for such purpose.

This declaration is intended to comply with California Public Contract Code § 7106 and Title 23 U.S.C § 112.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

s/ \_\_\_\_\_

\_\_\_\_\_  
Name [print]

END OF NONCOLLUSION DECLARATION

# BID BOND

\_\_\_\_\_ (“Bidder”) has submitted a bid, dated \_\_\_\_\_, 2024 (“Bid”), to **City of Ferndale** (“City”) for work on the **Firemens Park Improvements Project** (“Project”). Under this duly executed bid bond (“Bid Bond”), Bidder as Principal and \_\_\_\_\_, its surety (“Surety”), are bound to City as obligee in the penal sum of ten percent of the maximum amount of the Bid (the “Bond Sum”). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. General. If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. Submittals. Within ten days following issuance of the Notice of Potential Award to Bidder, Bidder must submit to City the following:
  - 2.1. Contract. The executed Contract, using the form provided by City in the Project contract documents (“Contract Documents”);
  - 2.2. Payment Bond. A payment bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
  - 2.3. Performance Bond. A performance bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents; and
  - 2.4. Insurance. The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required by the Instructions to Bidders or Notice of Potential Award.
3. Enforcement. If Bidder fails to execute the Contract and to submit the bonds and insurance certificates as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

4. Duration and Waiver. If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise it will remain in full force and effect for 60 days following the bid opening or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code §§ 2819 and 2845.

**SURETY:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**BIDDER:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

END OF BID BOND

# PUBLIC WORKS CONTRACT

This public works contract ("Contract") is entered into by and between **City of Ferndale** ("City") and \_\_\_\_\_ ("Contractor"), for work on the **Firemens Park Improvements Project** ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On \_\_\_\_\_, 2024, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all the Contract Documents, including this Contract.
  - 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 Plans and Specifications;
  - 2.10. Change Orders, if any;
  - 2.11. Notice of Potential Award;
  - 2.12. Notice to Proceed;
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and 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 \$ \_\_\_\_\_ ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials,

supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.

5. **Time for Completion.** Contractor will fully complete the Work for the Project within 90 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 may assess liquidated damages in the amount of \$200.00 per day for each day of unexcused delay in completion, and such liquidated damages may be deducted from City’s payments due or to become due to Contractor under this Contract.
7. **Labor Code Compliance.**
  - 7.1. **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers’ compensation insurance, as further specified in Article 9 of the General Conditions.
  - 7.2. **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
  - 7.3. **DIR Registration.** City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.
8. **Workers’ Compensation Certification.** Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: “I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract.”
9. **Conflicts of Interest.** Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.
10. **Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.
11. **Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

**City:**

City of Ferndale  
Attn: Jay Parrish, City Manager  
P.O. Box 1095  
Ferndale CA, 95536  
707-786-4224  
[citymanager@ci.ferndale.ca.us](mailto:citymanager@ci.ferndale.ca.us)

**Copy to:**

Kristen Hall, City Clerk  
[cityclerk@ci.ferndale.ca.us](mailto:cityclerk@ci.ferndale.ca.us)

**Contractor:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Copy to: \_\_\_\_\_

**12. General Provisions.**

- 12.1. **Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City’s written consent. This Contract is binding on Contractor’s and City’s lawful heirs, successors and permitted assigns.
- 12.2. **Third Party Beneficiaries.** There are no intended third-party beneficiaries to this Contract.
- 12.3. **Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Humboldt County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Humboldt County, California.
- 12.4. **Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5. **Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6. **Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.

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

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

CITY: Approved as to form:

s/ \_\_\_\_\_

Jay Parrish, City Manager

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

CONTRACTOR: \_\_\_\_\_

Business Name

s/ \_\_\_\_\_

Seal:

\_\_\_\_\_  
Name, Title

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

Second Signature (See Section 12.8):

s/ \_\_\_\_\_

\_\_\_\_\_  
Name, Title

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

\_\_\_\_\_  
Contractor's California License Number(s) and Expiration Date(s)

END OF PUBLIC WORKS CONTRACT

# PAYMENT BOND

**City of Ferndale** ("City") and \_\_\_\_\_ ("Contractor") have entered into a contract, dated \_\_\_\_\_, 2024 ("Contract") for work on the **Firemens Park Improvements Project** ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to City as obligee in an amount not less than \$\_\_\_\_\_, under California Civil Code § 9550 et seq., to ensure payment to authorized claimants. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay a person authorized in California Civil Code § 9100 to assert a claim against a payment bond, any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors under California Unemployment Insurance Code § 13020 with respect to the work and labor, then Surety will pay the obligation.
3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code § 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845. City waives the requirement of a new bond for any supplemental contract under Civil Code § 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

6. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Humboldt County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

7. Effective Date; Execution. This Bond is entered into and is effective on \_\_\_\_\_, 20\_\_.

**SURETY:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

**APPROVED BY CITY:**

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

END OF PAYMENT BOND

# PERFORMANCE BOND

**City of Ferndale** ("City") and \_\_\_\_\_ ("Contractor") have entered into a contract, dated \_\_\_\_\_, 2024 ("Contract") for work on the **Firemens Park Improvements Project** ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as Principal and \_\_\_\_\_, its surety ("Surety"), are bound to City as obligee for an amount not less than \$\_\_\_\_\_ to ensure Contractor's faithful performance of its obligations under the Contract. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845.
4. **Application of Contract Balance.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which City is entitled under the terms of the Contract.
5. **Contractor Default.** Upon written notification from City of Contractor's termination for default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
  - 5.1. Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;
  - 5.2. Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense; or
  - 5.3. Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.
6. **Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

7. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

8. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Humboldt County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

9. **Effective Date; Execution.** This Bond is entered into and is effective on \_\_\_\_\_, 20\_\_.

**SURETY:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

**APPROVED BY CITY:**

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

**END OF PERFORMANCE BOND**

# GENERAL CONDITIONS

## Article 1- Definitions

1. **Definitions.** The following definitions apply to all of the Contract Documents unless otherwise indicated, e.g., additional definitions that apply solely to the Specifications or other technical documents. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the following (in any tense or form): “day,” “furnish,” “including,” “install,” “work day” or “working day.”
  - 1.1. **Allowance** means a specific amount that must be included in the Bid Proposal for a specified purpose.
  - 1.2. **Article**, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.
  - 1.3. **Change Order** means a written document duly approved and executed by City, which changes the scope of Work, the Contract Price, or the Contract Time.
  - 1.4. **City** means the municipality which has entered into the Contract with Contractor for performance of the Work, acting through its City Council, officers, employees, City Engineer, and any other authorized representatives.
  - 1.5. **City Engineer** means the City Engineer for City and his or her authorized delegee(s).
  - 1.6. **Claim** means a separate demand by Contractor for a change in the Contract Time or Contract Price, that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.
  - 1.7. **Contract** means the signed agreement between City and Contractor for performing the Work required for the Project, and all documents expressly incorporated therein.
  - 1.8. **Contract Documents** means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the Notice of Potential Award and Notice to Proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Plans and Specifications; any Change Orders; and any other documents which are clearly and unambiguously made part of the Contract Documents. The Contract Documents do not include documents provided “For Reference Only,” or documents that are intended solely to provide information regarding existing conditions.
  - 1.9. **Contract Price** means the total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as may be amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, supplies, or equipment following submission of the Bid Proposal.
  - 1.10. **Contract Time** means the time specified for complete performance of the Work, as set forth in the Contract and as may be amended by Change Order.

- 1.11. **Contractor** means the individual, partnership, corporation, or joint-venture that has signed the Contract with City to perform the Work.
- 1.12. **Day** means a calendar day unless otherwise specified
- 1.13. **Design Professional** means the licensed individual(s) or firm(s) retained by City to provide architectural, engineering, or electrical engineering design services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.
- 1.14. **DIR** means the California Department of Industrial Relations.
- 1.15. **Drawings** has the same meaning as Plans.
- 1.16. **Engineer** means the City Engineer for the City of Ferndale and his or her authorized delegees.
- 1.17. **Excusable Delay** is defined in Section 5.3(B), Excusable Delay.
- 1.18. **Extra Work** means new or unforeseen work added to the Project, as determined by the Engineer in his or her sole discretion, including Work that was not part of or incidental to the scope of the Work when the Contractor's bid was submitted; Work that is substantially different from the Work as described in the Contract Documents at bid time; or Work that results from a substantially differing and unforeseeable condition.
- 1.19. **Final Completion** means Contractor has fully completed all of the Work required by the Contract Documents to the City's satisfaction, including all punch list items and any required commissioning or training, and has provided the City with all required submittals, including the instructions and manuals, product warranties, and as-built drawings.
- 1.20. **Final Payment** means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld or deducted pursuant to the Contract Documents.
- 1.21. **Furnish** means to purchase and deliver for the Project.
- 1.22. **Government Code Claim** means a claim submitted pursuant to California Government Code § 900 et seq.
- 1.23. **Hazardous Materials** means any substance or material identified now or in the future as hazardous under any Laws, or any other substance or material that may be considered hazardous or otherwise subject to Laws governing handling, disposal, or cleanup.
- 1.24. **Including**, whether or not capitalized, means "including, but not limited to," unless the context clearly requires otherwise.
- 1.25. **Inspector** means the individual(s) or firm(s) retained or employed by City to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all Laws.
- 1.26. **Install** means to fix in place for materials, and to fix in place and connect for equipment.
- 1.27. **Laws** means all applicable local, state, and federal laws, regulations, rules, codes, ordinances, permits, orders, and the like enacted or imposed by or under the auspices of any governmental entity with jurisdiction over any of the Work or any performance of the Work.

- 1.28. **Non-Excusable Delay** is defined in Section 5.3(D), Non-Excusable Delay.
- 1.29. **Plans** means the City-provided plans, drawings, details, or graphical depictions of the Project requirements, but does not include Shop Drawings.
- 1.30. **Project** means the public works project referenced in the Contract
- 1.31. **Project Manager** means the individual designated by City to oversee and manage the Project on City's behalf and may include his or her authorized delegate(s) when the Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer
- 1.32. **Recoverable Costs** is defined in Section 5.3(F), Recoverable Costs.
- 1.33. **Request for Information** or **RFI** means Contractor's written request for information about the Contract Documents, the Work or the Project, submitted to City in the manner and format specified by City.
- 1.34. **Section**, when capitalized in these General Conditions, means a numbered section or subsection of the General Conditions, unless the context clearly indicates otherwise.
- 1.35. **Shop Drawings** means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to City acceptance, which are intended to provide details for fabrication, installation, and the like, of items required by or shown in the Plans or Specifications.
- 1.36. **Specialty Work** means Work that must be performed by a specialized Subcontractor with the specified license or other special certification, and that the Contractor is not qualified to self-perform.
- 1.37. **Specifications** means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into the Contract by or on behalf of City, and does not include the Contract, General Conditions or Special Conditions.
- 1.38. **Subcontractor** means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors of all tiers, unless otherwise indicated by the context. A third party such as a utility performing related work on the Project is not a Subcontractor, even if Contractor must coordinate its Work with the third party.
- 1.39. **Technical Specifications** has the same meaning as Specifications.
- 1.40. **Work** means all of the construction and services necessary for or incidental to completing the Project in conformance with the requirements of the Contract Documents.
- 1.41. **Work Day** or **Working Day**, whether or not capitalized, means a weekday when the City is open for business, and does not include holidays observed by the City.
- 1.42. **Worksite** means the place or places where the Work is performed, which includes, but may extend beyond the Project site, including separate locations for staging, storage, or fabrication.

## Article 2- Roles and Responsibilities

### 2.1. City.

- 2.1.1. **City Council.** The City Council has final authority in all matters affecting the Project, except to the extent it has delegated authority to the City Manager.
- 2.1.2. **City Manager.** The City Manager, acting within the authority conferred by the City Council, is responsible for administration of the Project on behalf of City, including authority to provide directions to the Engineer and to Contractor to ensure proper and timely completion of the Project. The City Manager's decisions are final and conclusive within the scope of his or her authority, including interpretation of the Contract Documents.
- 2.1.3. **Project Manager.** The Project Manager assigned to the Project will be the primary point of contact for the Contractor and will serve as City's representative for daily administration of the Project on behalf of City. Unless otherwise specified, all of Contractor's communications to City (in any form) will go to or through the Project Manager. City reserves the right to reassign the Project Manager role at any time or to delegate duties to additional City representatives, without prior notice to or consent of Contractor.
- 2.1.4. **Engineer.** The Engineer is responsible for the overall design of the Project and, to the extent authorized by City, may act on City's behalf to ensure performance of the Work in compliance with the Plans and Specifications, including any design changes authorized by Change Order. The Engineer's duties may include review of Contractor's submittals, visits to any Worksite, inspecting the Work, evaluating test and inspection results, and participation in Project-related meetings, including any pre-construction conference, weekly meetings, and coordination meetings. The Engineer's interpretation of the Plans or Specifications is final and conclusive.

### 2.2. Contractor.

- 2.2.1. **General.** Contractor must provide all labor, materials, supplies, equipment, services, and incidentals necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economical and efficient manner in the best interests of City, and with minimal inconvenience to the public.
- 2.2.2. **Responsibility for the Work and Risk of Loss.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for and required to exercise full control over the Work, including the construction means, methods, techniques, sequences, procedures, safety precautions and programs, and coordination of all portions of the Work with that of all other contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions. Contractor's responsibilities extend to any plan, method or sequence suggested, but not required by City or specified in the Contract Documents. From the date of commencement of the Work until either the date on which City formally accepts the Project or the effective date of termination of the Contract, whichever is later, Contractor bears all risks of injury or damage to the Work and the materials and equipment delivered to any Worksite, by any cause including fire, earthquake, wind, weather, vandalism or theft.

- 2.2.3. **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including telephone numbers and email address, for the officer or employee in Contractor's organization who is to serve as Contractor's primary representative for the Project, and who has authority to act on Contractor's behalf. A Subcontractor may not serve as Contractor's primary representative.
- 2.2.4. **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent acceptable to City, and assistants as necessary, who must be physically present at the Project site while any aspect of the Work is being performed. The superintendent must have full authority to act and communicate on behalf of Contractor, and Contractor will be bound by the superintendent's communications to City. City's approval of the superintendent is required before the Work commences. If City is not satisfied with the superintendent's performance, City may request a qualified replacement of the superintendent. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of Contract Time, until an approved superintendent is physically present to supervise the Work. Contractor must provide written notice to City, as soon as practicable, before replacing the superintendent.
- 2.2.5. **Standards.** Contractor must, at all times, ensure that the Work is performed in an efficient, skillful manner following best practices and in full compliance with the Contract Documents and Laws and applicable manufacturer's recommendations. Contractor has a material and ongoing obligation to provide true and complete information, to the best of its knowledge, with respect to all records, documents, or communications pertaining to the Project, including oral or written reports, statements, certifications, Change Order requests, or Claims.
- 2.2.6. **Meetings.** Contractor, its project manager, superintendent, and any primary Subcontractors requested by City, must attend a pre-construction conference, if requested by City, as well as weekly Project progress meetings scheduled with City. If applicable, Contractor may also be required to participate in coordination meetings with other parties relating to other work being performed on or near the Project site or in relation to the Project, including work or activities performed by City, other contractors, or other utility owners.
- 2.2.7. **Construction Records.** Contractor will maintain up-to-date, thorough, legible, and dated daily job reports, which document all significant activity on the Project for each day that Work is performed on the Project. The daily report for each day must include the number of workers at the Project site; primary Work activities; major deliveries; problems encountered, including injuries, if any; weather and site conditions; and delays, if any. Contractor will take date and time-stamped photographs to document general progress of the Project, including site conditions prior to construction activities, before and after photographs at offset trench laterals, existing improvements and utilities, damage, and restoration. Contractor will maintain copies of all subcontracts, Project-related correspondence with subcontractors, and records of meetings with Subcontractors. Upon request by the City, Contractor will permit review of and/or provide copies of any of these construction records.
- 2.2.8. **Responsible Party.** Contractor is solely responsible to City for the acts or omissions of any Subcontractors, or any other party or parties performing portions of the Work or providing equipment, materials, or services for or on behalf of Contractor or the Subcontractors. Upon

City's written request, Contractor must promptly and permanently remove from the Project, at no cost to City, any employee or Subcontractor or employee of a Subcontractor who the Engineer has determined to be incompetent, intemperate or disorderly, or who has failed or refused to perform the Work as required under the Contract Documents.

2.2.9. **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by City to be deficient or defective in any way, including workmanship, materials, parts or equipment. Workmanship, materials, parts or equipment that do not conform to the requirements under the Plans, Specifications and every other Contract Document, as determined by City, will be considered defective and subject to rejection. Contractor must also promptly correct, at Contractor's sole expense, any Work performed beyond the lines and grades shown on the Plans or established by City, and any Extra Work performed without City's prior written approval. If Contractor fails to correct or to take reasonable steps toward correcting defective Work within five days following notice from City, or within the time specified in City's notice to correct, City may elect to have the defective Work corrected by its own forces or by a third party, in which case the cost of correction will be deducted from the Contract Price. If City elects to correct defective Work due to Contractor's failure or refusal to do so, City or its agents will have the right to take possession of and use any equipment, supplies, or materials available at the Project site or any Worksite on City property, in order to effectuate the correction, at no extra cost to City. Contractor's warranty obligations under Section 11.2, Warranty, will not be waived nor limited by City's actions to correct defective Work under these circumstances. Alternatively, City may elect to retain defective Work, and deduct the difference in value, as determined by the Engineer, from payments otherwise due to Contractor. This paragraph applies to any defective Work performed by Contractor during the one-year warranty period under Section 11.2.

2.2.10. **Contractor's Records.** Contractor must maintain all of its records relating to the Project in any form, including paper documents, photos, videos, electronic records, approved samples, and the construction records required pursuant to paragraph (G), above. Project records subject to this provision include complete Project cost records and records relating to preparation of Contractor's bid, including estimates, take-offs, and price quotes or bids.

2.2.10.1. Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as Extra Work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

2.2.10.2. Contractor must continue to maintain its Project-related records in an organized manner for a period of five years after City's acceptance of the Project or following Contract termination, whichever occurs first. Subject to prior notice to Contractor, City is entitled to inspect or audit any of Contractor's Project records relating to the Project or to investigate Contractor's plant or equipment during Contractor's normal business hours. The record-keeping requirements set forth in this subsection 2.2(J) will survive expiration or termination of the Contract.

2.2.11. **Copies of Project Documents.** Contractor and its Subcontractors must keep copies, at the Project site, of all Work-related documents, including the Contract, permit(s), Plans, Specifications, Addenda, Contract amendments, Change Orders, RFIs and RFI responses, Shop Drawings, as-built drawings, schedules, daily records, testing and inspection reports or results, and any related written interpretations. These documents must be available to City for reference at all times during construction of the Project.

### 2.3. Subcontractors.

2.3.1. **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors. City reserves the right to approve or reject any and all Subcontractors proposed to perform the Work, for reasons including the subcontractor's poor reputation, lack of relevant experience, financial instability, and lack of technical ability or adequate trained workforce. Each Subcontractor must obtain a City business license before performing any Work.

2.3.2. **Contractual Obligations.** Contractor must require each Subcontractor to comply with the provisions of the Contract Documents as they apply to the Subcontractor's portion(s) of the Work, including the generally applicable terms of the Contract Documents, and to likewise bind their subcontractors. Contractor will provide that the rights that each Subcontractor may have against any manufacturer or supplier for breach of warranty or guarantee relating to items provided by the Subcontractor for the Project, will be assigned to City. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and City, but City is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

2.3.3. **Termination.** If the Contract is terminated, each Subcontractor's agreement must be assigned by Contractor to City, subject to the prior rights of any surety, but only if and to the extent that City accepts, in writing, the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.

2.3.4. **Substitution of Subcontractor.** If Contractor requests substitution of a listed Subcontractor under Public Contract Code § 4107, Contractor is solely responsible for all costs City incurs in responding to the request, including legal fees and costs to conduct a hearing, and any increased subcontract cost to perform the Work that was to be performed by the listed Subcontractor. If City determines that a Subcontractor is unacceptable to City based on the Subcontractor's failure to satisfactorily perform its Work, or for any of the grounds for substitution listed in Public Contract Code § 4107(a), City may request removal of the Subcontractor from the Project. Upon receipt of a written request from City to remove a Subcontractor pursuant to this paragraph, Contractor will immediately remove the Subcontractor from the Project and, at no further cost to City, will either (1) self-perform the remaining Work to the extent that Contractor is duly licensed and qualified to do so, or (2) substitute a Subcontractor that is acceptable to City, in compliance with Public Contract Code § 4107, as applicable.

### 2.4. Coordination of Work.

2.4.1. **Concurrent Work.** City reserves the right to perform, have performed, or permit performance of other work on or adjacent to the Project site while the Work is being performed for the Project. Contractor is responsible for coordinating its Work with other work being

performed on or adjacent to the Project site, including by any utility companies or agencies, and must avoid hindering, delaying, or interfering with the work of other contractors, individuals, or entities, and must ensure safe and reasonable site access and use as required or authorized by City. To the full extent permitted by law, Contractor must hold harmless and indemnify City against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of any utility company or agency or another contractor or subcontractor.

2.4.2. **Coordination.** If Contractor's Work will connect or interface with work performed by others, Contractor is responsible for independently measuring and visually inspecting such work to ensure a correct connection and interface. Contractor is responsible for any failure by Contractor or its Subcontractors to confirm measurements before proceeding with connecting Work. Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give the Project Manager prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any known or reasonably discoverable defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work. Contractor must also promptly notify City if work performed by others, including work or activities performed by City's own forces, is operating to hinder, delay, or interfere with Contractor's timely performance of the Work. City reserves the right to back charge Contractor for any additional costs incurred due to Contractor's failure to comply with the requirements in this Section 2.4.

2.5. **Submittals.** Unless otherwise specified, Contractor must submit to the Engineer for review and acceptance, all schedules, Shop Drawings, samples, product data, and similar submittals required by the Contract Documents, or upon request by the Engineer. Unless otherwise specified, all submittals, including Requests for Information, are subject to the general provisions of this Section, as well as specific submittal requirements that may be included elsewhere in the Contract Documents, including the Special Conditions or Specifications. The Engineer may require submission of a submittal schedule at or before a pre-construction conference, as may be specified in the Notice to Proceed.

2.5.1. **General.** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

2.5.2. **Time and Manner of Submission.** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current City-accepted schedule for the Work and within the applicable time specified in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Project.

2.5.3. **Required Contents.** Each submittal must include the Project name and contract number, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and references to applicable Specification section(s) and/or drawing and detail number(s).

2.5.4. **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections as specified in full conformance with the requirements of this Section, or other requirements that apply to that submittal.

- 2.5.5. **Effect of Review and Acceptance.** Review and acceptance of a submittal by City will not relieve Contractor from complying with the requirements of the Contract Documents. Contractor is responsible for any errors in any submittal, and review or acceptance of a submittal by City is not an assumption of risk or liability by City.
- 2.5.6. **Enforcement.** Any Work performed or any material furnished, installed, fabricated or used without City's prior acceptance of a required submittal is performed or provided at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work or material, and the cost of additional time or services required of City, including costs for the Design Professional, Project Manager, or Inspector.
- 2.5.7. **Excessive RFIs.** A RFI will be considered excessive or unnecessary if City determines that the explanation or response to the RFI is clearly and unambiguously discernable from the Contract Documents. City's costs to review and respond to excessive or unnecessary RFIs may be deducted from payments otherwise due to Contractor.
- 2.6. **Shop Drawings.** When Shop Drawings are required by the Specifications or requested by the Engineer, they must be prepared according to best practices at Contractor's expense. The Shop Drawings must be of a size and scale to clearly show all necessary details. Unless otherwise specified by City, Shop Drawings must be provided to the Engineer for review and acceptance at least 30 days before the Work will be performed. If City requires changes, the corrected Shop Drawings must be resubmitted to the Engineer for review within the time specified by the Engineer. For all Project components requiring Shop Drawings, Contractor will not furnish materials or perform any Work until the Shop Drawings for those components are accepted by City. Contractor is responsible for any errors or omissions in the Shop Drawings, shop fits and field corrections; any deviations from the Contract Documents; and for the results obtained by the use of Shop Drawings. Acceptance of Shop Drawings by City does not relieve Contractor of Contractor's responsibility.
- 2.7. **Access to Work.** Contractor must afford prompt and safe access to any Worksite by City and its employees, agents, or consultants authorized by City; and upon request by City, Contractor must promptly arrange for City representatives to visit or inspect manufacturing sites or fabrication facilities for items to be incorporated into the Work.
- 2.8. **Personnel.** Contractor and its Subcontractors must employ only competent and skillful personnel to perform the Work. Contractor and its Subcontractor's supervisors, security or safety personnel, and employees who have unescorted access to the Project site must possess proficiency in English sufficient to read, understand, receive, and implement oral or written communications or instructions relating to their respective job functions, including safety and security requirements. Upon written notification from the Engineer, Contractor and its Subcontractors must immediately discharge any personnel who are incompetent, disorderly, disruptive, threatening, abusive, or profane, or otherwise refuse or fail to comply with the requirements of the Contract Documents or Laws, including Laws pertaining to health and safety. Any such discharged personnel may not be re-employed or permitted on the Project in any capacity without City's prior written consent.

# Article 3- Contract Documents

## 3.1 Interpretation of Contract Documents.

**3.1.1 Plans and Specifications.** The Plans and Specifications included in the Contract Documents are complementary. If Work is shown on one but not on the other, Contractor must perform the Work as though fully described on both, consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Plans and Specifications are deemed to include and require everything necessary and reasonably incidental to completion of the Work, whether or not particularly mentioned or shown. Contractor must perform all Work and services and supply all things reasonably related to and inferable from the Contract Documents. In the event of a conflict between the Plans and Specifications, the Specifications will control, unless the drawing(s) at issue are dated later than the Specification(s) at issue. Detailed drawings take precedence over general drawings, and large-scale drawings take precedence over smaller scale drawings. Any arrangement or division of the Plans and Specifications into sections is for convenience and is not intended to limit the Work required by separate trades. A conclusion presented in the Plans or Specifications is only a recommendation. Actual locations and depths must be determined by Contractor's field investigation. Contractor may request access to underlying or background information in City's possession that is necessary for Contractor to form its own conclusions.

**3.1.2 Duty to Notify and Seek Direction.** If Contractor becomes aware of a changed condition in the Project, or of any ambiguity, conflict, inconsistency, discrepancy, omission, or error in the Contract Documents, including the Plans or Specifications, Contractor must promptly submit a Request for Information to the Engineer and wait for a response from City before proceeding further with the related Work. The RFI must notify City of the issue and request clarification, interpretation, or direction. The Engineer's clarification, interpretation or direction will be final and binding on Contractor. If Contractor proceeds with the related Work before obtaining City's response, Contractor will be responsible for any resulting costs, including the cost of correcting any incorrect or defective Work that results. Timely submission of a clear and complete RFI is essential to avoiding delay. Delay resulting from Contractor's failure to submit a timely and complete RFI to the Engineer is Non-Excusable Delay. If Contractor believes that City's response to an RFI justifies a change to the Contract Price or Contract Time, Contractor must perform the Work as directed, but may submit a timely Change Order request in accordance with the Contract Documents. (See Article 5 and 6.)

**3.1.3 Figures and Dimensions.** Figures control over scaled dimensions.

**3.1.4 Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

**3.1.5 Measurements.** Contractor must verify all relevant measurements in the Contract Documents and at the Project site before ordering any material or performing any Work, and will be responsible for the correctness of those measurements or for costs that could have been avoided by independently verifying measurements.

**3.1.6 Compliance with Laws.** The Contract Documents are intended to comply with Laws and will be interpreted to comply with Laws.

3.2 **Order of Precedence.** Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest, with the most recent version taking precedent over an earlier version:

3.2.1 Change Orders;

3.2.2 Addenda;

3.2.3 Contract;

3.2.4 Notice to Proceed;

3.2.5 Appendix B – Federal Contract Requirements (only if used);

3.2.6 Special Conditions;

3.2.7 General Conditions;

3.2.8 Payment and Performance Bonds;

3.2.9 Specifications;

3.2.10 Plans;

3.2.11 Notice of Potential Award;

3.2.12 Notice Inviting Bids;

3.2.13 Appendix A – Federal Bidding Requirements (only if used);

3.2.14 Instructions to Bidders;

3.2.15 Contractor’s Bid Proposal and attachments;

3.2.16 the City’s standard specifications, as applicable; and

3.2.17 Any generic documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, such as the Caltrans Standard Specifications or Caltrans Special Provisions.

3.3 **Caltrans Standard Specifications.** Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation (“Caltrans”), including “Standard Specifications,” “Caltrans Specifications,” “State Specifications,” or “CSS,” means the most current edition of Caltrans’ Standard Specifications, unless otherwise specified (“Caltrans Standard Specifications”), including the most current amendments as of the date that Contractor’s bid was submitted for this Project. The following provisions apply to use of or reference to the Caltrans Standard Specifications or Special Provisions:

3.3.1 **Limitations.** The “General Provisions” of the Caltrans Standard Specifications, i.e., sections 1 through 9, do not apply to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

- 3.3.2 **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Caltrans Standard Specifications or Special Provisions and a provision of these Contract Documents, as determined by City, the provision in the Contract Documents will govern.
- 3.3.3 **Meanings.** Terms used in the Caltrans Standard Specifications or Special Provisions are to be interpreted as follows:
- 3.3.4 Any reference to the “Engineer” is deemed to mean the City Engineer.
- 3.3.5 Any reference to the “Special Provisions” is deemed to mean the Special Conditions, unless the Caltrans Special Provisions are expressly included in the Contract Documents listed in Section 2 of the Contract.
- 3.3.6 Any reference to the “Department” or “State” is deemed to mean City.
- 3.4 **For Reference Only.** Contractor is responsible for the careful review of any document, study, or report provided by City or appended to the Contract Documents solely for informational purposes and identified as “For Reference Only.” Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. Contractor is advised that City or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Any record drawings or similar final or accepted drawings or maps that are not part of the Contract Documents are deemed to be For Reference Only. The provisions of the Contract Documents are not modified by any perceived or actual conflict with provisions in any document that is provided For Reference Only.
- 3.5 **Current Versions.** Unless otherwise specified by City, any reference to standard specifications, technical specifications, or any City or state codes or regulations means the latest specification, code, or regulation in effect at the time the Contract is signed.
- 3.6 **Conformed Copies.** If City prepares a conformed set of the Contract Documents following award of the Contract, it will provide Contractor with two hard copy (paper) sets and one copy of the electronic file in PDF format. It is Contractor’s responsibility to ensure that all Subcontractors, including fabricators, are provided with the conformed set of the Contract Documents at Contractor’s sole expense.
- 3.7 **Ownership.** No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

## Article 4- Bonds, Indemnity, and Insurance

- 4.1 **Payment and Performance Bonds.** Within ten days following issuance of the Notice of Potential Award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100% of the Contract Price, and each executed by Contractor and its surety using the bond forms included with the Contract Documents.
- 4.1.1 **Surety.** Each bond must be issued and executed by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from City, Contractor must substitute a surety acceptable to City. If Contractor fails to substitute an acceptable surety within the specified time, City may, at its sole discretion, withhold payment from Contractor until the surety is replaced to City's satisfaction, or terminate the Contract for default.
- 4.1.2 **Supplemental Bonds for Increase in Contract Price.** If the Contract Price increases during construction by five percent or more over the original Contract Price, Contractor must provide supplemental or replacement bonds within ten days of written notice from City pursuant to this Section, covering 100% of the increased Contract Price and using the bond forms included with the Contract Documents.
- 4.2 **Indemnity.** To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of Contractor under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this Contract will be deemed a material breach of the Contract. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. Contractor waives any right to express or implied indemnity against any Indemnitee. Contractor's indemnity obligations under this Contract will survive the expiration or any early termination of the Contract.
- 4.3 **Insurance.** No later than ten days following issuance of the Notice of Potential Award, Contractor must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements acceptable to City. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract, through the date of City's acceptance of the Project. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, City may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for

default. The procurement of the required insurance will not be construed to limit Contractor's liability under this Contract or to fulfill Contractor's indemnification obligations under this Contract.

4.3.1 **Policies and Limits.** The following insurance policies and limits are required for this Contract, unless otherwise specified in the Special Conditions:

4.3.1.1 **Commercial General Liability ("CGL") Insurance:** The CGL insurance policy must be issued on an occurrence basis, written on a comprehensive general liability form, and must include coverage for liability arising from Contractor's or its Subcontractor's acts or omissions in the performance of the Work, including contractor's protected coverage, contractual liability, products and completed operations, and broad form property damage, with limits of at least \$2,000,000 per occurrence and at least \$4,000,000 general aggregate. The CGL insurance coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth in this Section, including required endorsements.

4.3.1.2 **Automobile Liability Insurance:** The automobile liability insurance policy must provide coverage of at least \$2,000,000 combined single-limit per accident for bodily injury, death, or property damage, including hired and non-owned auto liability.

4.3.1.3 **Workers' Compensation Insurance and Employer's Liability:** The workers' compensation and employer's liability insurance policy must comply with the requirements of the California Labor Code, providing coverage of at least \$1,000,000 or as otherwise required by the statute. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the DIR.

4.3.1.4 **Pollution Liability Insurance:** The pollution liability insurance policy must be issued on an occurrence basis, providing coverage of at least \$2,000,000 for all loss arising out of claims for bodily injury, death, property damage, or environmental damage caused by pollution conditions resulting from the Work.

4.3.2 **Notice.** Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City.

4.3.3 **Waiver of Subrogation.** Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against City.

4.3.4 **Required Endorsements.** The CGL policy, automobile liability policy, pollution liability policy, and builder's risk policy must include the following specific endorsements:

4.3.4.1 The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "Additional Insured") must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract. The additional insured endorsement must be provided using ISO form CG 20 10 11 85 or an equivalent form approved by the City.

- 4.3.4.2 The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.
- 4.3.4.3 The insurance provided by Contractor is primary and no insurance held or owned by any Additional Insured may be called upon to contribute to a loss.
- 4.3.4.4 This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
- 4.3.5 **Contractor's Responsibilities.** This Section 4.3 establishes the minimum requirements for Contractor's insurance coverage in relation to this Project, but is not intended to limit Contractor's ability to procure additional or greater coverage. Contractor is responsible for its own risk assessment and needs and is encouraged to consult its insurance provider to determine what coverage it may wish to carry beyond the minimum requirements of this Section. Contractor is solely responsible for the cost of its insurance coverage, including premium payments, deductibles, or self-insured retentions, and no Additional Insured will be responsible or liable for any of the cost of Contractor's insurance coverage.
- 4.3.6 **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions that apply to the required insurance (collectively, "deductibles") in excess of \$100,000 are subject to approval by the City's Risk Manager, acting in his or her sole discretion, and must be declared by Contractor when it submits its certificates of insurance and endorsements pursuant to this Section 4.3. If the City's Risk Manager determines that the deductibles are unacceptably high, at City's option, Contractor must either reduce or eliminate the deductibles as they apply to City and all required Additional Insured; or must provide a financial guarantee, to City's satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.
- 4.3.7 **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the Additional Insureds and waiver of subrogation, but excluding pollution liability or builder's risk insurance unless otherwise specified in the Special Conditions. A Subcontractor may be eligible for reduced insurance coverage or limits, but only to the extent approved in writing in advance by the City's Risk Manager. Contractor must confirm that each Subcontractor has complied with these insurance requirements before the Subcontractor is permitted to begin Work on the Project. Upon request by the City, Contractor must provide certificates and endorsements submitted by each Subcontractor to prove compliance with this requirement. The insurance requirements for Subcontractors do not replace or limit the Contractor's insurance obligations.

## Article 5- Contract Time

- 5.1. Time is of the Essence. Time is of the essence in Contractor's performance and completion of the Work, and Contractor must diligently prosecute the Work and complete it within the Contract Time.
- 5.1.1. **General.** Contractor must commence the Work on the date indicated in the Notice to Proceed and must fully complete the Work in strict compliance with all requirements of the Contract Documents and within the Contract Time. Contractor may not begin performing the Work before the date specified in the Notice to Proceed.
- 5.1.2. **Authorization.** Contractor is not entitled to compensation or credit for any Work performed before the date specified in the Notice to Proceed, with the exception of any schedules, submittals, or other requirements, if any, that must be provided or performed before issuance of the Notice to Proceed.
- 5.1.3. **Rate of Progress.** Contractor and its Subcontractors must, at all times, provide workers, materials, and equipment sufficient to maintain the rate of progress necessary to ensure full completion of the Work within the Contract Time. If City determines that Contractor is failing to prosecute the Work at a sufficient rate of progress, City may, in its sole discretion, direct Contractor to provide additional workers, materials, or equipment, or to work additional hours or days without additional cost to City, in order to achieve a rate of progress satisfactory to City. If Contractor fails to comply with City's directive in this regard, City may, at Contractor's expense, separately contract for additional workers, materials, or equipment or use City's own forces to achieve the necessary rate of progress. Alternatively, City may terminate the Contract based on Contractor's default.
- 5.2. **Schedule Requirements.** Contractor must prepare all schedules using standard, commercial scheduling software acceptable to the Engineer, and must provide the schedules in electronic and paper form as requested by the Engineer. In addition to the general scheduling requirements set forth below, Contractor must also comply with any scheduling requirements included in the Special Conditions or in the Technical Specifications.
- 5.2.1. **Baseline (As-Planned) Schedule.** Within ten calendar days following City's issuance of the Notice to Proceed (or as otherwise specified in the Notice to Proceed), Contractor must submit to City for review and acceptance a baseline (as-planned) schedule using critical path methodology showing in detail how Contractor plans to perform and fully complete the Work within the Contract Time, including labor, equipment, materials and fabricated items. The baseline schedule must show the order of the major items of Work and the dates of start and completion of each item, including when the materials and equipment will be procured. The schedule must also include the work of all trades, reflecting anticipated labor or crew hours and equipment loading for the construction activities, and must be sufficiently comprehensive and detailed to enable progress to be monitored on a day-by-day basis. For each activity, the baseline schedule must be dated, provided in the format specified in the Contract Documents or as required by City, and must include, at a minimum, a description of the activity, the start and completion dates of the activity, and the duration of the activity.
- 5.2.1.1. **Specialized Materials Ordering.** Within five calendar days following issuance of the Notice to Proceed, Contractor must order any specialized material or equipment

for the Work that is not readily available from material suppliers. Contractor must also retain documentation of the purchase orders date(s).

**5.2.2.City's Review of Schedules.** City will review and may note exceptions to the baseline schedule, and to the progress schedules submitted as required below, to assure completion of the Work within the Contract Time. Contractor is solely responsible for resolving any exceptions noted in a schedule and, within seven days, must correct the schedule to address the exceptions. City's review or acceptance of Contractor's schedules will not operate to waive or limit Contractor's duty to complete the Project within the Contract Time, nor to waive or limit City's right to assess liquidated damages for Contractor's unexcused failure to do so.

**5.2.3.Progress Schedules.** After City accepts the final baseline schedule with no exceptions, Contractor must submit an updated progress schedule and three-week look-ahead schedule, in the format specified by City, for review and acceptance with each application for a progress payment, or when otherwise specified by City, until completion of the Work. The updated progress schedule must: show how the actual progress of the Work as constructed to date compares to the baseline schedule; reflect any proposed changes in the construction schedule or method of operations, including to achieve Project milestones within the Contract Time; and identify any actual or potential impacts to the critical path. Contractor must also submit periodic reports to City of any changes in the projected material or equipment delivery dates for the Project.

**5.2.3.1. Float.** The progress schedule must show early and late completion dates for each task. The number of days between those dates will be designated as the "float." Any float belongs to the Project and may be allocated by the Engineer to best serve timely completion of the Project.

**5.2.3.2. Failure to Submit Schedule.** Reliable, up-to-date schedules are essential to efficient and cost-effective administration of the Project and timely completion. If Contractor fails to submit a schedule within the time periods specified in this Section, or submits a schedule to which City has noted exceptions that are not corrected, City may withhold up to ten percent from payment(s) otherwise due to Contractor until the exceptions are resolved, the schedule is corrected and resubmitted, and City has accepted the schedule. In addition, Contractor's failure to comply with the schedule requirements in this Section 5.2 will be deemed a material default and a waiver of any claims for Excusable Delay or loss of productivity arising during any period when Contractor is out of compliance, subject only to the limits of Public Contract Code § 7102.

**5.2.4.Recovery Schedule.** If City determines that the Work is more than one week behind schedule, within seven days following written notice of such determination, Contractor must submit a recovery schedule, showing how Contractor intends to perform and complete the Work within the Contract Time, based on actual progress to date.

**5.2.5.Effect of Acceptance.** Contractor and its Subcontractors must perform the Work in accordance with the most current City-accepted schedule unless otherwise directed by City. City's acceptance of a schedule does not operate to extend the time for completion of the Work or any component of the Work, and will not affect City's right to assess liquidated

damages for Contractor's unexcused delay in completing the Work within the Contract Time.

5.2.6. **Posting.** Contractor must at all times prominently post a copy of the most current City-accepted progress or recovery schedule in its on-site office.

5.2.7. **Reservation of Rights.** City reserves the right to direct the sequence in which the Work must be performed or to make changes in the sequence of the Work in order to facilitate the performance of work by City or others, or to facilitate City's use of its property. The Contract Time or Contract Price may be adjusted to the extent such changes in sequence actually increase or decrease Contractor's time or cost to perform the Work.

5.2.8. **Authorized Working Days and Times.** Contractor is limited to working Monday through Friday, excluding holidays, during City's normal business hours, except as provided in the Special Conditions or as authorized in writing by City. City reserves the right to charge Contractor for additional costs incurred by City due to Work performed on days or during hours not expressly authorized in the Contract Documents, including reimbursement of costs incurred for inspection, testing, and construction management services.

### 5.3. **Delay and Extensions of Contract Time.**

5.3.1. **Notice of Delay.** If Contractor becomes aware of any actual or potential delay affecting the critical path, Contractor must promptly notify the Engineer in writing, regardless of the nature or cause of the delay, so that City has a reasonable opportunity to mitigate or avoid the delay.

5.3.2. **Excusable Delay.** The Contract Time may be extended if Contractor encounters "Excusable Delay," which is an unavoidable delay in completing the Work within the Contract Time due to causes completely beyond Contractor's control, and which Contractor could not have avoided or mitigated through reasonable care, planning, foresight, and diligence, provided that Contractor is otherwise fully performing its obligations under the Contract Documents. Grounds for Excusable Delay may include fire, natural disasters including earthquake or unusually severe weather, acts of terror or vandalism, epidemic, unforeseeable adverse government actions, unforeseeable actions of third parties, encountering unforeseeable hazardous materials, unforeseeable site conditions, or suspension for convenience under Article 13. The Contract Time will not be extended based on circumstances which will not unavoidably delay completing the Work within the Contract Time based on critical path analysis.

5.3.3. **Weather Delays.** A "Weather Delay Day" is a Working Day during which Contractor and its forces, including Subcontractors, are unable to perform more than 40% of the critical path Work scheduled for that day due to adverse weather conditions which impair the ability to safely or effectively perform the scheduled critical path Work that day. Adverse weather conditions may include rain, saturated soil, and Project site clean-up required due to adverse weather. Determination of what constitutes critical path Work scheduled for that day will be based on the most current, City-approved schedule. Contractor will be entitled to a non-compensable extension of the Contract Time for each Weather Delay Day in excess of the normal Weather Delay Days within a given month as determined by reliable records, including monthly rainfall averages, for the preceding ten years (or as otherwise specified in the Special Conditions or Specifications).

- 5.3.3.1. Contractor must fully comply with the applicable procedures in Articles 5 and 6 of the General Conditions regarding requests to modify the Contract Time.
  - 5.3.3.2. Contractor will not be entitled to an extension of time for a Weather Delay Day to the extent Contractor is responsible for concurrent delay on that day.
  - 5.3.3.3. Contractor must take reasonable steps to mitigate the consequences of Weather Delay Days, including prudent workforce management and protecting the Work, Project Site, materials, and equipment.
- 5.3.4. **Non-Excusable Delay.** Delay which Contractor could have avoided or mitigated through reasonable care, planning, foresight and diligence is “Non-Excusable Delay.” Contractor is not entitled to an extension of Contract Time or any compensation for Non-Excusable Delay, or for Excusable Delay that is concurrent with Non-Excusable Delay. Non-Excusable Delay includes delay caused by:
- 5.3.4.1. weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten years;
  - 5.3.4.2. Contractor’s failure to order equipment and materials sufficiently in advance of the time needed for completion of the Work within the Contract Time;
  - 5.3.4.3. Contractor’s failure to provide adequate notification to utility companies or agencies for connections or services necessary for completion of the Work within the Contract Time;
  - 5.3.4.4. foreseeable conditions which Contractor could have ascertained from reasonably diligent inspection of the Project site or review of the Contract Documents or other information provided or available to Contractor;
  - 5.3.4.5. Contractor’s failure, refusal, or financial inability to perform the Work within the Contract Time, including insufficient funds to pay its Subcontractors or suppliers;
  - 5.3.4.6. performance or non-performance by Contractor’s Subcontractors or suppliers;
  - 5.3.4.7. the time required to respond to excessive RFIs (see Section 2.5(G));
  - 5.3.4.8. delayed submission of required submittals, or the time required for correction and resubmission of defective submittals;
  - 5.3.4.9. time required for repair of, re-testing, or re-inspection of defective Work;
  - 5.3.4.10. enforcement of Laws by City, or outside agencies with jurisdiction over the Work;  
or
  - 5.3.4.11. City’s exercise or enforcement of any of its rights or Contractor’s duties pursuant to the Contract Documents, including correction of defective Work, extra inspections or testing due to non-compliance with Contract requirements, safety compliance, environmental compliance, or rejection and return of defective or deficient submittals.

**5.3.5. Compensable Delay.** Pursuant to Public Contract Code § 7102, in addition to entitlement to an extension of Contract Time, Contractor is entitled to compensation for costs incurred due to delay caused solely by City, when that delay is unreasonable under the circumstances involved and not within the contemplation of the parties (“Compensable Delay”). Contractor is not entitled to an extension of Contract Time or recovery of costs for Compensable Delay that is concurrent with Non-Excusable Delay. Delay due to causes that are beyond the control of either City or Contractor, including Weather Delay Days, discovery of Historic or Archeological Items pursuant to Section 7.18, or the actions or inactions of third parties or other agencies, is not Compensable Delay, and will only entitle Contractor to an extension of time commensurate with the time lost due to such delay.

**5.3.6. Recoverable Costs.** Contractor is not entitled to compensation for Excusable Delay unless it is Compensable Delay, as defined above. Contractor is entitled to recover only the actual, direct, reasonable, and substantiated costs (“Recoverable Costs”) for each working day that the Compensable Delay prevents Contractor from proceeding with more than 50% of the critical path Work scheduled for that day, based on the most recent progress schedule accepted by City. Recoverable Costs will not include home office overhead or lost profit.

**5.3.7. Request for Extension of Contract Time or Recoverable Costs.** A request for an extension of Contract Time or any associated Recoverable Costs must be submitted in writing to City within ten calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or any entitlement to the Contract Time extension or to the Recoverable Costs will be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6 below. Strict compliance with these requirements is necessary to ensure that any delay or consequences of delay may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project and timely performance of the Work. Any request for an extension of Contract Time or Recoverable Costs that does not strictly comply with all of the requirements of Article 5 and Article 6 will be deemed waived.

**5.3.7.1. Required Contents.** The request must include a detailed description of the cause(s) of the delay and must also describe the measures that Contractor has taken to mitigate the delay and/or its effects, including efforts to mitigate the cost impact of the delay, such as by workforce management or by a change in sequencing. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor’s plan for continued mitigation of the delay or its effects.

**5.3.7.2. Delay Days and Costs.** The request must specify the number of days of Excusable Delay claimed or provide a realistic estimate if the duration of the delay is not yet known. If Contractor believes it is entitled to Recoverable Costs for Compensable Delay, the request must specify the amount and basis for the Recoverable Costs that are claimed or provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known. The maximum extension of Contract Time will be the number of days, if any, by which an Excusable Delay or a Compensable Delay exceeds any concurrent Non-Excusable Delay. Contractor is entitled to an extension of Contract Time, or compensation for

Recoverable Costs, only if, and only to the extent that, such delay will unavoidably delay Final Completion.

5.3.7.3. Supporting Documentation. The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including scheduling and cost impacts with a time impact analysis using critical path methodology and demonstrating the unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to City.

5.3.7.4. Burden of Proof. Contractor has the burden of proving that: the delay was an Excusable or Compensable Delay, as defined above; Contractor has fully complied with its scheduling obligations in Section 5.2, Schedule Requirements; Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts; the delay will unavoidably result in delaying Final Completion; and any Recoverable Costs claimed by Contractor were actually incurred and were reasonable under the circumstances.

5.3.7.5. Legal Compliance. Nothing in this Section 5.3 is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code § 7102.

5.3.7.6. No Waiver. Any grant of an extension of Contract Time, or compensation for Recoverable Costs due to Compensable Delay, will not operate as a waiver of City's right to assess liquidated damages for Non-Excusable Delay.

5.3.7.7. Dispute Resolution. In the event of a dispute over entitlement to an extension of Contract Time or compensation for Recoverable Costs, Contractor may not stop Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work. Contractor's sole recourse for an unresolved dispute based on City's rejection of a Change Order request for an extension of Contract Time or compensation for Recoverable Costs is to comply with the dispute resolution provisions set forth in Article 12 below.

5.4. **Liquidated Damages.** It is expressly understood that if Final Completion is not achieved within the Contract Time, City will suffer damages from the delay that are difficult to determine and accurately specify. Pursuant to Public Contract Code § 7203, if Contractor fails to achieve Final Completion within the Contract Time, City will charge Contractor in the amount specified in the Contract for each day that Final Completion is delayed beyond the Contract Time, as liquidated damages and not as a penalty.

5.4.1. **Liquidated Damages.** Liquidated damages will not be assessed for any Excusable or Compensable Delay, as set forth above.

5.4.2. **Milestones.** Liquidated damages may also be separately assessed for failure to meet milestones specified elsewhere in the Contract Documents.

5.4.3. **Setoff.** City is entitled to deduct the amount of liquidated damages assessed against any payments otherwise due to Contractor, including progress payments, Final Payment, or unreleased retention. If there are insufficient Contract funds remaining to cover the full amount of liquidated damages assessed, City is entitled to recover the balance from Contractor or its performance bond surety.

5.4.4. **Occupancy or Use.** Occupancy or use of the Project in whole or in part prior to Final Completion does not constitute City's acceptance of the Project and will not operate as a waiver of City's right to assess liquidated damages for Contractor's Non-Excusable Delay in achieving Final Completion.

5.4.5. **Other Remedies.** City's right to liquidated damages under this Section applies only to damages arising from Contractor's Non-Excusable Delay or failure to complete the Work within the Contract Time. City retains its right to pursue all other remedies under the Contract for other types of damage, including damage to property or persons, costs or diminution in value from defective materials or workmanship, costs to repair or complete the Work, or other liability caused by Contractor.

## Article 6- Contract Modification

- 6.1. **Contract Modification.** Subject to the limited exception set forth in subsection (D) below, any change in the Work or the Contract Documents, including the Contract Price or Contract Time, will not be a valid and binding change to the Contract unless it is formalized in a Change Order, including a “no-cost” Change Order or a unilateral Change Order. Changes in the Work pursuant to this Article 6 will not operate to release, limit, or abridge Contractor’s warranty obligations pursuant to Article 11 or any obligations of Contractor’s bond sureties.
- 6.1.1. **City-Directed Changes.** City may direct changes in the scope or sequence of Work or the requirements of the Contract Documents, without invalidating the Contract. Such changes may include Extra Work as set forth in subsection (C) below, or deletion or modification of portions of the Work. Contractor must promptly comply with City-directed changes in the Work in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement as to adjustments to the Contract Price or Contract Time for the change in the Work or for the Extra Work. Contractor is not entitled to extra compensation for cost savings resulting from “value engineering” pursuant to Public Contract Code § 7101, except to the extent authorized in advance by City in writing, and subject to any applicable procedural requirements for submitting a proposal for value engineering cost savings.
- 6.1.2. **Disputes.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to a City-directed change in the Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute. Likewise, in the event that City and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents or constitute Extra Work, or otherwise dispute the interpretation of any portion(s) of the Contract Documents, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute, as directed by City. If Contractor refuses to perform the Work in dispute, City may, acting in its sole discretion, elect to delete the Work from the Contract and reduce the Contract Price accordingly, and self-perform the Work or direct that the Work be performed by others. Alternatively, City may elect to terminate the Contract for convenience or for cause. Contractor’s sole recourse for an unresolved dispute related to changes in the Work or performance of any Extra Work is to comply with the dispute resolution provisions set forth in Article 12, below.
- 6.1.3. **Extra Work.** City may direct Contractor to perform Extra Work related to the Project. Contractor must promptly perform any Extra Work as directed or authorized by City in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement on adjustments to the Contract Price or Contract Time for such Extra Work. Contractor must maintain detailed daily records that itemize the cost of each element of Extra Work, and sufficiently distinguish the direct cost of the Extra Work from the cost of other Work performed. For each day that Contractor performs Extra Work, or Work that Contractor contends is Extra Work, Contractor must submit no later than the following Working Day, a daily report of the Extra Work performed that day and the related costs, together with copies of certified payroll, invoices, and other documentation substantiating the costs (“Extra Work

Report”). The Engineer will make any adjustments to Contractor’s Extra Work Report(s) based on the Engineer’s records of the Work. When an Extra Work Report(s) is agreed on and signed by both City and Contractor, the Extra Work Report(s) will become the basis for payment under a duly authorized and signed Change Order. Failure to submit the required documentation by close of business on the next Working Day is deemed a full and complete waiver for any change in the Contract Price or Contract Time for any Extra Work performed that day.

- 6.1.4. **Minor Changes and RFIs.** Minor field changes, including RFI replies from City, that do not affect the Contract Price or Contract Time and that are approved by the Engineer acting within his or her scope of authority, do not require a Change Order. By executing an RFI reply from City, Contractor agrees that it will perform the Work as clarified therein, with no change to the Contract Price or Contract Time.
- 6.1.5. **Remedy for Non-Compliance.** Contractor’s failure to promptly comply with a City-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, City may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor’s sole expense, and may deduct the cost from the Contract Price.
- 6.2. **Contractor Change Order Requests.** Contractor must submit a request or proposal for a change in the Work, compensation for Extra Work, or a change in the Contract Price or Contract Time as a written Change Order request or proposal.
  - 6.2.1. **Time for Submission.** Any request for a change in the Contract Price or the Contract Time must be submitted in writing to the Engineer within ten calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time. If City requests that Contractor propose the terms of a Change Order, unless otherwise specified in City’s request, Contractor must provide the Engineer with a written proposal for the change in the Contract Price or Contract Time within five working days of receiving City’s request, in a form satisfactory to the Engineer.
  - 6.2.2. **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, subcontract amounts, and, if applicable, Extra Work Reports. Any estimated cost must be updated in writing as soon as the actual amount is known.
  - 6.2.3. **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions. Upon request, Contractor must permit City to inspect its original and unaltered bidding records, subcontract agreements, subcontract change orders, purchase orders, invoices, or receipts associated with the claimed costs.
  - 6.2.4. **Required Form.** Contractor must use City’s form(s) for submitting all Change Order requests or proposals, unless otherwise specified by City.
  - 6.2.5. **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

“The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived.”

6.3. **Adjustments to Contract Price.** The amount of any increase or decrease in the Contract Price will be determined based on one of the following methods listed below, in the order listed with unit pricing taking precedence over the other methods. Markup applies only to City-authorized time and material Work, and does not apply to any other payments to Contractor. For Work items or components that are deleted in their entirety, Contractor will only be entitled to compensation only for those direct, actual, and documented costs (including restocking fees), reasonably incurred before Contractor was notified of the City’s intent to delete the Work, with no markup for overhead, profit, or other indirect costs.

6.3.1. **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, either in a bid schedule or in a post-award schedule of values pursuant to Section 8.1, Schedule of Values, will apply to determine the price for the affected Work, to the extent applicable unit prices have been provided for that type of Work. No additional markup for overhead, profit, or other indirect costs will be added to the calculation.

6.3.2. **Lump Sum.** A mutually agreed upon, all-inclusive lump sum price for the affected Work with no additional markup for overhead, profit, or other indirect costs.

6.3.3. **Time and Materials.** On a time and materials basis, if and only to the extent compensation on a time and materials basis is expressly authorized by City in advance of Contractor’s performance of the Work and subject to any not-to-exceed limit. Time and materials compensation for increased costs or Extra Work (but not decreased costs or deleted Work), will include allowed markup for overhead, profit, and other indirect costs, and which may include a not-to-exceed limit, calculated as the total of the following sums, the cumulative total of which may not exceed the maximum markup rate of 15%:

6.3.3.1. All direct labor costs provided by the Contractor, excluding superintendence, project management, or administrative costs, plus 15% markup;

6.3.3.2. All direct material costs provided by the Contractor, including sales tax, plus 15% markup;

6.3.3.3. All direct plant and equipment rental costs provided by the Contractor, plus 15% markup;

6.3.3.4. All direct additional subcontract costs plus 10% markup for Work performed by Subcontractors; and

6.3.3.5. Increased bond or insurance premium costs computed at 1.5% of total of the previous four sums.

6.4. **Unilateral Change Order.** If the parties dispute the terms of a proposed Change Order, including disputes over the amount of compensation or extension of time that Contractor has requested, the value of deleted or changed Work, what constitutes Extra Work, or quantities used, City may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time for the amount of compensation or added time that the City

believes is merited. Contractor's sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.

- 6.5. **Non-Compliance Deemed Waiver.** Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to fully comply with the provisions of this Article. Contractor will not be paid for unauthorized Extra Work.

# Article 7- General Construction Provisions

## 7.1. **Permits, Fees, Business License, and Taxes.**

7.1.1. **Permits, Fees, and City Business License.** Contractor must obtain and pay for all permits, fees, or licenses required to perform the Work, including a City business license. Contractor must cooperate with and provide notifications to all government agencies with jurisdiction over the Project, as may be required. Contractor must provide City with copies of all records of permits and permit applications, payment of required fees, and any licenses required for the Work.

7.1.2. **Taxes.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that City is exempt from Federal Excise Tax.

## 7.2. **Temporary Facilities.** Contractor must provide, at Contractor's sole expense, any and all temporary facilities for the Project, including an onsite staging area for materials and equipment, a field office, sanitary facilities, utilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any incidental utility services. The location of all temporary facilities must be approved by the City prior to installation. Temporary facilities must be safe and adequate for the intended use and installed and maintained in accordance with Laws and the Contract Documents. Contractor must fence and screen the Project site and, if applicable, any separate Worksites, including the staging area, and its operation must minimize inconvenience to neighboring properties. Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

7.2.1. **Utilities.** Contractor must install and maintain the power, water, sewer and all other utilities required for the Project site, including the piping, wiring, internet and wifi connections, and any related equipment necessary to maintain the temporary facilities.

7.2.2. **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any damage to City's property or to other property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

## 7.3. **Noninterference and Site Management.** Contractor must avoid interfering with City's use of its property at or adjacent to the Project site, including use of roadways, entrances, parking areas, walkways, and structures. Contractor must also minimize disruption of access to private property in the Project vicinity. Contractor must coordinate with affected property owners, tenants, and businesses, and maintain some vehicle and pedestrian access to their residences or properties at all times. Temporary access ramps, fencing or other measures must be provided as needed. Before blocking access to a private driveway or parking lot, Contractor must provide effective notice to the affected parties at least 48 hours in advance of the pending closure and allow them to remove vehicles. Private driveways, residences and parking lots must have access to a roadway during non-Work hours.

7.3.1. **Offsite Acquisition.** Unless otherwise provided by City, Contractor must acquire, use and dispose of, at its sole expense, any additional Worksites, licenses, easements, and temporary facilities necessary to access and perform the Work.

- 7.3.2. **Offsite Staging Area and Field Office.** If additional space beyond the Project site is needed, such as for the staging area or the field office, Contractor may need to make arrangements with the nearby property owner(s) to secure the space. Before using or occupying any property owned by a third party, Contractor must provide City with a copy of the necessary license agreement, easement, or other written authorization from the property owner, together with a written release from the property owner holding City harmless from any related liability, in a form acceptable to the City Attorney.
- 7.3.3. **Traffic Management.** Contractor must provide traffic management and traffic controls as specified in the Contract Documents, as required by Laws, and as otherwise required to ensure the public and worker safety, and to avoid interference with public or private operations or the normal flow of vehicular, bicycle, or pedestrian traffic.
- 7.4. **Signs.** No signs may be displayed on or about City's property, except signage which is required by Laws or by the Contract Documents, without City's prior written approval as to size, design, and location.
- 7.5. **Project Site and Nearby Property Protections.**
- 7.5.1. **General.** Contractor is responsible at all times, on a 24-hour basis and at its sole cost, for protecting the Work, the Project site, and the materials and equipment to be incorporated into the Work, until the City has accepted the Project, excluding any exceptions to acceptance, if any. Except as specifically authorized by City, Contractor must confine its operations to the area of the Project site indicated in the Plans and Specifications. Contractor is liable for any damage caused by Contractor or its Subcontractors to the Work, City's property, the property of adjacent or nearby property owners and the work or personal property of other contractors working for City, including damage related to Contractor's failure to adequately secure the Work or any Worksite.
- 7.5.1.1. Subject to City's approval, Contractor will provide and install safeguards to protect the Work; any Worksite, including the Project site; City's real or personal property and the real or personal property of adjacent or nearby property owners, including plant and tree protections.
- 7.5.1.2. City wastewater systems may not be interrupted. If the Work disrupts existing sewer facilities, Contractor must immediately notify City and establish a plan, subject to City's approval, to convey the sewage in closed conduits back into the sanitary sewer system. Sewage must not be permitted to flow in trenches or be covered by backfill.
- 7.5.1.3. Contractor must remove with due care, and store at City's request, any objects or material from the Project site that City will salvage or reuse at another location.
- 7.5.1.4. If directed by Engineer, Contractor must promptly repair or replace any property damage, as specified by the Engineer. However, acting in its sole discretion, City may elect to have the property damage remedied otherwise, and may deduct the cost to repair or replace the damaged property from payment otherwise due to Contractor.
- 7.5.1.5. Contractor will not permit any structure or infrastructure to be loaded in a manner that will damage or endanger the integrity of the structure or infrastructure.

7.5.2. **Securing Project Site.** After completion of Work each day, Contractor must secure the Project site and, to the extent feasible, make the area reasonably accessible to the public unless City approves otherwise. All excess materials and equipment not protected by approved traffic control devices must be relocated to the staging area or demobilized. Trench spoils must be hauled off the Project site daily and open excavations must be protected with steel plates. Contractor and Subcontractor personnel may not occupy or use the Project site for any purpose during non-Work hours, except as may be provided in the Contract Documents or pursuant to prior written authorization from City.

7.5.3. **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Plans or apparent from inspection of the Project site, Contractor must immediately notify the City and promptly submit a Request for Information to obtain further directions from the Engineer. Contractor must avoid taking any action which could cause damage to the facilities or utilities pending further direction from the Engineer. The Engineer's written response will be final and binding on Contractor. If the Engineer's subsequent direction to Contractor affects Contractor's cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6 above.

7.5.4. **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, and underpinning necessary to provide support to City's property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by Laws. See also, Section 7.15, Trenching of Five Feet or More.

7.5.5. **Notification of Property Damage.** Contractor must immediately notify the City of damage to any real or personal property resulting from Work on the Project. Contractor must immediately provide a written report to City of any such property damage in excess of \$500 (based on estimated cost to repair or replace) within 24 hours of the occurrence. The written report must include: (1) the location and nature of the damage, and the owner of the property, if known; (2) the name and address of each employee of Contractor or any Subcontractor involved in the damage; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with another government agency, Contractor will provide a copy of the report to City.

## 7.6. Materials and Equipment.

7.6.1. **General.** Unless otherwise specified, all materials and equipment required for the Work must be new, free from defects, and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Contractor must employ measures to preserve the specified quality and fitness of the materials and equipment. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation and must be installed in accordance with the manufacturer's recommendations or instructions. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work. Contractor is responsible for providing security and protecting the Work and all of the required materials, supplies, tools and equipment at Contractor's sole cost until City has formally accepted the Project as set forth in Section 11.1, Final Completion. Contractor will not assign, sell, mortgage, or hypothecate any

materials or equipment for the Project, or remove any materials or equipment that have been installed or delivered.

7.6.2. **City-Provided.** If the Work includes installation of materials or equipment to be provided by City, Contractor is solely responsible for the proper examination, handling, storage, and installation in accordance with the Contract Documents. Contractor must notify City of any defects discovered in City-provided materials or equipment, sufficiently in advance of scheduled use or installation to afford adequate time to procure replacement materials or equipment as needed. Contractor is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor's custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

7.6.3. **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization or license required for use of patented or copyright-protected materials, equipment, devices, or processes that are incorporated into the Work. Contractor's indemnity obligations in Article 4 apply to any claimed violation of intellectual property rights in violation of this provision.

## 7.7. Substitutions.

7.7.1. **"Or Equal."** Any Specification designating a material, product, or thing (collectively, "item") or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate the quality and type of item or service desired, and Contractor may request use of any equal item or service. Unless otherwise stated in the Specifications, any reference to a specific brand or trade name for an item that is used solely for the purpose of describing the type of item desired, will be deemed to be followed by the words "or equal." A substitution will only be approved if it is a true "equal" item in every aspect of design, function, and quality, as determined by City, including dimensions, weight, maintenance requirements, durability, fit with other elements, and schedule impacts.

7.7.2. **Request for Substitution.** A post-award request for substitution of an item or service must be submitted in writing to the Engineer for approval in advance, within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within 35 days after the date of award of the Contract, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

7.7.3. **Substantiation.** Any available data substantiating the proposed substitute as an equal item or service must be submitted with the written request for substitution. Contractor's failure to timely provide all necessary substantiation, including any required test results as soon as they are available, is grounds for rejection of the proposed substitution, without further review.

7.7.4. **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution at Contractor's sole cost. City has sole discretion to determine whether a proposed substitution is equal, and City's determination is final.

7.7.5. **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs or time associated with the substituted item or service. If the proposed substitution is rejected, Contractor must, without delay, install the item or use the service as specified by City.

7.7.6. **Contractor's Obligations.** City's approval of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

## 7.8. Testing and Inspection.

7.8.1. **General.** All materials, equipment, and workmanship used in the Work are subject to inspection and testing by City at all times and locations during construction and/or fabrication and at any Worksite, including at shops and yards as well as at the Project site. All manufacturers' application or installation instructions must be provided to the Inspector at least ten days prior to the first such application or installation. Contractor must, at all times, make the Work available for testing or inspection. Neither City's inspection or testing of Work, nor its failure to do so, operate to waive or limit Contractor's duty to complete the Work in accordance with the Contract Documents.

7.8.2. **Scheduling and Notification.** Contractor must cooperate with City in coordinating the inspections and testing. Contractor must submit samples of materials, at Contractor's expense, and schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must notify the Engineer no later than noon of the Working Day before any inspection or testing and must provide timely notice to the other necessary parties as specified in the Contract Documents. If Contractor schedules an inspection or test beyond regular Work hours, or on a Saturday, Sunday, or recognized City holiday, Contractor must notify the Engineer at least two Working Days in advance for approval. If approved, Contractor must reimburse City for the cost of the overtime inspection or testing. Such costs, including the City's hourly costs for required personnel, may be deducted from payments otherwise due to Contractor.

7.8.3. **Responsibility for Costs.** City will bear the initial cost of inspection and testing to be performed by independent testing consultants retained by City, subject to the following exceptions:

7.8.3.1. Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

7.8.3.2. Contractor will be responsible for inspection costs, at City's hourly rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.

7.8.3.3. If any portion of the Work that is subject to inspection or testing is covered or concealed by Contractor prior to the inspection or testing, Contractor will bear the cost of making that portion of the Work available for the inspection or testing required by the Contract Documents, and any associated repair or remediation costs.

7.8.3.4. Contractor is responsible for properly shoring all compaction test sites deeper than five feet below grade, as required under Section 7.15 below.

7.8.3.5. Any Work or material that is defective or fails to comply with the requirements of the Contract Documents must be promptly repaired, removed, replaced, or corrected

by Contractor, at Contractor's sole expense, even if that Work or material was previously inspected or included in a progress payment.

7.8.4. **Contractor's Obligations.** Contractor is solely responsible for any delay occasioned by remediation of defective or noncompliant Work or material. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified. Any Work done without the required inspection(s) will also be subject to rejection by City.

7.8.5. **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.

7.8.6. **Final Inspection.** The provisions of this Section 7.8 also apply to final inspection under Article 11, Completion and Warranty Provisions.

7.9. **Project Site Conditions and Maintenance.** Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all Laws pertaining to safety, air quality, and dust control. Adequate toilets must be provided, and properly maintained and serviced for all workers on the Project site, located in a suitably secluded area, subject to City's prior approval. Contractor must also, on a daily basis and at its sole cost, remove and properly dispose of the debris and waste materials from the Project site.

7.9.1. **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws.

7.9.2. **Dust and Debris.** Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use the minimum necessary. Contractor must take all necessary steps to keep wastewater out of streets, gutters, or storm drains. See Section 7.19, Environmental Control. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project site and any dirt deposited on public streets.

7.9.3. **Clean up.** Before discontinuing Work in an area, Contractor must clean the area and remove all debris and waste along with the construction equipment, tools, machinery, and surplus materials.

7.9.3.1. Except as otherwise specified, all excess Project materials, and the materials removed from existing improvements on the Project site with no salvage value or intended reuse by City, will be Contractor's property.

7.9.3.2. Hauling trucks and other vehicles leaving the Project site must be cleaned of exterior mud or dirt before traveling on City streets. Materials and loose debris must be delivered and loaded to prevent dropping materials or debris. Contractor must immediately remove spillage from hauling on any publicly traveled way. Streets affected by Work on the Project must be kept clean by street sweeping.

- 7.9.4. **Disposal.** Contractor must dispose of all Project debris and waste materials in a safe and legal manner. Contractor may not burn or bury waste materials on the Project site. Contractor will not allow any dirt, refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed of onto streets, into manholes or into the storm drain system.
- 7.9.5. **Completion.** At the completion of the Work, Contractor must remove from the Project site all of its equipment, tools, surplus materials, waste materials and debris, presenting a clean and neat appearance. Before demobilizing from the Project site, Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas. Contractor must ensure that all parts of the construction are properly joined with the previously existing and adjacent improvements and conditions. Contractor must provide all cutting, fitting and patching needed to accomplish that requirement. Contractor must also repair or replace all existing improvements that are damaged or removed during the Work, both on and off the Project site, including curbs, sidewalks, driveways, fences, signs, utilities, street surfaces and structures. Repairs and replacements must be at least equal to the previously existing improvements, and the condition, finish and dimensions must match the previously existing improvements. Contractor must restore to original condition all property or items that are not designated for alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by City.
- 7.9.6. **Non-Compliance.** If Contractor fails to comply with its maintenance and cleanup obligations or any City clean up order, City may, acting in its sole discretion, elect to suspend the Work until the condition(s) is corrected with no increase in the Contract Time or Contract Price, or undertake appropriate cleanup measures without further notice and the cost will be deducted from any amounts due or to become due to Contractor.
- 7.10. **Instructions and Manuals.** Contractor must provide to City three copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for City to easily maintain and service the materials and equipment installed for this Project.
- 7.10.1. **Submittal Requirements.** All manufacturers' application or installation instructions must be provided to City at least ten days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to City for review.
- 7.10.2. **Training.** Contractor or its Subcontractors must train City's personnel in the operation and maintenance of any complex equipment or systems as a condition precedent to Final Completion, if required in the Contract Documents.
- 7.11. **As-built Drawings.** Contractor and its Subcontractors must prepare and maintain at the Project site a detailed, complete and accurate as-built set of the Plans which will be used solely for the purpose of recording changes made in any portion of the original Plans in order to create accurate record drawings at the end of the Project.
- 7.11.1. **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. City may withhold the estimated cost for City to have the as-built drawings prepared from payments otherwise due to Contractor, until the as-built drawings are brought up to date to the satisfaction of City. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities installed

underground, in walls, floors, or otherwise concealed. Deviations from the original Plans must be shown in detail. The exact location of all main runs, whether piping, conduit, ductwork or drain lines, must be shown by dimension and elevation. The location of all buried pipelines, appurtenances, or other improvements must be represented by coordinates and by the horizontal distance from visible above-ground improvements.

7.11.2. **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver the complete set of as-built drawings to the Engineer for review and acceptance as a condition precedent to Final Completion and Final Payment.

## 7.12. Existing Utilities.

7.12.1. **General.** The Work may be performed in developed, urban areas with existing utilities, both above and below ground, including utilities identified in the Contract Documents or in other informational documents or records. Contractor must take due care to locate identified or reasonably identifiable utilities before proceeding with trenching, excavation, or any other activity that could damage or disrupt existing utilities. This may include excavation with small equipment, potholing, or hand excavation, and, if practical, using white paint or other suitable markings to delineate the area to be excavated. Except as otherwise provided herein, Contractor will be responsible for costs resulting from damage to identified or reasonably identifiable utilities due to Contractor's negligence or failure to comply with the Contract Documents, including the requirements in this Article 7.

7.12.2. **Unidentified Utilities.** Pursuant to Government Code § 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by City in the Contract Documents, Contractor must immediately provide written notice to City and the utility. City assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project site if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor's failure to exercise reasonable care, and removing or relocating utility facilities not indicated in the Plans or Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Contractor will not be assessed liquidated damages for delay in completion of the Work, to the extent the delay was caused by City's failure to provide for removal or relocation of the utility facilities.

7.13. **Notice of Excavation.** Contractor must comply with all applicable requirements in Government Code §§ 4216 through 4216.5, which are incorporated by reference herein. Government Code § 4216.2 requires that, except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert, at least two working days, but not more than 14 calendar days, before starting any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations. Contractor may not begin excavation until it has obtained and submitted to Engineer an inquiry identification number from Underground Services Alert.

7.14. **Trenching and Excavations of Four Feet or More.** As required by Public Contract Code § 7104, if the Work includes digging trenches or other excavations that extend deeper than four feet below the surface, the provisions in this Section apply to the Work and the Project.

- 7.14.1. **Duty to Notify.** Contractor must promptly, and before the following conditions are disturbed, provide written notice to City if Contractor finds any of the following conditions:
- 7.14.1.1. Material that Contractor believes may be a hazardous waste, as defined in § 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing Laws;
  - 7.14.1.2. Subsurface or latent physical conditions at the Project site differing from those indicated by information about the Project site made available to bidders prior to the deadline for submitting bids; or
  - 7.14.1.3. Unknown physical conditions at the Project site of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.
- 7.14.2. **City Investigation.** City will promptly investigate the conditions and if City finds that the conditions materially differ from those indicated, apparent, or reasonably inferred from information about the Project site made available to bidders, or involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, City will issue a Change Order.
- 7.14.3. **Disputes.** In the event that a dispute arises between City and Contractor regarding any of the conditions specified in subsection (B) above, or the terms of a Change Order issued by City, Contractor will not be excused from completing the Work within the Contract Time, but must proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by the Contract or by Laws which pertain to the resolution of disputes between Contractor and City.
- 7.15. **Trenching of Five Feet or More.** As required by Labor Code § 6705, if the Contract Price exceeds \$25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to City for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a California registered civil or structural engineer. Use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.
- 7.16. **New Utility Connections.** Except as otherwise specified, City will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify City sufficiently in advance of the time needed to request service from each utility provider so that connections and services are initiated in accordance with the Project schedule.
- 7.17. **Lines and Grades.** Contractor is required to use any benchmark provided by the Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work. Contractor must also provide, preserve, and replace if necessary, all construction stakes required for the Project. All stakes or marks must be set by a California licensed surveyor or a California registered civil engineer. Contractor must notify the Engineer of any discrepancies found between Contractor's staking and grading and information provided by the Contract Documents. Upon completion, all Work must conform to the lines, elevations, and grades shown in the Plans, including any changes directed by a Change Order.

7.18. **Historic or Archeological Items.**

7.18.1. **Contractor's Obligations.** Contractor must ensure that all persons performing Work at the Project site are required to immediately notify the Project Manager, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, a burial ground, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project site (collectively, "Historic or Archeological Items").

7.18.2. **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an 85-foot radius of the find and may not resume until authorized in writing by City. If required by City, Contractor must assist in protecting or recovering the Historic or Archeological Items, with any such assistance to be compensated as Extra Work on a time and materials basis under Article 6, Contract Modification. At City's discretion, a suspension of Work required due to discovery of Historic or Archeological Items may be treated as Excusable Delay pursuant to Article 5, or as a suspension for convenience under Article 13.

7.19. **Environmental Control.** Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor must prevent the release of any hazardous material or hazardous waste into the soil or groundwater, and prevent the unlawful discharge of pollutants into City's storm drain system and watercourses as required below. Contractor and its Subcontractors must at all times in the performance of the Work comply with all Laws concerning pollution of waterways.

7.19.1. **Stormwater Permit.** Contractor must comply with all applicable conditions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity ("Stormwater Permit").

7.19.2. **Contractor's Obligations.** If required for the Work, a copy of the Stormwater Permit is on file in City's principal administrative offices, and Contractor must comply with it without adjustment of the Contract Price or the Contract Time. Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit. Contractor also must comply with all other Laws governing discharge of stormwater, including applicable municipal stormwater management programs.

7.20. **Noise Control.** Contractor must comply with all applicable noise control Laws. Noise control requirements apply to all equipment used for the Work or related to the Work, including trucks, transit mixers or transient equipment that may or may not be owned by Contractor.

7.21. **Mined Materials.** Pursuant to the Surface Mining and Reclamation Act of 1975, Public Resources Code § 2710 et seq., any purchase of mined materials, such as construction aggregate, sand, gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation included on the AB 3098 List, which is available online at: <ftp://ftp.consrv.ca.gov/pub/omr/AB3098%20List/AB3908List.pdf>.

## Article 8- Payment

- 8.1. **Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to the Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.
- 8.1.1. **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Project site, as well as authorized and approved Change Orders. Each payment application must be supported by the unit prices submitted with Contractor's Bid Schedule and/or schedule of values and any other substantiating data required by the Contract Documents.
- 8.1.2. **Payment of Undisputed Amounts.** City will pay the undisputed amount due within 30 days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code § 20104.50. City will deduct a percentage from each progress payment as retention, as set forth in Section 8.4, below, and may withhold additional amounts as set forth in Section 8.2, below.
- 8.2. **Adjustment of Payment Application.** City may adjust or reject the amount requested in a payment application, including application for Final Payment, in whole or in part, if the amount requested is disputed or unsubstantiated. Contractor will be notified in writing of the basis for the modification to the amount requested. City may also deduct or withhold from payment otherwise due based upon any of the circumstances and amounts listed below. Sums withheld from payment otherwise due will be released when the basis for that withholding has been remedied and no longer exists.
- 8.2.1. For Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.
- 8.2.2. For loss or damage caused by Contractor or its Subcontractors arising out of or relating to performance of the Work or any failure to protect the Project site, City may deduct an amount based on the estimated cost to repair or replace.
- 8.2.3. For Contractor's failure to pay its Subcontractors and suppliers when payment is due, City may withhold an amount equal to the total of past due payments and may opt to pay that amount separately via joint check pursuant to Section 8.5.2, Joint Checks.
- 8.2.4. For Contractor's failure to timely correct rejected, nonconforming, or defective Work, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.
- 8.2.5. For any unreleased stop notice, City may withhold 125% of the amount claimed.
- 8.2.6. For Contractor's failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents, City may withhold an amount equal to five percent of the total amount requested until Contractor complies with its schedule submittal obligations.

- 8.2.7. For Contractor's failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents, City may withhold or deduct an amount based on the City's cost to prepare the as-builts.
- 8.2.8. For Work performed without Shop Drawings that have been accepted by City, when accepted Shop Drawings are required before proceeding with the Work, City may deduct an amount based on the estimated costs to correct unsatisfactory Work or diminution in value.
- 8.2.9. For fines, payments, or penalties assessed under the Labor Code, City may deduct from payments due to Contractor as required by Laws and as directed by the Division of Labor Standards Enforcement.
- 8.2.10. For any other costs or charges that may be withheld or deducted from payments to Contractor, as provided in the Contract Documents, including liquidated damages, City may withhold or deduct such amounts from payment otherwise due to Contractor.
- 8.3. **Early Occupancy.** Neither City's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of any part of the Work.
- 8.4. **Retention.** City will retain five percent of the full amount due on each progress payment (i.e., the amount due before any withholding or deductions pursuant to Section 8.2, Adjustment to Payment Application), or the percentage stated in the Notice Inviting Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work. Contractor is not entitled to any reduction in the rate of withholding at any time, nor to release of any retention before 35 days following City's acceptance of the Project.
- 8.4.1. **Substitution of Securities.** As provided by Public Contract Code § 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by City. Any escrow agreement entered into pursuant to this provision must fully comply with Public Contract Code § 22300 and will be subject to approval as to form by City's legal counsel. If City exercises its right to draw upon such securities in the event of default pursuant to section (7) of the statutory Escrow Agreement for Security Deposits in Lieu of Retention, pursuant to subdivision (f) of Public Contract Code § 22300 ("Escrow Agreement"), and if Contractor disputes that it is in default, its sole remedy is to comply with the dispute resolution procedures in Article 12 and the provisions therein. It is agreed that for purposes of this paragraph, an event of default includes City's rights pursuant to these Contract Documents to withhold or deduct sums from retention, including withholding or deduction for liquidated damages, incomplete or defective Work, stop payment notices, or back charges. It is further agreed that if any individual authorized to give or receive written notice on behalf of a party pursuant to section (10) of the Escrow Agreement are unavailable to give or receive notice on behalf of that party due to separation from employment, retirement, death, or other circumstances, the successor or delegee of the named individual is deemed to be the individual authorized to give or receive notice pursuant to section (10) of the Escrow Agreement.
- 8.4.2. **Release of Undisputed Retention.** All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld pursuant to Section 8.2, Adjustment of Payment Application, will be released as Final Payment to Contractor no sooner than 35 days following recordation of the notice of completion, and no later than 60 days following acceptance of the Project by City's governing body or authorized designee pursuant to Section 11.1(C), Acceptance, or, if the Project has not been accepted, no

later than 60 days after the Project is otherwise considered complete pursuant to Public Contract Code § 7107(c).

- 8.5. **Payment to Subcontractors and Suppliers.** Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment incorporated into the Work or delivered to the Project site by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of Laws pertaining to such payments, and those of the Contract Documents and applicable subcontract or supplier contract.
- 8.5.1. **Withholding for Stop Notice.** Pursuant to Civil Code § 9358, City will withhold 125% of the amount claimed by an unreleased stop notice, a portion of which may be retained by City for the costs incurred in handling the stop notice claim, including attorneys' fees and costs, as authorized by law.
- 8.5.2. **Joint Checks.** City reserves the right, acting in its sole discretion, to issue joint checks made payable to Contractor and a Subcontractor or supplier, if City determines this is necessary to ensure fair and timely payment for a Subcontractor or supplier who has provided services or goods for the Project. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by the City Attorney's Office. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between City and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.
- 8.6. **Final Payment.** Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final Payment. If Contractor fails to submit a timely application for Final Payment, City reserves the right to unilaterally process and issue Final Payment without an application from Contractor in order to close out the Project. For the purposes of determining the deadline for Claim submission pursuant to Article 12, the date of Final Payment is deemed to be the date that City acts to release undisputed retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment or that no undisputed funds remain available for Final Payment due to offsetting withholdings or deductions pursuant to Section 8.3, Adjustment of Payment Application. If the amount due from Contractor to City exceeds the amount of Final Payment, City retains the right to recover the balance from Contractor or its sureties.
- 8.7. **Release of Claims.** City may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing City with a written waiver and release of all claims against City arising from or related to the portion of Work covered by those undisputed amounts subject to the limitations of Public Contract Code § 7100. Any disputed amounts may be specifically excluded from the release.
- 8.8. **Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to City free of any claims, liens, or encumbrances upon payment to Contractor.

## Article 9- Labor Provisions

- 9.1. **Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Govt. Code § 12900 et seq.), Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6, and 3077.5.
- 9.2. **Labor Code Requirements.**
- 9.2.1. **Eight Hour Day.** Pursuant to Labor Code § 1810, eight hours of labor constitute a legal day's work under this Contract.
- 9.2.2. **Penalty.** Pursuant to Labor Code § 1813, Contractor will forfeit to City as a penalty, the sum of \$25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code § 1815.
- 9.2.3. **Apprentices.** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code § 1777.5, which is fully incorporated by reference.
- 9.2.4. **Notices.** Pursuant to Labor Code § 1771.4, Contractor is required to post all job site notices prescribed by Laws.
- 9.3. **Prevailing Wages.** Each worker performing Work under this Contract that is covered under Labor Code §§ 1720 or 1720.9, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City and available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Project site.
- 9.3.1. **Penalties.** Pursuant to Labor Code § 1775, Contractor and any Subcontractor will forfeit to City as a penalty up to \$200.00 for each calendar day, or portion a day, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- 9.3.2. **Federal Requirements.** If this Project is subject to federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the currently applicable state or federal prevailing wage rates.
- 9.4. **Payroll Records.** Contractor must comply with the provisions of Labor Code §§ 1776 and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.
- 9.4.1. **Contractor and Subcontractor Obligations.** Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in

connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

9.4.1.1. The information contained in the payroll record is true and correct; and

9.4.1.2. Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

9.4.2. **Certified Record.** A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

9.4.3. **Enforcement.** Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

9.5. **Labor Compliance.** Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

## Article 10- Safety Provisions

- 10.1. **Safety Precautions and Programs.** Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work. Contractor and its Subcontractors must at all times comply with all applicable safety Laws and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at any Worksite, materials and equipment stored on or off site, and property at or adjacent to any Worksite.
- 10.1.1. **Reporting Requirements.** Contractor must immediately notify the City of any death, serious injury or illness resulting from Work on the Project. Contractor must immediately provide a written report to City of each recordable accident or injury occurring at any Worksite within 24 hours of the occurrence. The written report must include: (1) the name and address of the injured or deceased person; (2) the name and address of each employee of Contractor or of any Subcontractor involved in the incident; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to City.
- 10.1.2. **Legal Compliance.** Contractor's safety program must comply with the applicable legal and regulatory requirements. Contractor must provide City with copies of all notices required by Laws.
- 10.1.3. **Contractor's Obligations.** Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.
- 10.1.4. **Remedies.** If City determines, in its sole discretion, that any part of the Work or Project site is unsafe, City may, without assuming responsibility for Contractor's safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to City's satisfaction. If Contractor fails to promptly take the required corrective measures, City may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor's compliance with City's request for corrective measures pursuant to this provision.
- 10.2. **Hazardous Materials.** Unless otherwise specified in the Contract Documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Project site that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to City. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.
- 10.3. **Material Safety.** Contractor is solely responsible for complying with § 5194 of Title 8 of the California Code of Regulations, including by providing information to Contractor's employees about any hazardous chemicals to which they may be exposed in the course of the Work. A hazard communication program and other forms of warning and training about such exposure must be used. Contractor must also maintain Safety Data Sheets ("SDS") at the Project site, as required by

Laws, for materials or substances used or consumed in the performance of the Work. The SDS will be accessible and available to Contractor's employees, Subcontractors, and City.

10.3.1. **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Project site and/or used in the performance of the Work. Contractor must notify the Engineer if a specified product or material cannot be used safely.

10.3.2. **Labeling.** Contractor must ensure proper labeling on any material brought onto the Project site so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

10.4. **Hazardous Condition.** Contractor is solely responsible for determining whether a hazardous condition exists or is created during the course of the Work, involving a risk of bodily harm to any person or risk of damage to any property. If a hazardous condition exists or is created, Contractor must take all precautions necessary to address the condition and ensure that the Work progresses safely under the circumstances. Hazardous conditions may result from, but are not limited to, use of specified materials or equipment, the Work location, the Project site condition, the method of construction, or the way any Work must be performed.

10.5. **Emergencies.** In an emergency affecting the safety or protection of persons, Work, or property at or adjacent to any Worksite, Contractor must take reasonable and prompt actions to prevent damage, injury, or loss, without prior authorization from the City if, under the circumstances, there is inadequate time to seek prior authorization from the City.

# Article 11- Completion and Warranty Provisions

## 11.1. Final Completion.

11.1.1. **Final Inspection and Punch List.** When the Work required by this Contract is fully performed, Contractor must provide written notification to City requesting final inspection. The Engineer will schedule the date and time for final inspection, which must include Contractor's primary representative for this Project and its superintendent. Based on that inspection, City will prepare a punch list of any items that are incomplete, missing, defective, incorrectly installed, or otherwise not compliant with the Contract Documents. The punch list to Contractor will specify the time by which all of the punch list items must be completed or corrected. The punch list may include City's estimated cost to complete each punch list item if Contractor fails to do so within the specified time. The omission of any non-compliant item from a punch list will not relieve Contractor from fulfilling all requirements of the Contract Documents. Contractor's failure to complete any punch list item within the time specified in the punch list will not waive or abridge its warranty obligations for any such items that must be completed by the City or by a third party retained by the City due to Contractor's failure to timely complete any such outstanding item.

11.1.2. **Requirements for Final Completion.** Final Completion will be achieved upon completion or correction of all punch list items, as verified by City's further inspection, and upon satisfaction of all other Contract requirements, including any commissioning required under the Contract Documents and submission of all final submittals, including instructions and manuals as required under Section 7.10, and complete, final as-built drawings as required under Section 7.11, all to City's satisfaction.

11.1.3. **Acceptance.** The Project will be considered accepted upon City Council action during a public meeting to accept the Project, unless the City Manager is authorized to accept the Project, in which case the Project will be considered accepted upon the date of the City Manager's issuance of a written notice of acceptance. In order to avoid delay of Project close out, the City may elect, acting in its sole discretion, to accept the Project as complete subject to exceptions for punch list items that are not completed within the time specified in the punch list.

11.1.4. **Final Payment and Release of Retention.** Final Payment and release of retention, less any sums withheld pursuant to the provisions of the Contract Documents, will not be made sooner than 35 days after recordation of the notice of completion. If Contractor fails to complete all of the punch list items within the specified time, City may withhold up to 150% of City's estimated cost to complete each of the remaining items from Final Payment and may use the withheld retention to pay for the costs to self-perform the outstanding items or to retain a third party to complete any such outstanding punch list item.

## 11.2. Warranty.

11.2.1. **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. Contractor warrants that materials or items incorporated into the Work comply with the requirements and standards in the Contract Documents, including compliance with

Laws, and that any Hazardous Materials encountered or used were handled as required by Laws. At City's request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor's warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

- 11.2.2. **Warranty Period.** Contractor's warranty must guarantee its Work for a period of one year from the date of Project acceptance (the "Warranty Period"), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors, suppliers and manufacturers any special or extended warranties required by the Contract Documents.
- 11.2.3. **Warranty Documents.** As a condition precedent to Final Completion, Contractor must supply City with all warranty and guarantee documents relevant to equipment and materials incorporated into the Work and guaranteed by their suppliers or manufacturers.
- 11.2.4. **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor agrees to be co-guarantor of such Work.
- 11.2.5. **Contractor's Obligations.** Upon written notice from City to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor's obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period. Work performed during the Warranty Period ("Warranty Work") will be subject to the warranty provisions in this Section 11.2 for a one-year period that begins upon completion of such Warranty Work to City's satisfaction.
- 11.2.6. **City's Remedies.** If Contractor or its responsible Subcontractor fails to correct defective Work within ten days following notice by City, or sooner if required by the circumstances, City may correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor must reimburse City for its costs in accordance with subsection (H), below.
- 11.2.7. **Emergency Repairs.** In cases of emergency where any delay in correcting defective Work could cause harm, loss or damage, City may immediately correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor or its surety must reimburse City for its costs in accordance with subsection (H), below.
- 11.2.8. **Reimbursement.** Contractor must reimburse City for its costs to repair under subsections (F) or (G), above, within 30 days following City's submission of a demand for payment pursuant to this provision. If City is required to initiate legal action to compel Contractor's compliance with this provision, and City is the prevailing party in such action, Contractor and its surety are solely responsible for all of City's attorney's fees and legal costs expended to enforce Contractor's warranty obligations herein in addition to any and all costs City incurs to correct the defective Work.
- 11.3. **Use Prior to Final Completion.** City reserves the right to occupy or make use of the Project, or any portions of the Project, prior to Final Completion if City has determined that the Project or portion of it is in a condition suitable for the proposed occupation or use, and that it is in its best interest to occupy or make use of the Project, or any portions of it, prior to Final Completion. City will notify

Contractor in writing of its intent to occupy or make use of the Project or any portions of the Project, pursuant to this provision.

11.3.1. **Non-Waiver.** Occupation or use of the Project, in whole or in part, prior to Final Completion will not operate as acceptance of the Work or any portion of it, nor will it operate as a waiver of any of City's rights or Contractor's duties pursuant to these Contract Documents, and will not affect nor bear on the determination of the time of substantial completion with respect to any statute of repose pertaining to the time for filing an action for construction defect.

11.3.2. **City's Responsibility.** City will be responsible for the cost of maintenance and repairs due to normal wear and tear with respect to those portions of the Project that are being occupied or used before Final Completion. The Contract Price or the Contract Time may be adjusted pursuant to the applicable provisions of these Contract Documents if, and only to the extent that, any occupation or use under this Section actually adds to Contractor's cost or time to complete the Work within the Contract Time.

11.4. **Substantial Completion.** For purposes of determining "substantial completion" with respect to any statute of repose pertaining to the time for filing an action for construction defect, "substantial completion" is deemed to mean the last date that Contractor or any Subcontractor performs Work on the Project prior to City acceptance of the Project, except for warranty work performed under this Article.

## Article 12- Dispute Resolution

12.1. **Claims.** This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

12.1.1. **Definition.** "Claim" means a separate demand by Contractor, submitted in writing by registered or certified mail with return receipt requested, for a change in the Contract Time, including a time extension or relief from liquidated damages, or a change in the Contract Price, when the demand has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected or disputed by City, in whole or in part. A Claim may also include that portion of a unilateral Change Order that is disputed by the Contractor.

12.1.2. **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and City. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to City in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by City.

12.1.3. **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount and applies in addition to the provisions of Public Contract Code § 9204 and § 20104 et seq., which are incorporated

12.1.4. **No Work Delay.** Notwithstanding the submission of a Claim or any other dispute between the parties related to the Project or the Contract Documents, Contractor must perform the Work and may not delay or cease Work pending resolution of a Claim or other dispute, but must continue to diligently prosecute the performance and timely completion of the Work, including the Work pertaining to the Claim or other dispute.

12.1.5. **Informal Resolution.** Contractor will make a good faith effort to informally resolve a dispute before initiating a Claim, preferably by face-to-face meeting between authorized representatives of Contractor and City.

12.2. **Claims Submission.** The following requirements apply to any Claim subject to this Article:

12.2.1. **Substantiation.** The Claim must be submitted to City in writing, clearly identified as a "Claim" submitted pursuant to this Article 12 and must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of City's written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all known or estimated labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each component of claimed cost. Any Claim for an extension of time or delay costs must be substantiated with a schedule analysis and narrative depicting and explaining claimed time impacts.

**12.2.2. Claim Format and Content.** A Claim must be submitted in the following format:

- 12.2.2.1. Provide a cover letter, specifically identifying the submission as a “Claim” submitted under this Article 12 and specifying the requested remedy (e.g., amount of proposed change to Contract Price and/or change to Contract Time).
- 12.2.2.2. Provide a summary of each Claim, including underlying facts and the basis for entitlement, and identify each specific demand at issue, including the specific Change Order request (by number and submittal date), and the date of City's rejection of that demand, in whole or in part.
- 12.2.2.3. Provide a detailed explanation of each issue in dispute. For multiple issues included within a single Claim or for multiple Claims submitted concurrently, separately number and identify each individual issue or Claim, and include the following for each separate issue or Claim:
  - 12.2.2.3.1. A succinct statement of the matter in dispute, including Contractor’s position and the basis for that position;
  - 12.2.2.3.2. Identify and attach all documents that substantiate the Claim, including relevant provisions of the Contract Documents, RFIs, calculations, and schedule analysis (see subsection (A), Substantiation, above);
  - 12.2.2.3.3. A chronology of relevant events; and
  - 12.2.2.3.4. Analysis and basis for claimed changes to Contract Price, Contract Time, or any other remedy requested.
- 12.2.2.4. Provide a summary of issues and corresponding claimed damages. If, by the time of the Claim submission deadline (below), the precise amount of the requested change in the Contract Price or Contract Time is not yet known, Contractor must provide a good faith estimate, including the basis for that estimate, and must identify the date by which it is anticipated that the Claim will be updated to provide final amounts.
- 12.2.2.5. Include the following certification, executed by Contractor’s authorized representative:

The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Claim submittal are true and correct. Contractor warrants that this Claim submittal is comprehensive and complete as to the matters in dispute, and agrees that any costs, expenses, or delay not included herein are deemed waived.”

**12.2.3. Submission Deadlines.**

- 12.2.3.1. A Claim disputing rejection of a request for a change in the Contract Time or Contract Price must be submitted within 15 days following the date that City notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part. A Claim disputing the terms of a unilateral Change Order must be submitted within 15 days following the date of issuance of the unilateral Change Order. These Claim deadlines apply even if Contractor cannot yet quantify the total amount of any requested change in the Contract Time or Contract Price. If the Contractor cannot

quantify those amounts, it must submit an estimate of the amounts claimed pending final determination of the requested remedy by Contractor.

12.2.3.2. With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment or will be deemed waived.

12.2.3.3. A Claim disputing the amount of Final Payment must be submitted within 15 days of the effective date of Final Payment, under Section 8.7, Final Payment.

12.2.3.4. Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.

12.3. **City's Response.** City will respond within 45 days of receipt of the Claim with a written statement identifying which portion(s) of the Claim are disputed, unless the 45-day period is extended by mutual agreement of City and Contractor or as otherwise allowed under Public Contract Code § 9204. However, if City determines that the Claim is not adequately substantiated pursuant to Section 12.2(A), Substantiation, City may first request in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that City may have against the Claim.

12.3.1. **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of City and Contractor. If Contractor's Claim is based on estimated amounts, Contractor has a continuing duty to update its Claim as soon as possible with information on actual amounts in order to facilitate prompt and fair resolution of the Claim.

12.3.2. **Non-Waiver.** Any failure by City to respond within the times specified above will not be construed as acceptance of the Claim, in whole or in part, or as a waiver of any provision of these Contract Documents.

12.4. **Meet and Confer.** If Contractor disputes City's written response, or City fails to respond within the specified time, within 15 days of receipt of City's response or within 15 days of City's failure to respond within the applicable 45-day time period under Section 12.3, respectively, Contractor may notify City of the dispute in writing sent by registered or certified mail, return receipt requested, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to dispute City's response in writing within the specified time, Contractor's Claim will be deemed waived.

12.4.1. **Schedule Meet and Confer.** Upon receipt of the demand to meet and confer, City will schedule the meet and confer conference to be held within 30 days, or later if needed to ensure the mutual availability of each of the individuals that each party requires to represent its interests at the meet and confer conference.

12.4.2. **Location for Meet and Confer.** The meet and confer conference will be scheduled at a location at or near City's principal office.

12.4.3. **Written Statement After Meet and Confer.** Within ten working days after the meet and confer has concluded, City will issue a written statement identifying which portion(s) of the Claim remain in dispute, if any.

12.4.4. **Submission to Mediation.** If the Claim or any portion remains in dispute following the meet and confer conference, within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute, the Contractor may identify in writing disputed portion(s) of the Claim, which will be submitted for mediation, as set forth below.

12.5. **Mediation and Government Code Claims.**

12.5.1. **Mediation.** Within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute following the meet and confer, City and Contractor will mutually agree to a mediator, as provided under Public Contract Code § 9204. Mediation will be scheduled to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. If there are multiple Claims in dispute, the parties may agree to schedule the mediation to address all outstanding Claims at the same time. The parties will share the costs of the mediator and mediation fees equally, but each party is otherwise solely and separately responsible for its own costs to prepare for and participate in the mediation, including costs for its legal counsel or any other consultants.

12.5.2. **Government Code Claims.**

12.5.2.1. Timely presentation of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract. Compliance with the Claim submission requirements in this Article 12 is a condition precedent to filing a Government Code Claim.

12.5.2.2. The time for filing a Government Code Claim will be tolled from the time Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied in whole or in part at the conclusion of the meet and confer process, including any period of time used by the meet and confer process. However, if the Claim is submitted to mediation, the time for filing a Government Code Claim will be tolled until conclusion of the mediation, including any continuations, if the Claim is not fully resolved by mutual agreement of the parties during the mediation or any continuation of the mediation.

12.6. **Tort Claims.** This Article does not apply to tort claims and nothing in this Article is intended nor will be construed to change the time periods for filing tort-based Government Code Claims.

12.7. **Arbitration.** It is expressly agreed, under Code of Civil Procedure § 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator's award must be supported by law and substantial evidence.

12.8. **Burden of Proof and Limitations.** Contractor bears the burden of proving entitlement to and the amount of any claimed damages. Contractor is not entitled to damages calculated on a total cost basis, but must prove actual damages. Contractor is not entitled to speculative, special, or consequential damages, including home office overhead or any form of overhead not directly incurred at the Project site or any other Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract. The Eichleay Formula or similar formula will not be used for any recovery under the Contract. The City will not be directly liable to any Subcontractor or supplier.

- 12.9. **Legal Proceedings.** In any legal proceeding that involves enforcement of any requirements of the Contract Documents, the finder of fact will receive detailed instructions on the meaning and operation of the Contract Documents, including conditions, limitations of liability, remedies, claim procedures, and other provisions bearing on the defenses and theories of liability. Detailed findings of fact will be requested to verify enforcement of the Contract Documents. All of the City's remedies under the Contract Documents will be construed as cumulative, and not exclusive, and the City reserves all rights to all remedies available under law or equity as to any dispute arising from or relating to the Contract Documents or performance of the Work.
- 12.10. **Other Disputes.** The procedures in this Article 12 will apply to any and all disputes or legal actions, in addition to Claims, arising from or related to this Contract, including disputes regarding suspension or early termination of the Contract, unless and only to the extent that compliance with a procedural requirement is expressly and specifically waived by City. Nothing in this Article is intended to delay suspension or termination under Article 13.

## Article 13- Suspension and Termination

- 13.1. **Suspension for Cause.** In addition to all other remedies available to City, if Contractor fails to perform or correct Work in accordance with the Contract Documents, including non-compliance with applicable environmental or health and safety Laws, City may immediately order the Work, or any portion of it, suspended until the circumstances giving rise to the suspension have been eliminated to City's satisfaction.
- 13.1.1. **Failure to Comply.** Contractor will not be entitled to an increase in the Contract Time or Contract Price for a suspension occasioned by Contractor's failure to comply with the Contract Documents. (B) **No Duty to Suspend.** City's right to suspend the Work will not give rise to a duty to suspend the Work, and City's failure to suspend the Work will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.
- 13.2. **Suspension for Convenience.** City reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for City's convenience. Upon notice by City pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work and secure the Project site as directed by City except for taking measures to protect completed or in-progress Work as directed in the suspension notice. The Contract Price and the Contract Time will be equitably adjusted by Change Order pursuant to the terms of Articles 5 and 6 to reflect the cost and delay impact occasioned by such suspension for convenience, except to the extent that any such impacts were caused by Contractor's failure to comply with the Contract Documents or the terms of suspension notice. However, the time for completing the Project will only be extended if the suspension causes or will cause delay in Final Completion. If Contractor disputes the terms of a Change Order issued for such equitable adjustment due to suspension, its sole recourse is to comply with the Claim procedures in Article 12.
- 13.3. **Termination for Default.** City may declare that Contractor is in default of the Contract for a material breach of or inability to fully, promptly, or satisfactorily perform its obligations under the Contract.
- 13.3.1. **Default.** Events giving rise to a declaration of default include Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; Contractor's refusal or failure to make prompt payment to its employees, Subcontractors, or suppliers or to correct defective Work or damage; Contractor's failure to comply with Laws, or orders of any public agency with jurisdiction over the Project; evidence of Contractor's bankruptcy, insolvency, or lack of financial capacity to complete the Work as required within the Contract Time; suspension, revocation, or expiration and nonrenewal of Contractor's license or DIR registration; dissolution, liquidation, reorganization, or other major change in Contractor's organization, ownership, structure, or existence as a business entity; unauthorized assignment of Contractor's rights or duties under the Contract; or any material breach of the Contract requirements.
- 13.3.2. **Notice of Default and Opportunity to Cure.** Upon City's declaration that Contractor is in default due to a material breach of the Contract Documents, if City determines that the default is curable, City will afford Contractor the opportunity to cure the default within ten days of City's notice of default, or within a period of time reasonably necessary for such cure, including a shorter period of time if applicable.

- 13.3.3. **Termination.** If Contractor fails to cure the default or fails to expediently take steps reasonably calculated to cure the default within the time period specified in the notice of default, City may issue written notice to Contractor and its performance bond surety of City's termination of the Contract for default.
- 13.3.4. **Waiver.** Time being of the essence in the performance of the Work, if Contractor's surety fails to arrange for completion of the Work in accordance with the Performance Bond within seven calendar days from the date of the notice of termination pursuant to paragraph (C), City may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that City determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by City to complete the Work following termination, where "additional cost" means all cost in excess of the cost City would have incurred if Contractor had timely completed Work without the default and termination. In addition, City will have the right to immediate possession and use of any materials, supplies, and equipment procured for the Project and located at the Project site or any Worksite on City property for the purposes of completing the remaining Work.
- 13.3.5. **Compensation.** Within 30 days of receipt of updated as-builts, all warranties, manuals, instructions, or other required documents for Work installed to date, and delivery to City of all equipment and materials for the Project for which Contractor has already been compensated, Contractor will be compensated for the Work satisfactorily performed in compliance with the Contract Documents up to the effective date of the termination pursuant to the terms of Article 8, Payment, subject to City's rights to withhold or deduct sums from payment otherwise due pursuant to Section 8.3, and excluding any costs Contractor incurs as a result of the termination, including any cancellation or restocking charges or fees due to third parties. If Contractor disputes the amount of compensation determined by City, its sole recourse is to comply with the Claim Procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of the total compensation to be paid by City.
- 13.3.6. **Wrongful Termination.** If Contractor disputes the termination, its sole recourse is to comply with the Claim procedures in Article 12. If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contractor's damages will be strictly limited to the compensation provided for termination for convenience under Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including special or consequential damages, lost opportunity costs, or lost profits, and any award of damages is subject to Section 12.8, Burden of Proof and Limitations.
- 13.4. **Termination for Convenience.** City reserves the right, acting in its sole discretion, to terminate all or part of the Contract for convenience upon written notice to Contractor.
- 13.4.1. **Compensation to Contractor.** In the event of City's termination for convenience, Contractor waives any claim for damages, including for loss of anticipated profits from the Project. The following will constitute full and fair compensation to Contractor, and Contractor will not be entitled to any additional claim or compensation:
- 13.4.1.1. **Completed Work.** The value of its Work satisfactorily performed as of the date notice of termination is received, based on Contractor's schedule of values and unpaid

costs for items delivered to the Project site that were fabricated for incorporation in the Work;

13.4.1.2. Demobilization. Demobilization costs specified in the schedule of values, or if demobilizations cost were not provided in a schedule of values pursuant to Section 8.1, then based on actual, reasonable, and fully documented demobilization costs; and

13.4.1.3. Termination Markup. Five percent of the total value of the Work performed as of the date of notice of termination, including reasonable, actual, and documented costs to comply with the direction in the notice of termination for convenience, and demobilization costs, which is deemed to cover all overhead and profit to date.

13.4.2. **Disputes.** If Contractor disputes the amount of compensation determined by City pursuant to paragraph (A), above, its sole recourse is to comply with the Claim procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of total compensation to be paid by City.

13.5. **Actions Upon Termination for Default or Convenience.** The following provisions apply to any termination under this Article, whether for default or convenience, and whether in whole or in part.

13.5.1. **General.** Upon termination City may immediately enter upon and take possession of the Project and the Work and all tools, equipment, appliances, materials, and supplies procured or fabricated for the Project. Contractor will transfer title to and deliver all completed Work and all Work in progress to City.

13.5.2. **Submittals.** Unless otherwise specified in the notice of termination, Contractor must immediately submit to City all designs, drawings, as-built drawings, Project records, contracts with vendors and Subcontractors, manufacturer warranties, manuals, and other such submittals or Work-related documents required under the terms of the Contract Documents, including incomplete documents or drafts.

13.5.3. **Close Out Requirements.** Except as otherwise specified in the notice of termination, Contractor must comply with all of the following:

13.5.3.1. Immediately stop the Work, except for any Work that must be completed pursuant to the notice of termination and comply with City's instructions for cessation of labor and securing the Project and any other Worksite(s).

13.5.3.2. Comply with City's instructions to protect the completed Work and materials, using best efforts to minimize further costs.

13.5.3.3. Contractor must not place further orders or enter into new subcontracts for materials, equipment, services or facilities, except as may be necessary to complete any portion of the Work that is not terminated.

13.5.3.4. As directed in the notice, Contractor must assign to City or cancel existing subcontracts that relate to performance of the terminated Work, subject to any prior rights, if any, of the surety for Contractor's performance bond, and settle all outstanding liabilities and claims, subject to City's approval.

13.5.3.5. As directed in the notice, Contractor must use its best efforts to sell any materials, supplies, or equipment intended solely for the terminated Work in a manner and at market rate prices acceptable to City.

13.5.4. **Payment Upon Termination.** Upon completion of all termination obligations, as specified herein and in the notice of termination, Contractor will submit its request for Final Payment, including any amounts due following termination pursuant to this Article 13. Payment will be made in accordance to the provisions of Article 8, based on the portion of the Work satisfactorily completed, including the close out requirements, and consistent with the previously submitted schedule of values and unit pricing, including demobilization costs. Adjustments to Final Payment may include deductions for the cost of materials, supplies, or equipment retained by Contractor; payments received for sale of any such materials, supplies, or equipment, less re-stocking fees charged; and as otherwise specified in Section 8.3, Adjustment of Payment Application.

13.5.5. **Continuing Obligations.** Regardless of any Contract termination, Contractor's obligations for portions of the Work already performed will continue and the provisions of the Contract Documents will remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, record maintenance, or other such rights and obligations arising prior to the termination date.

## Article 14- Miscellaneous Provisions

- 14.1. **Assignment of Unfair Business Practice Claims.** Under Public Contract Code § 7103.5, Contractor and its Subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time City tenders Final Payment to Contractor, without further acknowledgement by the parties.
- 14.2. **Provisions Deemed Inserted.** Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be deemed amended accordingly.
- 14.3. **Waiver.** City's waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will not be effective unless it is in writing and signed by City. City's waiver of any breach, failure, right, or remedy will not be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by City.
- 14.4. **Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5. **Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that that bids were due.
- 14.6. **Survival.** The provisions that survive termination or expiration of this Contract include Contract Section 11, Notice, and subsections 12.1, 12.2, 12.3, 12.4, 12.5, and 12.6, of Section 12, General Provisions; and the following provisions in these General Conditions: Section 2.2(J), Contractor's Records, Section 2.3(C), Termination, Section 3.7, Ownership, Section 4.2, Indemnity, Article 12, Dispute Resolution, and Section 11.2, Warranty.

END OF GENERAL CONDITIONS



# SPECIAL CONDITIONS

1. **Authorized Work Days and Hours.**
  - 1.1. Authorized Work Days. Except as expressly authorized in writing by City, Contractor is limited to performing Work on the Project on the following days of the week, excluding holidays observed by City: Monday thru Friday
  - 1.2. Authorized Work Hours. Except as expressly authorized in writing by City, Contractor is limited to performing Work on the Project during the following hours: 8 a.m. to 5 p.m.
2. **Pre-Construction Conference.** City will designate a date and time for a pre-construction conference with Contractor following Contract execution. Project administration procedures and coordination between City and Contractor will be discussed, and Contractor must present City with the following information or documents at the meeting for City's review and acceptance before the Work commences:
  - 2.1. Name and 24-hour contact information, of the proposed on-site superintendent;
  - 2.2. Draft baseline schedule for the Work as required under Section 5.2, with the goal of minimizing the impacts on City Hall;
3. **Close Out Requirements.** Contractor's close out requirements include the following, if applicable:
  - 3.1. Contractor must return the site surrounding the work back to its pre-construction state.

END OF SPECIAL CONDITIONS

# EXAMPLE NOTICE OF POTENTIAL AWARD

***City of Ferndale***  
834 Main Street, P.O. Box 1095  
Ferndale, California 95536  
Phone: 707.786.4224, Fax: 707.786.9314

Sent via \_\_\_\_\_ <insert delivery method, e.g., certified mail or FedEx>

<Date>

<Contractor representative name and title>

<Contractor business name>

<Contractor address>

<Contractor email>

Re: NOTICE OF POTENTIAL AWARD

<\_\_\_\_\_> Project

Dear <Contractor representative name>:

The City of Ferndale ("City") is pleased to inform you that <\_\_\_\_\_> ("Contractor") has been awarded the Contract for the above-referenced Project ("Project") for the Contract Price of \$<\_\_\_\_\_>, based on Contractor's Bid Proposal submitted on <\_\_\_\_\_, 20\_\_>.

A copy of the Contract accompanies this Notice. Contractor must execute two (2) copies of the enclosed Contract and return the wet-inked copies to my attention, accompanied by the required Payment Bond and Performance Bond, and insurance certificates and endorsements, no later than ten days from the date of this Notice of Award, above.

Failure to execute and return the enclosed Contract and required bonds and insurance documentation within the specified time could result in forfeiture of Contractor's bid security.

Please acknowledge receipt of this Notice of Potential Award by signing the attached Acknowledgement of Notice of Potential Award, as indicated, and transmitting the Acknowledgement to my office via email at \_\_\_\_\_ <Email Address>. Do not hesitate to contact me if you have any questions in this regard.

Sincerely,

\_\_\_\_\_ <Name>

\_\_\_\_\_ <Title>

Enclosure

## Acknowledgement of Notice of Award

On behalf of \_\_\_\_\_ ("Contractor"), I acknowledge receipt of the Notice of Potential Award for the \_\_\_\_\_ Project:

s/: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

# EXAMPLE NOTICE TO PROCEED

## *City of Ferndale*

834 Main Street, P.O. Box 1095

Ferndale, California 95536

Phone: 707.786.4224, Fax: 707.786.9314

Sent via \_\_\_\_\_ <insert delivery method, e.g., certified mail or FedEx>

<Date>

<Contractor representative name and title>

<Contractor business name>

<Contractor address>

<Contractor email>

Re: NOTICE TO PROCEED

<\_\_\_\_\_> Project

Dear <Contractor representative name>:

By this letter <\_\_\_\_\_> ("Contractor") is notified to proceed with its Work for the above-referenced Project ("Project"), as required by the Contract Documents. Contractor should start the Work on or before <\_\_\_\_\_, 20\_\_> ("Start Date"), and must achieve Final Completion within <\_\_\_\_\_> calendar days from the Start Date.

[Optional: Contractor and its first-tier Subcontractors must attend a mandatory pre-construction conference on <date> at <time> at <address/location>. The following document(s) must be submitted to the Project Manager at \_\_\_\_\_ <email address>, no later than <\_\_\_\_\_, 20\_\_>:  
\_\_\_\_\_ <list required documents, e.g., baseline schedule, subcontracts, submittal schedule, schedule of values, etc.>]

A copy of the fully executed Contract is enclosed for your files.

Please acknowledge receipt of this Notice to Proceed by signing the attached Acknowledgement of Notice to Proceed, as indicated, and transmitting the Acknowledgement to my office via email at: \_\_\_\_\_ <Email Address>. Do not hesitate to contact me if you have any questions in this regard.

Sincerely,

\_\_\_\_\_ <Name>

\_\_\_\_\_ <Title>

Enclosure

**Acknowledgement of Notice to Proceed**

On behalf of \_\_\_\_\_ ("Contractor"), I acknowledge receipt of the Notice to Proceed for the \_\_\_\_\_ Project:

s/: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

# EXAMPLE NOTICE OF COMPLETION

Recording Requested By:  
The City of \_\_\_\_\_

When Recorded Mail To:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<name, title>  
<street address>  
<city, state and zip>

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§ 6103, 27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

## NOTICE OF COMPLETION

Civil Code §§ 8182, 8184, 9204, and 9208

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the agent of the owner of the Project described below.
2. Owner's full name is \_\_\_\_\_ ("City")
3. City's address is \_\_\_\_\_
4. The nature of City's interest in the Project is:  
\_\_\_ Fee Ownership \_\_\_ Lessee \_\_\_ Other: \_\_\_\_\_
5. Construction work on the Project performed on City's behalf is generally described as follows:  
< \_\_\_\_\_ >.
6. The name of the original Contractor for the Project is: < \_\_\_\_\_ >.
7. The Project was accepted as complete on: < \_\_\_\_\_, 20\_ >.
8. The Project is located at: < \_\_\_\_\_ >.

Verification: In signing this document, I, the undersigned, declare under penalty of perjury under the laws of the State of California that I have read this notice, and I know and understand the contents of this notice, and that the facts stated in this notice are true and correct.

\_\_\_\_\_  
Date and Place

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

*EXEMPT FROM NOTARY ACKNOWLEDGMENT REQUIREMENTS PER  
GOVERNMENT CODE § 27287 AND CIVIL CODE § 9208*

# TECHNICAL SPECIFICATIONS

City of Ferndale

Firemens Park Improvements Project

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SECTION 01 11 00

SUMMARY OF WORK

PART 1 GENERAL

1.01 WORK COVERED BY CONTRACT DOCUMENTS

A. General:

1. The Contract Documents describe the Work to be performed under this Contract which includes, but is not limited to, furnishing all tools, equipment, materials, supplies, and manufactured articles for the Project. It shall also include the furnishing of all transportation and services, including fuel, power, water, and essential communications necessary for the performance of all labor, work, or other operations required for the performance of the Contract in accordance with the Contract Documents.
2. The Contractor should carefully review all sections of the Specifications in order to completely understand the Work and all constraints including schedule, environmental, permit and material requirements.
3. Contractor is encouraged to proceed in an orderly and expeditious manner based on the constraints shown on the Drawings and described in the Specifications. All Work is to be constructed in strict accordance with the Contract Drawings and Specifications and subject to the terms and conditions of the Contract.

B. Contractor shall obtain all other necessary permits and comply with them and all other applicable Local, State, and Federal laws and regulations.

1. The contractor is responsible for obtaining and compiling with the City of Ferndale Encroachment permit needed for the proposed construction activities,
2. The Contractor's license needed for this project is B - General Contractor

C. Location of the Work:

1. The project is located within the City of Ferndale, Humboldt County, CA. The project is located at Firemens Park, 100 Berding Street. A Vicinity Map is provided on the cover sheet of the drawings that illustrate the location of the project. The design drawings provide information regarding the limits of the project and its topography.

D. Technical Data and Other Reports:

1. Electronic Data: Upon request, the following computer-generated data can be provided:
  - a. Existing and Finished Ground Surface Models provided in an Autodesk Civil3D drawing file or as XML data or as determined appropriate by the Project Engineer.
2. Limited Reliance by Contractor on *Technical Data Authorized*: Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Except for

such reliance on such "technical data," Contractor may not rely upon or make any claim against the City of Ferndale or any of their Related Entities with respect to:

- a. The completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
- b. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
- c. Any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

**E. Contractor's Duties:**

1. Except as specifically noted, provide and pay for:
  - a. Labor, materials, and equipment.
  - b. Tools, construction equipment, and machinery.
  - c. Water and utilities required for construction.
  - d. All other facilities and services necessary for proper execution and completion of Work.
2. Pay legally required sales, consumer, and use taxes.
3. Conform to the requirements of the project permits.
4. Secure and pay for, as necessary for proper execution and completion of the Work, all other applicable permits and licenses.
5. Give required notices.
6. Comply with codes, ordinances, rules, regulations, orders and other legal requirements of public authorities which bear on performance of the Work.
7. Promptly submit written notice to City of observed variance of Contract Documents from legal requirements.
8. If any Subcontractor or person employed by the Contractor shall appear to the City to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately on the requisition of the City, and such person shall not again be employed on the Work.
9. The Contractor is responsible for providing construction staking and surveying as required for the job. The City of Ferndale will provide available control point information and an electronic file of the finished design surface and alignments as needed for the purpose of construction staking.

**1.02 STANDARDS**

- A. All work shall adhere to the latest edition of the California Building Code (CBC), Local, State and Federal regulations, all of which are incorporated into this Contract by reference.

1.03 CONTRACT DESCRIPTION

- A. General:
  - 1. All Work is contained in this Contract. The limits of Work are shown in the Contract Drawings and described in these Specifications. It will be the Contractor's responsibility to coordinate their activities to resolve conflicts.
  - 2. All risk of loss, damage or diminution to the Work shall rest with Contractor until final acceptance of the Work by the City of Ferndale.
- B. Work conducted includes, but is not limited to:
  - 1. Demolition and removal of debris;
  - 2. Coordinate and Purchase the BBQ components as listed on the Plans;
  - 3. Construct the BBQ Pavilion per the plans and the Manufacturers' specifications.
  - 4. Place concrete for new sidewalks.

1.04 CONTRACT METHOD

- A. The Contractor shall include the requirements of the General Conditions of the Contract as a part of all of its subcontract agreements.
- B. All work as identified and described in the construction drawings and Specifications. In the case that there are discrepancies between Drawings and Specifications, Specifications take precedence over drawings.

1.05 UNDERGROUND FACILITIES

- A. The Contractor shall exercise care in all excavations to avoid damage to existing underground facilities. This shall include potholing and hand digging in those areas where underground facilities are known to exist until they have been sufficiently located to avoid damage to the facilities.
- B. No additional compensation shall be provided the Contractor for compliance with the provisions of this section for the damage and repair of such facilities due to the lack of care.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 11 00

SECTION 01 14 19

USE OF SITE

PART 1 GENERAL

1.01 INFORMATION OF ON SITE CONDITIONS

- A. Information related to site conditions, subsurface information, and existing facilities, and similar data are shown on the Plans and are from the information made available by the City of Ferndale. Exact location and completeness are not guaranteed.
- B. Construction activities are limited to within the portion of the park where work is to be performed as shown the plans.

1.02 CONTRACTOR'S RESPONSIBILITIES

- A. The Contractor agrees to assume sole and complete responsibility for the job site during the course of construction of this project, including safety of all persons and property. This requirement shall apply continuously and not be limited to normal working hours; and that the Contractor shall defend, indemnify, and hold the City, and their representatives harmless from any and all liability, real and/or alleged, in conjunction with the performance of this project.
- B. If additional areas beyond the project limits shown on the plans are desired by the Contractor to execute the work, the Contractor shall first receive authorization from the Construction Manager. Contractor shall obtain all necessary permissions and approvals for use of the additional areas and shall submit a signed statement from the property owner granting permission and holding the City of Ferndale and their representatives harmless from any and all damages that may result from the Contractor's use of the additional areas.
- C. The Contractor shall satisfy their self as to the nature and location of the work, the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, work in sensitive environment and uncertainties of weather, or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment facilities needed preliminary to and during the prosecution of the work and all other matters which can in any way affect the work or the cost thereof under this contract.
- D. The Contractor further shall satisfy their self as to the character, quality, and quantity of materials to be encountered from inspecting the site, any exploratory work done by the City of Ferndale, as well as from information presented by the Plans and Specifications made a part of this contract. Any failure by the Contractor to acquaint himself with all the available information available as part of the Bid Documents or referenced in the Bid Documents will not relieve him from responsibility for properly estimating the difficulty or cost of successfully performing the work.
- E. The Contractor shall note that the existing streets needed for site ingress/egress have variable conditions and that heavy truck and equipment operations may cause damage in excess of normal usage. Damage caused to the streets by Contractor's operations shall be repaired by the Contractor at no additional cost to the City of Ferndale.

### 1.03 CONTRACTORS USE OF SITE

- A. Public Safety, traffic safety and worker safety shall be maintained in compliance with Federal, State and Local Law. It shall be the applicant's responsibility and liability to comply with all applicable laws including Cal-OSHA; State Department of Transportation Construction Safety, and the State Construction Safety Orders administered by the State Department of Industrial Relations, available through the State of California. Safety and warning devices shall be installed and maintained for all work within the park area. No Public access shall be permitted under overhead construction work. Traffic control signs, flags, lights and other warning and safety procedures shall conform to these cited State requirements, including the Manual of Traffic Safety in Construction Work Zones published by the State Department of Transportation. Continuous vehicle and pedestrian access shall be maintained unless advanced, written authorization has been provided by the City.
1. The Contractor shall notify the engineer at least 72 hours in advance of commencement of any part of the work and shall coordinate construction schedule accordingly.
  2. The Contractor shall provide and maintain sufficient temporary barriers to provide for the safety of the public to the satisfaction of the City.
  3. The Contractor shall take all reasonable precautions to restrict operations to the least area of work possible and shall not disturb property beyond the areas of work or easements for the project.
  4. No work shall be performed outside of the designated construction limits without the approval of the city or city's representative.
  5. The Contractor shall be cognizant of all utilities that cross the work area and take adequate measures to protect the utilities from damage. The City of Ferndale assumes no liability of the location of utilities marked or otherwise, and the Contractor is encouraged to examine the site and contact the utilities via USA to determine if conflicts exist.
  6. The Contractor is responsible for arranging hook-up of temporary power and is responsible for power hookup and power usage costs. It is the Contractor's responsibility to ensure the compatibility of power sources for their equipment.
  7. The Contractor is responsible for furnishing and installing all required temporary buildings with sanitary toilets for use of all workmen; comply with all minimum requirements of the Health Department or other public agency having jurisdiction; maintain in a sanitary condition at all times.

### 1.04 PROTECTION OF PROPERTY AND LANDSCAPE

- A. Preserve public and private property, and protect monuments established for the purpose of perpetuating horizontal, vertical, cadastral, or boundary control. When necessary to destroy a monument, reestablish the monument according to applicable state statute or by the direction of the Construction Manager. The Contractor shall notify the Construction Manager of any monument that may need to be destroyed. If the Construction Manager determines that the destruction of the monument is unavoidable, Construction Manager will arrange for resetting the monument and associated costs. If a

monument is destroyed by the Contractor's negligence or without the Construction Manager's approval the Contractor shall pay for resetting the monument.

- B. Do not excavate, remove, damage, alter or deface any archeological or paleontological remains or specimens. Control the actions of employees and subcontractors on the project to ensure that protected sites are not disturbed or damaged. Should any of these items be encountered, suspend operations at the discovery site, notify the Construction Manager and continue operations in other areas. The Construction Manager will inform the Contractor when operations may resume at the discovery site.
  
- C. Existing Utilities:
  - 1. Contractor shall be responsible for locating and preventing damage to known underground and above ground utilities or utility support structures. If damage occurs to utilities, Contractor shall repair utility at no additional expense to the City of Ferndale.
  
  - 2. Protect utilities from construction operations: 48 hours before beginning work in an area, the Contractor shall notify Underground Service Alert (USA), at 811, to determine locations of existing utilities. Cooperate with utility owners to expedite the relocation or adjustment of their utilities to minimize interruption of service and duplication of work.
  
  - 3. If the work requires removing or relocating a utility, the contract will assign the task to the Contractor or the utility owner. When this task is assigned to the utility owner and work is not complete before the Contractor begins work, the Contractor shall immediately notify the Construction Manager in writing.
  
  - 4. Any authorized agent of the Owner or utility owners may enter the site to repair, rearrange, alter, or connect their equipment. The Contractor shall cooperate with such efforts and shall avoid creating delays or hindrances to those doing the work. As needed, the Contractor shall arrange to coordinate work schedules.
  
  - 5. If utility services are interrupted as a result of damage by the construction, immediately notify the utility owner, the Construction Manager, and other proper authorities. Cooperate with them until service is restored. Do not work around fire hydrants until provisions for continued service are made and approved by the local fire authority.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 14 19

SECTION 01 15 00

MEASUREMENT AND PAYMENT

PART 1 GENERAL

1.01 GENERAL

- A. Unless otherwise specified in other individual sections of these specifications, quantities of work shall be determined from measurements or dimensions in horizontal planes.
- B. Units of measurement shall be in accordance with U.S. Standard Measures.
- C. See the general conditions for special provisions related to progress payments and payment schedule to the contractor.
- D. The measurement and payment items are listed below:
  - 1. Pay Item Quantities- All bid Item List quantities are shown in the Bid Schedule as final pay items for payment purposes only. For a final pay item, accept payment based on the Bid Item List quantity, to achieve the lines and grades shown on the plans, regardless of actual quantity used unless dimensions are changed by the Construction Manager.
  - 2. Payment shall be made at the bid prices and shall be considered as full compensation for furnishing all labor, materials, tools, supplies, and services as required for proper completion of the work described in the following bid items, complete in place, and to the satisfaction of the Engineer.
  - 3. The payments to the Contractor are based on the following items. It is the intent that the scope of the description of the following items encompasses the entire scope of the work as shown on the plans and described in the specifications. The bid amounts shall be for complete in place installations.
  - 4. Items of work or other services which the Contractor is required to supply, such as final clean-up or other incidental items, and which are not listed as separate bid items shall be included in the related bid items and shall be considered as paid in those items, whether or not specifically identified in the following descriptions. Also considered to be included in such costs are any costs associated with the repair of damage which may occur to existing improvements as a result of the Contractor's operations.
  - 5. Any other work shown on the plans and not specifically mentioned/described in the following bid items will be paid under Bid Item No. 1.

1.02 BASE BID SCHEDULE

ITEM 1. MOBILIZATION / DEMOBILIZATION

Measurement for this item shall be on a LUMP SUM basis. Payment shall correspond to percent complete as confirmed by the Construction Manager and described in this bid item. This Work covers all Contractor costs and effort associated with mobilizing equipment, materials, and labor to the project site as well as demobilization of same for the base bid schedule. The incremental mobilization/demobilization costs associated with any additive bid items will be covered in those items, if awarded. Items covered by this item include, but

are not limited to, bonds, insurance, contracting, administrative and permitting costs, equipment mobilization to the work areas, temporary facilities and utilities, construction entrances, punch list items, repairs of damaged property, site cleanup, final site restoration, and project maintenance and warranty.

1. When 10 percent of the total original Contract amount is earned from bid items, excluding amounts paid for materials on hand, 50 percent of the amount of the bid price for mobilization/demobilization will be paid for mobilization/demobilization. Upon completion of all Work on the project, payment of the balance of the bid amount for mobilization/demobilization will be paid.
2. Any other work shown on the plans and not specifically mentioned/described in the following bid items will be paid under mobilization/demobilization.

ITEM 2. CONCRETE DEMOLITION AND DISPOSAL

Measurement and payment for this item shall be on a LUMP SUM basis. Payment shall correspond to percent complete as confirmed by the Construction Manager. This work covers all Contractor costs and effort associated with all demolition shown on the plans or required to complete the work shown on the plans, and the removal and disposal of deleterious materials encountered during construction. This includes the items to be removed and disposed of as shown on the Plans as well as materials to be salvaged, reset or relocated as shown on the Plans. This also includes the removal, salvage and disposal of additional deleterious materials that may be encountered during construction such as concrete rubble, and AC grindings.

ITEM 3. MINOR CONCRETE (4" THICK WALKWAY)

Measurement for this item shall be on a SQUARE FOOT basis. Payment shall include full compensation for all materials, labor, equipment and supervision necessary for completing all the work involved in clearing and grubbing, excavation, subgrade preparation, sub-base material (as specified on the plans), placement and compaction, forming/falsework, concrete and associated work as shown on plans and as required by the specifications.

ITEM 4. EXTREME DUTY ARGENTINE GRILL PIT KIT

Measurement for this item shall be on a LUMP SUM basis. A fixed placeholder amount of \$10,000 shall be included for the purchase of the Extreme Duty Argentine Grill Pit Kit as shown on the plans. This amount shall cover the equipment cost, any taxes and shipping to the site. If the actual cost of the equipment (including delivery to the site) is over \$10,000 the city will compensate the contractor for the difference. The contractor shall be responsible for coordinating with the BBQ supplier. Any additional compensation for this item such as markup, O&P, Administration, etc., shall be included under Item #1. Mobilization/Demobilization.

ITEM 5. PILOT ROCK HEAVY-DUTY JUMBO STEEL PARK-STYLE CHARCOAL GRILLS

Measurement for this item shall be on a UNIT basis for each grill installed. The price paid shall be considered full compensation for furnishing all labor, materials, tools, equipment, transportation, and incidentals; and for performing all of the work involved as detailed in the plans.

ITEM 6. CONSTRUCTION OF THE BBQ PAVILION

Measurement and payment for this item shall be on a LUMP SUM basis. The price paid shall be considered as full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all of the work involved construction the Pavilion, including installing the Extreme Duty Argentine Grill Pit, as shown on the plans, and in accordance with the manufacturer's recommendations, and all other work necessary for completion of work as specified in these Special Provisions and as directed by the Engineer.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 15 00

SECTION 01 33 00

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.01 SUBMITTAL PROCEDURES

- A. Identify Project, Contractor, Subcontractor and supplier; pertinent drawing and detail number, and specification section number, appropriate to submittal.
- B. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction work, and coordination of information is in accordance with requirements of the Work and Contract Documents.
- C. Schedule submittals to expedite Project, and deliver to Construction Manager.
- D. For each submittal for review, allow fourteen (14) calendar days excluding delivery time to and from Contractor.
- E. Identify variations from Contract Documents and product or system limitations which may be detrimental to successful performance of completed Work.
- F. When revised for resubmission, clearly identify changes made since previous submission.
- G. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.

1.02 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit initial schedules within ten (10) calendar days after date of Notice to Proceed. After review, resubmit required revised data within ten (10) calendar days.
- B. Submit revised Progress Schedules with each Application for Payment.
- C. Show complete sequence of construction by activity, identifying Work of separate stages and other logically grouped activities.
- D. Indicate estimated percentage of completion for each item of Work at each submission.
- E. Revisions To Schedules:
  - 1. Indicate progress of each activity to date of submittal, and projected completion date of each activity.
  - 2. Identify activities modified since previous submittal, major changes in scope, and other identifiable changes.

1.03 PRODUCT DATA AND SHOP DRAWINGS

- A. Product Data and Shop Drawings: Submit to Construction Manager for review for limited purpose of checking for conformance with information given and design concept expressed in Contract Documents.

- B. Mark submittal to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.

1.04 TEST REPORTS

- A. Submit for Construction Manager's knowledge as contract administrator. Test reports will be used for the limited purpose of assessing conformance with information given and design concept expressed in Contract Documents.

1.05 CERTIFICATES

- A. When specified in individual specification sections, submit certification by manufacturer, installation/application subcontractor, or Contractor to Construction Manager, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or Product, but must be acceptable to Construction Manager.

1.06 REQUESTS FOR SUBMITTALS

- A. Refer to each Specification section for required submittals. Anticipated Submittals include, but are not limited to:

- Construction Schedule
- Designation of Authorized Representatives
- Emergency Contact List
- Concrete Mix Design
- Steel Fabrication Shop Drawings
- Masonry Block

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION [NOT USED]

END OF SECTION 01 33 00

SECTION 01 50 00

TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.01 CONTRACTOR'S USE OF PROJECT SITE AND PRIVATE PROPERTY

- A. The Contractor shall not use the public right-of-way for long-term staging or material storage. During the work day, the Contractor may use the work area for storage of project materials and equipment to be used during that day; however, at the end of the day, the work site shall be cleaned.

1.02 MAJOR PUBLIC UTILITIES SERVING THE AREA OF WORK

- A. The following is a list of the major public utilities serving the Project area. The list indicates the name and telephone number of the responsible agency of the various utilities which should be notified if conflicts or emergencies arise during the progress of the work:

<u>Name of Utility</u>	<u>Telephone No.</u>
USA North	811 or 800-642-2444
Pacific Gas & Electric (PG&E)	800-743-5000
Frontier (Phone)	800-921-8101
Optimum (Cable)	866-967-8468
City of Ferndale (Sewer)	707-786-9694
Del Oro Water Company	530-809-3988
Ferndale Volunteer Fire Department	707-786-9909

B. Notification Requirements

1. Prior to any excavation in the vicinity of any existing underground facilities, including all water, sewer, storm drain, gas, or other pipelines; all buried electric power, communications, or television cables; all traffic signal and street lighting facilities; and all roadway; the Contractor shall notify the respective authorities representing the owners or agencies responsible for such facilities not less than three (3) work days nor more than seven (7) work days prior to excavation.
2. Notify USA at (800) 642-2444 or 811 at least three (3) work days, but no more than fourteen (14) work days, prior to such excavation.

C. Contractor Responsibility

1. The Contractor should anticipate water, sewer, electrical, communication, drainage and telephone services to be present on or adjacent to the site. It may be expected that there will be variation in location from that as shown on the Plans to the actual location. Contractor is responsible for verifying actual location in the field after pre-marking by the various utilities affected.

2. No extra payment will be allowed for the removal, replacement, repair, or possible increased cost caused by inadvertent or planned interception and breaking of underground obstructions which may exist.
3. It should be understood that the various utilities are indicated on the Plans to show only the approximate location and must be verified in the field by the Contractor. The various utility agencies will cooperate with the Contractor to endeavor to familiarize themselves with all known underground utilities obstructions, but this will not relieve the Contractor from full responsibility in anticipating and locating their actual location.

#### 1.03 TEMPORARY UTILITIES

##### A. Temporary Electricity

1. Contractor shall provide such temporary electrical facilities as necessary for Work, to supply temporary lighting for work operations and temporary power for portable power driven tools. Contractor will pay cost of energy used and is responsible for all necessary permits, permissions, code and regulatory compliance associated with such use.

##### B. Temporary Sanitary Facilities

1. Provide and maintain required facilities and enclosures sufficient to accommodate Contractor and Subcontractor personnel at locations easily accessible from work. Provide facilities at time of project mobilization and at location approved by the City.
2. Contractor is responsible for cleaning, maintenance, security, placement and removal of facilities.

#### 1.04 EXISTING UTILITIES AND IMPROVEMENTS

##### A. General

1. The Contractor shall protect all underground utilities and other improvements that may be impaired during construction operations. It shall be the Contractor's responsibility to ascertain the actual location of all existing utilities and other improvements that will be encountered in its construction operations, and to see that such utilities or other improvements are adequately protected from damage due to such operations. The Contractor shall take all possible precautions for the protection of unforeseen utility lines to provide for uninterrupted service and to provide such special protection as may be necessary.
2. Where the proper completion of the Work requires the temporary or permanent removal and/or relocation of an existing utility or other improvement that is indicated, the Contractor shall remove and, without unnecessary delay, temporarily replace or relocate such utility or improvement in a manner satisfactory to the City. In all cases of such temporary removal or relocation, restoration to former location shall be accomplished by the Contractor in a manner that will restore or replace the utility or improvement as nearly as possible to its former location and to equal or better condition as found prior to removal.

##### B. Right of Access

1. The right is reserved to the City, regulatory agencies, and utility providers with easements to enter at any time upon any public property for the purpose of making changes in their property/easement when necessary during the performance of the Work of this Contract.

C. Underground Utilities Indicated

1. Existing utility lines that are indicated or the locations of which are made known to the Contractor prior to excavation and that are to be retained, and all utility lines that are constructed during excavation operations shall be protected from damage during excavation and backfilling, and if damaged, shall be immediately repaired or replaced by the Contractor.

D. Underground Utilities not indicated

1. In the event that the Contractor damages any existing utility lines that are not indicated or the locations of which are not made known to the Contractor prior to excavation, a written report there-of shall be made by the Contractor to the City.
2. All costs of locating, repairing damage not due to failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not shown in the Contract documents with reasonable accuracy, and for equipment on the project which was actually working on that portion of the Work which was interrupted or idled during such Work will be paid for as extra Work.

E. Approval of Repairs

1. All repairs to a damaged utility or improvement are subject to inspection and approval by an authorized representative of the utility or improvement Agency before being concealed by backfill or other Work. Contractor to schedule with the Agency for the inspection and shall notify the City of the schedule and place of the inspection a minimum of three (3) calendar days prior to inspection.

F. Maintain In Service

1. All power and telephone or the communication cable ducts, gas and water mains, sewer lines, storm drain lines, poles, and overhead power and communication wires and cables encountered along the corridor of Work shall remain continuously in service during all the operations under the Contract, unless other arrangements satisfactory to the City are made with the Owner of said pipelines, duct, main, sewer, storm drain, pole, or wire or cable. The Contractor shall be responsible for and shall repair all damage due to its operations, and the provisions of this section shall not be abated even in the event such damage occurs after backfilling or is not discovered until after completion of the backfilling.

1.05 PROGRESS CLEANING AND WASTE REMOVAL

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in clean and orderly condition.
- B. Collect and remove waste materials, debris, and rubbish from site weekly and dispose off-site.

1.06 SIGNS

- A. At all times during construction, Contractor shall install and maintain precautionary signage at the construction entrance in order to provide adequate warning notices.

#### 1.07 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas and to protect existing facilities and adjacent properties from damage from construction operations. Access to adjacent ranches/dairies shall not be restricted or denied at any time.
- B. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.

#### 1.08 SECURITY

- A. Security Program
  - 1. Protect Work, existing premises and operations from theft, vandalism, and unauthorized entry.

#### 1.09 USE OF FIRE HYDRANTS

- A. Fire hydrants shall not be used for construction water during the course of this project without approval from the Del Oro Water Company. The contractor shall be responsible for all costs associated with water use from a fire hydrant if approved.

#### 1.10 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, materials, prior to Substantial Completion inspection.
- B. Clean and repair damage caused by installation or use of temporary work.
- C. Restore existing facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

#### PART 2 PRODUCTS [NOT USED]

#### PART 3 EXECUTION

##### 3.01 HOUSEKEEPING

- A. The Contractor shall keep project site neat, orderly, and in a safe condition at all times.
- B. The Contractor shall provide enough containers for collecting construction debris and construction materials to be recycled.
- C. The Contractor shall cover or wet down dry materials and rubbish when necessary to prevent blowing dust.
- D. The Contractor shall keep volatile wastes in covered containers.
- E. The Contractor shall use excavated material as soon as possible.
- F. The Contractor shall place construction debris in refuse containers at least daily.

- G. The Contractor shall contain stockpiled soil/material in a neat and orderly fashion and prevent from eroding or migrating into any water bodies. The Contractor shall use silt fencing or similar, if necessary.
- H. The Contractor shall keep all construction equipment and construction materials, including stock-piles, out of road-side drainages.

END OF SECTION 01 50 00

SECTION 01 57 23

WTAER POLLUTION CONTROL

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Erosion and Sediment Control

1.02 SUBMITTAL REQUIREMENTS

- A. Section 01 33 00 – Submittal Procedures

1.03 GENERAL PROJECT-WIDE MEASURES

- A. Contractor shall comply with all provisions of any additional federal, state and local permits necessary to complete the project.
- B. Contractor shall ensure that all on-site workers and contractors understand and agree to observe the standards for work outlined in project permits.
- C. This work includes but is not limited to furnishing, constructing, and maintaining temporary erosion and sediment control measures in accordance with the plans, specifications, required by permits or as ordered by the Owner during the life of the contract. This work is necessary to control water pollution, soil erosion and siltation through the use of approved water pollution control devices or methods.
- D. All maintenance and fueling required for heavy equipment and other vehicles shall be performed 100-feet away from a storm drainage inlet or drainage swale in a confined area such that there is no possibility of contaminants being discharged to the swale. Hazardous materials (fuels, lubricants, solvents, etc.) will not be stored within 100-feet of a drainage or water body. Any failure of equipment that results in water pollution is the responsibility of the Contractor. All fuel, oils, and other harmful materials will be cleaned up to the satisfaction of the Owner and at no additional cost to the Owner.
- E. Hazardous Materials
  - 1. Work Cessation in the Event Suspected Hazardous Materials are Encountered. Project construction Contractors shall stop all work in the area of any suspected soil or groundwater contamination, or any unearthing of storage drums or other potential sources of hazardous materials/wastes. The Contractor shall then comply with Section B-52(k) of the General Conditions.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Sufficient erosion control supplies shall be available on-site at all times to deal with areas susceptible to erosion during rain events.

PART 3 EXECUTION

### 3.01 CONSTRUCTION

- A. The Contractor shall become fully informed of, and comply with the applicable provisions of Federal, State and local regulations that govern the Contractor's operations and storm water discharges from both the project site and areas of disturbance outside the project limits during construction.
- B. At a minimum, the Contractor shall employ the following best management practices (BMPs) as described in the current California Stormwater BMP handbook for construction ([www.casqa.org](http://www.casqa.org)):
  - EC-1 Scheduling
  - SE-5 Fiber Rolls
  - SE-7 Street Sweeping and Vacuuming
  - SE-10 Storm Drain Inlet Protection
  - WE-1 Wind Erosion Control
  - WM-1 Materials Delivery and Storage

### 3.02 AIR QUALITY AND DUST CONTROL

- A. The Contractor shall adhere to all project permits and shall utilize BMPs to minimize fugitive dust generation and assure compliance with North Coast Unified Air Quality Management District Rule 104 Section 4.0 regarding the control of fugitive dust.
- B. When not in use or unattended, construction equipment and vehicles will be shut down, locked up, and not left idling.
- C. Contractor shall be required to minimize idling time and maintain properly tuned equipment.
- D. Equipment and vehicles shall also be tuned and maintained in accordance with manufactures' specifications to avoid excessive emissions.
- E. All equipment shall operate with factory-equipped mufflers.
- F. Water active earthwork areas and staging areas as needed for dust control. All active construction areas and sediment application areas shall be watered at a rate sufficient to keep soil moist and prevent formation of wind-blown dust.
- G. Exposed stockpiles of dirt, sand, and similar material shall be enclosed, covered, and/or watered daily, or treated with approved non-toxic soil binders as necessary to prevent generation of fugitive dust.
- H. Contractor shall use water trucks or spray from hoses to control dust created by outdoor work operations during entire period of the Contract as directed by City and stipulated in Specifications; Contractor shall satisfactorily control dust created by operations to the satisfaction of the City.

### 3.03 SPECIAL CONSTRUCTION REQUIREMENTS

- A. It is the responsibility of the Contractor to minimize erosion and prevent the transport of sediment to the storm drain system.
- B. At a minimum, the Contractor shall employ best management practices (BMPs) as described in the Project Plans and these specifications.

- C. If discrepancies occur between these specifications, plans, material referenced herein or manufacturers recommendations, then the most protective shall apply.
- D. It is the responsibility of the Contractor to fix any erosion, sediment, pollution, & waste control deficiencies identified by the City.
- E. Other selected disturbed earth areas shall be treated using appropriate erosion control measures per plans and specifications.
- F. Additional erosion/sediment BMPs beyond what is shown on the plans may be required to comply with project permits and it shall be the responsibility of the contractor to implement additional BMPs as needed and as directed by the City at no additional expense to the City.
- G. At the conclusion of construction of certain task elements, the contractor will be required to implement additional post-construction erosion control measures where specified in the plans or where directed by the City in order to protect natural resources. These measures include, but are not limited to, installing seed, weed-free straw mulch and tackifier, weed-free straw wattles or fiber rolls consistent with the Plans.

#### 3.04 MAINTENANCE

- A. The Contractor shall maintain the temporary, erosion and sediment control measures, and other protective measures in good and effective operating condition by performing routine inspections to determine condition and effectiveness, by repair of erosion and sediment control measures and other protective measures.

#### 3.05 INSPECTIONS AND ACCEPTANCE

- A. General. The Contractor shall inspect disturbed areas of the construction site, areas used for storage of materials that are exposed to precipitation that have not been finally stabilized, stabilization practices, structural practices, other controls, and area where vehicles exit the site, at least once every seven (7) calendar days, within two (2) calendar days of forecasted rains, and within 24 hours of the end of any storm that produces 0.5 inches or more rainfall at the site.
- B. Inspection Details. Disturbed areas and areas used for material storage that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Discharge locations or points shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles exit the site shall be inspected for evidence of offsite sediment tracking.
- C. If measures being taken by the Contractor are inadequate to control water pollution effectively, the Owner's Representative may direct the Contractor to revise the operations and the water pollution control measures. No further work shall be performed until the water pollution control measures are adequate as determined by the Owner's Representative..

END OF SECTION 01 57 23

SECTION 01 77 00

CLOSEOUT PROCEDURES

PART 1 GENERAL

1.01 REQUIREMENTS PREPARATORY TO FINAL INSPECTION

- A. The Contractor shall request a preliminary final inspection to determine the state of completion of the Work.
- B. The request shall be made in writing, addressed to the City, at least seven calendar days in advance of the requested date of the preliminary inspection.
- C. The City will perform the preliminary inspection within three days of the requested date.
- D. Prior to the requested date of the preliminary inspection, the Contractor shall perform or provide the following, as applicable:
  - 1. Temporary facilities, except as may be required for punch list work, shall be removed from the site.
  - 2. The site and all applicable appurtenances and improvements shall be cleaned as specified in these specifications.
  - 3. Record drawings and specifications shall be completed and submitted to the City as specified below.
  - 4. Guaranties and warranties shall be submitted to the City, as specified in the General Conditions and various sections of the Specifications.
- E. The Contractor shall be represented by its principal superintendent and such Subcontractors and Suppliers as may be necessary to answer the questions of the City inspection team.
- F. Certain elements of the Work may be scheduled separately at appointed times in order to keep the preliminary inspection more focused and the number of persons in the City inspection team to a minimum.
- G. From the information gathered from this inspection, the City will prepare a punch list of work to be performed, corrected, or completed.
- H. All work on the punch list shall be completed by the Contractor prior to requesting the final inspection.

1.02 SUBMITTALS

A. RECORD DRAWINGS

- 1. Using colored ink, the Contractor shall make changes on a set of clean prints of the contract drawings, which shall be kept at the job site at all times. Indicate all changes and revisions to the original design that affect the permanent structures/facilities. Reference underground utilities to semi-permanent or

permanent physical objects. Reference water, sewer, telephone, and electrical lines to corners of buildings and survey markers. Drawings shall be kept current with all work instructions, change orders and construction adjustments. Drawings shall be subject to the inspection of the City's Representative at all times. Progress payments, or portions thereof, may be withheld if drawings are not accurate and current. Project record drawings are the property of the City of Ferndale. Prior to acceptance of the work, the Contractor shall deliver to the City one (1) set of neatly marked record drawings, accurately showing all the information required above. Full compensation for furnishing all labor, tools, equipment, material and incidentals and for doing all the work involved with conforming to the requirements of this section shall be considered as included in the contract prices paid for the various items of work and no additional compensation will be allowed therefor.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION

3.01 SITE CLEANUP

- A. Before scheduling the final inspection, the Contractor shall remove all tools, equipment, surplus materials, construction debris, and rubbish. The Contractor shall replace or refinish fencing, gates, or other infrastructure that are damaged due to work of this contract to previous condition as directed by the City. At time of final inspection, the project sites shall be thoroughly clean and ready for use.

3.02 PROJECT RECORD DRAWINGS

- A. The Contractor shall maintain one complete full-size set of contract drawings onsite. The Contractor shall clearly mark changes, deletions, and additions using the following drafting standards to show actual construction conditions. The Contractor shall show additions in red, deletions in green and special instructions in blue.
- B. The Contractor shall keep record drawings current and make record drawings available to the City for inspection at the time of progress payment requests. If project record drawings are not current, the City may retain the progress payment.
- C. On completion of the total project, the Contractor shall submit complete record drawings and include all shop drawings, sketches, and additional drawings that are to be included in the final set, with clear instructions showing the location of these drawings.

3.03 CLOSEOUT SUBMITTALS

- B. The Contractor shall submit the following materials to the City before final inspection request:
  - 2. Project Record Drawings: As specified above.
  - 3. Guarantees and Bonds: As specified in individual sections.

3.04 FINAL INSPECTION

- A. When all requirements of the above prepared punch list have been completed, the Contractor shall request the final inspection to determine eligibility for issuance of the Certificate of Completion.
- B. The request shall be made in writing, addressed to the City, at least seven calendar days in

advance of the requested date of the final inspection.

- C. The Contractor shall be represented by its principal superintendent and such Subcontractors and Suppliers as may be necessary to verify the completion of the Work including punch list items.
- D. Depending on the extensiveness of the punch list items, certain elements of the Work may be scheduled separately for final inspection at appointed times.

3.05 ACCEPTANCE OF THE WORK AND FINAL PAYMENT

- A. The City will accept the Work upon completion of completion punch list items.
- B. Acceptance of the Work will be made in accordance with the General Conditions, Final Inspection and Acceptance of All or a Portion of the Work, of the General Conditions. Final payment will be made in accordance with the Final Payment section of the General Conditions.

END OF SECTION 01 77 00

SECTION 03 31 00

MINOR CONCRETE

PART 1 – GENERAL

1.01 DESCRIPTION

This Section covers minor concrete work, including construction and stripping of forms; placement of reinforcement and embedded items; and placement, consolidation, finishing, and curing of concrete. All sidewalks, slabs, and curbs shall be constructed, replaced, and/or repaired as specified in these plans and in accordance with the standards and specifications of the Humboldt County Public Works and **Section 90-2, "Minor Concrete"** of the Caltrans Standard Specifications.

Specific non-concrete construction specifications for minor concrete items (where applicable) are located in their respective Sections of these specifications.

1.02 QUALITY ASSURANCE

All concrete shall conform to the applicable sections of the Caltrans Standard Specifications unless otherwise specified in these Specifications or on the Drawings.

1.03 SUBMITTALS

Submittals shall include, but not be limited to, the following items:

1. Concrete mix design for all types of Portland cement concrete being used on the project.
2. Aggregate being used on the project for exposed aggregate finishes.
3. Load slips for concrete trucks shall be delivered to the job site with the truck. The Contractor shall retain all load slips and shall make them available to the Engineer upon request.
4. Manufacturer's literature for precast items and for non-concrete items.

Requirements for other non-concrete materials certifications for minor concrete items (where applicable) are located in their respective Sections of these Special Provisions.

PART 2 – CONSTRUCTION MATERIALS

2.01 GENERAL

Minor concrete shall conform to **Section 90, "Concrete,"** of the Caltrans Standard Specifications. High early-strength (Type III) concrete may be substituted if the Contractor is planning to allow traffic loads onto concrete pours within three (3) days after pouring.

All cast-in-place concrete shall contain a minimum of 564 pounds of Portland cement per cubic yard of concrete (6-sack mix), shall have a minimum 28-day compressive strength of 3000 psi, and shall have a slump range of 2"-4".

All concrete shall be plant-mixed and delivered by truck, unless concrete mixed on-site is specifically approved by the Engineer.

**City of Ferndale**  
Firemens Park Improvements

Material specifications listed on the Drawings, where applicable, shall supersede those listed in this Section.

2.02 CEMENT

Cement shall be Portland cement and shall be either Type II or high early strength Type III.

2.03 AGGREGATE

Aggregates used for Portland cement concrete shall contain less than 1% asbestos by weight or volume and shall be free from any substances that will react with the cement alkalis.

2.04 WATER

Water used for curing, washing aggregates, and mixing shall not contain more than 1000 parts per million (ppm) of chlorides as Cl, or more than 1300 ppm of sulfates as SO<sub>4</sub>. All water shall be clean and free from oils and other deleterious matter in accordance with ASTM C-94.

2.05 ADMIXTURES

Admixtures shall be used only when approved with the mix design. Calcium chloride or admixtures containing any amount of calcium chloride will not be permitted.

All concrete to be placed by pumping may contain a water-reducing admixture conforming to ASTM C-494, Type A. Additionally, pumped concrete shall contain an air-entraining admixture conforming to ASTM C-260, be nontoxic after 30 days, and shall contain no chlorides.

2.06 REINFORCEMENT STEEL

Reinforcement steel shall be new and free from rust. Bars for reinforcement shall conform to ASTM A-615, Grade 60.

2.07 WELDED WIRE MESH

Welded wire mesh shall conform to ASTM A-185.

2.08 EXPANSION JOINT MATERIAL

Pre-molded expansion joint fillers shall conform to ASTM D-1751.

2.10 OTHER MATERIALS

Other materials not specifically described above or shown on the Drawings shall be as selected by the Contractor and approved by the Engineer.

**PART 3 – CONSTRUCTION METHODS**

3.01 PROTECTION OF FINISHED CONCRETE WORK

The Contractor shall protect all finished concrete work from vandalism or other damage. See **Section 3.11**, below, relating to defective concrete. Damaged or defective concrete shall be repaired or replaced by the Contractor at the Contractor's sole expense.

3.02 USE OF FIRE HYDRANTS

Refer to **Section 01010, "General,"** for information regarding the use of fire hydrants.

3.03 CONCRETE CURBS, SIDEWALKS, AND WHEELCHAIR RAMPS

All curb, sidewalk, and ramp work shall conform to the Drawings, and with **Section 73, 'Concrete Curbs and Sidewalks'** of the Caltrans Standard Specifications.

3.04 SAWCUTTING

Where shown on the Drawings, existing concrete structures (including walls and slabs) shall be sawcut full depth in a straight and true manner, leaving a flat vertical surface. Sawcuts shall not extend beyond the specific dimensions of openings as shown on the Drawings.

All sections of concrete sidewalks and curbs being demolished and removed shall be sawcut full depth at the nearest sidewalk scoreline or joint. Any sections of existing sidewalk or curb not being demolished that are damaged by the Contractor during the course of construction shall be repaired or replaced to the satisfaction of the Engineer at the sole expense of the Contractor.

3.05 FORMS AND FALSEWORK

The Contractor shall notify the Engineer a **minimum of 24 hours prior** to any concrete placement to allow the Engineer to inspect concrete forms and shall give the Engineer full access to all concrete forms for inspection. Structural serviceability of the forms shall be the sole responsibility of the Contractor.

Finished lumber for formwork shall be used where concrete is exposed. All exposed corners shall have a 3/4-inch chamfer unless noted otherwise.

3.06 CONCRETE PLACEMENT

Minor concrete placement shall conform to **Section 51, "Concrete Structures"** of the Caltrans Standard Specifications. Concrete shall be placed and consolidated by methods that will not cause segregation of the aggregates and that will result in a dense homogeneous concrete that fills the forms and is free of voids and rock pockets.

The Contractor shall maintain the following minimum cover around reinforcing steel:

Concrete cast directly against earth:	3"
Concrete exposed to earth or weather:	
No. 6 bars and larger	2"
No. 5 bars and smaller	1 1/2"
Concrete in slabs and wall not exposed to weather or earth:	3/4"
Concrete beams and columns not exposed to earth or weather:	1 1/2"

3.08 CONCRETE FINISHES

Unless otherwise shown on the Drawings or listed below, all concrete shall have a Class 1

Surface Finish in accordance with **Section 51, "Concrete Structures"** of the Caltrans Standard Specifications. In general, curbs and sidewalks shall be float finished and medium broomed to provide a non-slip surface, in accordance with **Section 73, "Concrete Curbs and Sidewalks"** of the Caltrans Standard Specifications.

### 3.09 JOINTS & SCORELINES

In general, joints and scorelines shall match contiguous sidewalks and shall be approved by the Engineer prior to construction. Refer to **Section 3.03** above for information regarding curb, sidewalk, and wheelchair ramp joint and scoreline work.

### 3.10 CONCRETE CURING

Minor concrete shall be cured in accordance with **Section 90, "Concrete"** of the Caltrans Standard Specifications.

Immediately after placement, the Contractor shall protect the concrete from premature drying, excessively hot or cold temperatures, and damage. He shall maintain the concrete with minimal moisture loss at a relatively constant temperature for the period of time needed for hydration of cement and hardening of concrete to occur.

### 3.11 DEFECTIVE CONCRETE

The Contractor shall allow the Engineer to inspect concrete surfaces immediately upon removal of the forms. The Engineer shall have sole discretion over what defects are classified as "minor defects" and what defects are classified as "major defects", as listed below, and over what methods the Contractor may use to correct the defects.

Minor defects may, at the sole discretion of the Engineer, be repaired with cement mortar by the Contractor at his sole expense. Patching material shall be thoroughly compacted into place, shall be flush with the surrounding surface, and shall be kept damp for at least forty-eight (48) hours.

Major defects may include (but are not limited to) voids, rock pockets, honeycombing, surface defects, poor finish work, poor lines and grades, and embedded debris. Major defects are not acceptable and are grounds for rejection of the work by the Engineer.

### 3.12 PATCHING OR GROUTING

The Contractor shall thoroughly clean the area to be patched or grouted. Bonding agents or other surface preparations shall be applied in accordance with product manufacturer's recommendations. Concrete patching or grouting products shall be mixed and applied in accordance with product manufacturer's recommendations. All patches shall be kept damp for a minimum of 48 hours by sealing, spraying, or applying cure seal compound. Upon final curing Patch or Grout shall substantially blend with existing concrete being repaired in both color and texture.

**\*\* END OF SECTION \*\***

SECTION 04 22 00  
CONCRETE MASONRY UNIT

PART I GENERAL

1.1 DESCRIPTION

A. Work included:

1. Concrete unit masonry required for this Work includes the installation of all embedded items as well as providing all materials, labor and equipment necessary for a complete installation as shown on the Drawings and as specified herein.

1.2 REFERENCE SPECIFICATION AND CODES

- A. Concrete masonry construction shall conform to requirements of the latest approved edition of the California Building Code (CBC).
- B. In addition to the foregoing, comply with all pertinent local and state codes and regulations.

1.3 QUALITY ASSURANCE

A. Qualifications of workers:

1. For the actual cutting and placing of concrete masonry units, use only skilled journeyman masons who are thoroughly experienced with the materials and methods specified and thoroughly familiar with the design requirements.
2. In acceptance or rejection of installed concrete masonry units, no allowance will be made for lack of skill on the part of workmen.
3. Provide one skilled journeyman mason foreman who shall be present at all times during execution of the Work of this Section and who shall personally direct the execution of this portion of the work.

B. Inspection:

1. Reinforcing steel, embedments and cells will be inspected. Approval of the City, or his representative, is required before any grout pour.
2. Failure to give proper notification to the City prior to a grout or foundation pour, or the disapproval by the City or his representative of any portion of completed work, will result in the immediate rejection of that portion of the work. All rejected work shall be removed and replaced by the Contractor at no additional expense to the City.

1.4 SUBMITTALS

A. Certifications:

1. Contractor shall provide written certifications to the City, within the Contract price, at no additional cost to the City, from manufacturers, suppliers, etc., which attest that materials meet the requirements herein. Certification shall be submitted for:
  - a. Concrete masonry units.
  - b. Aggregates.
  - c. Cement.

- d. Lime.
- e. Admixtures.
- f. Reinforcing steel.

## 1.5 PRODUCT HANDLING

- A. Protection:
  - 1. Use all means necessary to protect concrete masonry materials before, during, and after installation and to protect the installed work and materials of all other trades.
- B. Repair and replacement:
  - 1. In the event of damage, immediately make all repairs and replacements necessary to the approval of the City and at no additional cost to the City.

## PART 2 PRODUCTS

### 2.1 CONCRETE BLOCK

- A. All concrete blocks shall be nominal 8 inches high by 16 inches long by 8 inches wide and shall conform with the requirements of ASTM C-90-70, lightweight, Grade N, Type I (moisture- controlled).

### 2.2 MORTAR

- A. All mortar shall conform to Art. 2.6A TMS602/ACI530.1/ASCE6, 2000 psi in 28 days, and shall consist of one-part Portland cement by volume, not more than 1/2-part hydrated lime, and not more than 4-1/2 parts of damp, loose sand, plus water. Mortar shall be sampled according to Art. 1.5B TMS602/ACI530.1/ASCE6 and tested according to ASTM C-39.

### 2.3 REINFORCEMENT STEEL

- A. Reinforcement steel shall be new and free from rust. All reinforcement steel shall be ASTM A-615, Grade 60.

### 2.4 GROUT

- A. All grout shall be transit-mixed, in accordance with ASTM C-476 and shall consist of one part Portland cement with not less than 7 sacks of cement per cubic yard, 2 to 3 parts sand, not more than two parts pea gravel (maximum 1/4-inch), and adequate water to produce a concrete of approximately ten inches slump, and shall have an ultimate compressive strength of 2000 psi in 28 days. Grout shall be sampled per Art. 1.4 TMS602/ACI530.1/ ASCE6 and tested according to the requirements of ASTM C-1019.
- B. Where the masonry has a high rate of absorbency, an approved water reducing admixture or "grout aid," shall be used, only after approval by the City.

### 2.5 HYDRATED LIME

- A. Conform to ASTM C-207.

### 2.6 ADMIXTURES

- A. Admixtures may be used when approved by the City.

## 2.7 AGGREGATE

- A. Aggregates for grout shall conform to Art. 1.5B TMS602/ACI530.1/ASCE6. Aggregates for mortar shall conform to Art. 2.6A TMS602/ACI530.1/ASCE6.

## 2.8 CEMENT

- A. Cement for mortar shall be Type I, II or III Portland cement; Type I-A, II-A or III-A air-entraining Portland cement; or masonry cement as set forth in UBC Standard No. 24-16. Approved types of plasticizing agents may be added to Portland cement Type I or II in the manufacturing process, but not in excess of 12 percent of the total volume. Plastic or waterproofed cements so manufactured shall meet the requirements for Portland cement as set forth in UBC Standard No. 26-1, except in respect to the limitations on insoluble residue, air-entrainment and additions subsequent to calcination.

## 2.9 OTHER MATERIALS

- A. All other materials, not specifically described but required for a complete and proper installation of concrete unit masonry, shall be as selected by the Contractor subject to the approval of the City.

# PART 3 EXECUTION

## 3.1 MASONRY CONSTRUCTION

- A. Masonry construction shall be as shown on the Plans and described in the Standard Specifications.

## 3.2 CLEANING UP

- A. Inspection and adjustment:
  - 1. Upon completion of the Work of this Section, make a thorough inspection of all installed concrete unit masonry and verify that all units and all joints have been installed in accordance with the provisions of this Section. Make all necessary adjustment to conform to these Specifications and Plans at no additional expense to the City.
- B. Cleaning:
  - 1. Concrete scum and grout stains on the wall shall be removed immediately.
  - 2. Clean all interior and exterior surfaces of concrete unit masonry as required for proper application of the specified finishes for interior and exterior walls.
  - 3. Upon completion of all work of this Section, promptly remove from the job site all mortar droppings, broken units, debris arising from the Work of the Section, and all tools and equipment of this Section, leaving all areas in a neat and orderly condition to the approval of the City.

**\*\* END OF SECTION \*\***

SECTION 07 31 13

ASPHALT SHINGLES

PART 1 GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 1, General Requirements, are included as a part of this Section.

1.2 SECTION INCLUDES

- A. Granular surfaced asphalt shingle roofing.
- B. Moisture shedding underlayment, eave, valley and ridge protection.

1.3 REFERENCES

- A. ASTM D224 - Standard Specification for Smooth-Surfaced Asphalt Roll Roofing (Organic Felt).
- B. ASTM D225 - Standard Specification for Asphalt Shingles Surfaced with Mineral Granules.
- C. ASTM D226 - Standard Specification for Asphalt-Saturated Organic Felt Used in Roofing and Waterproofing.
- D. ASTM D228 - Standard Testing for Asphalt Roll Roofing, Cap Sheets and Shingles.
- E. ASTM D249 - Standard Specification for Asphalt Roll Roofing (Organic Felt) Surfaced with Mineral Granules.
- F. ASTM D2178 - Standard Specification for Asphalt Glass (Felt) Used in Roofing and Waterproofing.
- G. ASTM D2822 - Standard Specification for Asphalt Roof Cement.
- H. ASTM D3018 - Standard Specification for Class A Asphalt Shingles Surfaced with Mineral Granules.
- I. ASTM D3462 - Standard Specification for Asphalt Shingles Made From Glass Felt and Surfaced With Mineral Granules.
- J. ASTM D4586 - Standard Specification for Asphalt Roof Cement, Asbestos Free.
- K. NRCA - Steep Roofing Manual.
- L. UL 55B - Class C Asphalt Organic-Felt Sheet Roofing and Shingles.
- M. UL 790-Tests for Fire Resistance of Roof Covering Materials.
- N. UL 580 - Tests for Wind Uplift Resistance for Roof Assemblies.

- O. ASCE 7-16 -Minimum Design Loads for Buildings and Other Structures.
- P. California Building Code (CBC).

#### 1.4 SUBMITTALS

- A. Product Data: Submit specifications, installation instructions and general recommendations from manufacturers of roofing system materials, for type of roofing required.
  - 1. Include data substantiating that materials comply with requirements, including list of materials proposed for use and manufacturer's product data sheets for other products.
  - 2. Provide sample copies of specified warranties, including evidence of application for warranty from Manufacturer.
  - 3. Include sample copy of maintenance instructions for use during construction complete with Manufacturer's instructions for periodic inspection and maintenance of roofing system.
- B. Shop Drawings: Submit complete installation details, sheet layout, flashing, roof slopes, details at each different perimeter condition, special conditions.
- C. Samples: Submit 12" x 12" square of asphalt shingle showing a complete range of manufacturer's colors.
- D. Certificates:
  - 1. Submit Manufacturers certification that materials and components furnished conform to specified requirements and that materials furnished are compatible for roof indicated.
  - 2. At completion of work, submit certification that roofing system is installed per Manufacturer's warranty requirements.
- E. Safety Provisions: Submit a complete detailed schedule of special safety provisions implemented to insure the health and safety of the people. Work shall not start without prior acceptance of these provisions by the City. These provisions shall include but are not limited to:
  - 1. Sequencing of work.
  - 2. Removal of debris from work.
  - 3. Maintaining existing exits and fire protection.

#### 1.5 QUALITY ASSURANCE

- A. Manufacturer: Obtain primary roofing materials from a single manufacturer, with at least 10-years of documented experience in the roofing material business. Provide secondary materials as recommended by manufacturer of primary materials.
- B. Installer: Company specializing in installation of roofing system with minimum 5-years documented experience.
- C. All work shall conform to N.R.C.A. Roofing and Waterproofing Manual and to manufacturers strict instructions.

#### 1.6 DELIVERY, STORAGE AND HANDLING

- A. Deliver materials in manufacturer's original, unopened containers or packages with labels

intact and legible, including required fire resistance classification labels.

- B. Store and handle material per manufacturers' requirements.
- C. Store rolled goods on-end on clean raised platforms with weather protective covering when stored outdoors.
- D. Provide continuous protection of materials against wetting and absorption; remove wet materials from project site.
- E. Rooftop Storage: Disperse material to avoid concentrated loading.

## 1.7 PROJECT CONDITIONS

- A. Proceed with roofing work only if existing and forecasted weather conditions permit work in accordance with manufacturers' recommendations and warranty requirements.

## 1.8 WARRANTIES

- A. **Installer's Warranty:** Provide written warranty signed by the roofing Installer and the Contractor agreeing to replace or repair defective components and workmanship of the total roofing system, including roofing membrane, flashing, insulation and roofing accessories as required to maintain the total roofing system in a watertight condition at no expense to the City, for a period of two-years after the date of Substantial Completion of the Project.
- B. **Manufacturer's Warranty:** Provide written warranty by the Manufacturer of the primary roofing materials agreeing to replace or repair defective roof membrane and flashing materials and workmanship as required to maintain the roofing system in a watertight condition at no expense to the City for a period of 30-years after date of Substantial Completion of the Project.
  - 1. In conjunction with issuance of the above warranty, include:
    - a. Instructions detailing preventative maintenance required to maintain the warranty.
    - b. List of substances which may damage the membrane.
    - c. Specifications on repair of the membrane Owner may do without voiding warranty.
  - 2. Warranty shall include coverage for damage to building resulting from failure of roof system to resist penetration of water.
  - 3. Warranty shall include coverage against damage due to wind uplift.

## PART 2 PRODUCTS

### 2.1 ROOFING SYSTEM

- A. The asphalt roofing shingles as well as all accessories and appurtenances shall comprise the "Roofing System" and shall be part of a single source warranty.
  - 1. This roofing system shall be part of a single source warranty and meet all required California Building Code requirements.
- B. **Materials:**
  - 1. Underlayment: Non-perforated No. 5 asphalt saturated felt, ASTM D226.

- C. Approvals: Roofing system must meet current California Building Code in compliance with ASCE 7-16 wind requirements for the roofing system.

### PART 3 EXECUTION

#### 3.1 PRE-INSTALLATION REQUIREMENTS

- A. Install all vents, drains, curbs, nailers, blocking, insulation, skylights, and projections through the roof before starting membrane installation.
- B. Only with City's written approval, proper provision for re-inspection, and continued warranty protection can these items be installed after the membrane's installation.

#### 3.2 INSTALLATION OF ASPHALT SHINGLES

- A. Install in accordance with accepted roofing manufacturer's specification, roof deck manufacturer's recommendations, and as follows:
  - 1. Phased construction of roofing membrane is strictly prohibited.
  - 2. Lay felts parallel to long dimension of roof. Do not work on or allow point loads on newly applied felts.
  - 3. Complete application of roofing system without pockets or blisters. Cut-off felts at top of cant strips.
- B. Complete installation of roofing system up to line of termination of day's work. Install temporary water cut-offs of plastic cement and base sheet strips at end of each day's work. Remove upon resumption of work.
- C. Base Flashing:
  - 1. Install in accordance with requirements of roofing system manufacturer.
  - 2. Install where roofing system abuts vertical surfaces and at other locations detailed.
- D. Flashings: Install metal flashings, then felt in such a manner as to prevent leaks.

#### 3.3 CLEANING

- A. Clean up debris, excess materials and equipment daily and remove from site.

#### 3.4 PROTECTION

- A. Restore to original condition or replace work or materials damaged during handling of roofing materials.
- B. Do not throw or drop debris from roof.

**\*\* END OF SECTION \*\***

SECTION 31 10 13

DEMOLITION AND DEBRIS DISPOSAL

PART 1 GENERAL

1.01 DESCRIPTION

A. Work Included:

1. Demolition, removal, salvaging and disposal of the miscellaneous items shown on the plans, including but not limited to existing concrete curbs and walkways, and existing asphalt concrete paving.

1.02 SUBMITTALS [NOT USED]

1.03 QUALITY ASSURANCE

- A. In addition to complying with all pertinent codes and regulations, comply with the requirements of those insurance carriers providing coverage for this work.
- B. The Contractor shall comply with all OSHA and California DTSC requirements for demolition of item described in description of work, and for items that may be encountered during this work.
- C. The Contractor shall not disturb any power poles, overhead lines or other utilities.

1.04 PROJECT CONDITIONS

A. Disposition of material:

1. Title to materials:

- a. Title to all materials to be removed, except as specified otherwise, is vested in the Contractor upon receipt of notice to proceed. The City will not be responsible for the condition or loss of, or damage to, such property after notice to proceed.

2. Reuse of materials and equipment:

- a. Carefully remove and store materials and equipment indicated to be reused or relocated to prevent damage and reinstall as the work progresses.

B. Cleanup:

1. Debris and rubbish:

- a. Contain, remove and transport debris and rubbish in a manner that will prevent spillage to adjacent areas.

2. General:

- a. Use all means necessary to protect existing structures designated to remain and, in the event of damage, immediately make all repairs and replacements necessary to the approval of the City at no additional cost to the City.

PART 2 PRODUCTS [NOT USED]

PART 3 EXECUTION

3.01 SITE INSPECTION

- A. Prior to any demolition and debris removal work, carefully inspect the site and determine the extent of work involved.
- B. Report any discrepancy to the City immediately.

3.02 COORDINATION AND SCHEDULING

- A. Coordinate work with other trades and subcontractors.

3.03 SAFETY

- A. All work shall conform to pertinent OSHA regulations and to other State and local codes and ordinances as applicable.
- B. If discovered, the Contractor shall not cut or crush potentially asbestos containing materials. Contractor shall attempt to remove these materials in an intact fashion and separating pipe at existing joints.

3.04 PROTECTION

- A. Locate, identify, and protect conduits and other underground utilities indicated to remain, from damage as shown on the Plans.
- B. Protect trees, plant growth, and features designated to remain.
- C. Protect benchmarks and existing structures from damage or displacement.

3.05 REMOVAL AND DISPOSAL OF DEBRIS

- A. Remove all debris from the site and leave the site in a neat and orderly condition.
- B. The Contractor shall handle and dispose of unsuitable and excess material legally, at refuse facility outside the Project site.
- C. Asbestos Containing Materials and Hazardous Material: The Contractor shall handle and dispose of material according to Federal, State, and local regulations at a legal off-site location. Contractor shall furnish a copy of all disposal permits to the City.

END OF SECTION 31 10 13

SECTION 31 20 00

EARTHWORK (GRADING, EXCAVATION AND BACKFILL)

PART 1 GENERAL

1.01 SUMMARY

- A. The work shall include the supply of all labor, material and equipment required to complete the excavation for the sidewalk public access improvements and Street Intersections, as shown on the plans and described in these specifications.

1.02 REFERENCES [NOT USED]

1.03 SUBMITTALS [NOT USED]

1.04 QUALITY ASSURANCE AND INSPECTION

- A. Before beginning construction activities, such as grading, excavation, or filling, in any part of the project site, Contractor shall install temporary structures to guide runoff away from the work area and to capture eroded material before it reaches natural watercourses.
- B. Contractor shall arrange construction activities to minimize erosion to the maximum practical extent. Clearing, excavation, and grading shall be limited to those areas of the project site necessary for construction. Contractor shall minimize the area that is exposed and unprotected.
- C. Contractor shall clearly mark and delineate the limits of work activities and Limits of Disturbance. Contractor shall not allow equipment to operate outside the limits of work or to disturb protected areas, except as already noted in specifications.

1.05 PRESERVATION OF PROPERTY

- A. Existing power and telephone lines, fences, pipelines or other conduits, embankments, and structures in the vicinity of the work shall be supported and protected from injury by the Contractor during the construction and until the completion of the work
- B. All damage shall be immediately reported to the Construction Manager who will file a report so that penalties may be determined.
- C. The Contractor shall remove all temporary stockpiles leaving it in clean and neat condition.

1.06 GRADES, LINES, LEVELS, AND PERMANENT MARKERS

- A. Staking:
  - 1. The Contractor is responsible for providing all surveying and staking for laying out the earthworks at the site based on bench marks shown on the plans and in accordance to the specification section 01 71 23.16 Construction Survey Staking.
- B. Responsibility for correctness:

1. Contractor will be held responsible for the correctness of the layout and for establishing the location of possible buried utility lines. In the event there is any conflict between actual conditions and the drawings, Contractor shall notify the Construction Manager immediately and shall not proceed with the work until directed by the Construction Manager.

C. Preservation of markers:

1. All stakes, boundary lines, corner markers, bench marks or survey markers, etc., which have been or may be established in any part of the site, shall be carefully preserved and respected by the Contractor and shall be restored at the Contractor's expense if lost or destroyed as a result of his operations.

1.07 ACCURACY OF DATA

- A. Site data given herein and on the drawings are as exact as could be secured, but their absolute accuracy cannot be guaranteed. Exact locations, distances, elevations, etc., shall be finally governed by field conditions and the Construction Manager's instructions.
- B. The Contractor shall promptly, and before such condition is disturbed, notify the Construction Manager in writing of soil or subsurface conditions which differ materially from those conditions shown in the Contract Documents or in the records of investigations of soil or subsurface conditions referred to above. The Construction Manager shall promptly investigate the conditions. If he/she finds the conditions materially different from those which reasonably should have been anticipated on the site, and finds that said conditions will cause an increase or decrease in the cost of, and/or the time required for performance of the Contract, he/she will, after approval by RRHC, modify the Contract Terms in writing to provide for an equitable adjustment in cost and/or time of performance.
- C. A thorough attempt has been made to show the type, location, and number of all utilities, however, no guarantee is made as to the location and number of such utilities. The Contractor shall repair all utilities damaged in the progress of his work. The Contractor shall notify all owners of utilities of commencement of and sufficiently in advance to have the utilities mark the location of their facilities. The Contractor shall be prepared at all times with labor, equipment, and materials to make repairs on damaged mains or utilities.

1.08 ADDITIONAL SAFETY RESPONSIBILITIES

- A. The Contractor shall be responsible for ensuring such measures: (1) comply fully with 29 CFR Part 1926 OSHA Subpart P Excavations and Trenches requirements, (2) provide necessary support to the sides of excavations, (3) provide safe access to the Construction Manager's sampling and testing within the excavation, (4) provide safe access for backfill, compaction, and compaction testing, and (5) otherwise maintain excavations in a safe manner that shall not endanger property, life, health, or the project schedule. All earthwork shall be performed in strict accordance with applicable law, including local ordinances and applicable OSHA requirements.

PART 2 PRODUCTS OR MATERIALS

2.01 IMPORTED MATERIALS FOR FILL

- A. Class 2 Aggregate Base: Shall meet Caltrans Standard Specifications

2.02 WATER FOR COMPACTION

- A. See Temporary Facilities and Controls specification for optional water sources.
- B. Water shall be clean and free of oil, acids, salts, and other deleterious substances and suitable for agricultural purposes. Furnish as required from source approved by Construction Manager, and as specified in these specifications.
- C. Water shall be applied by means of pressure-type distributors or pipe lines equipped with a spray system or hoses with nozzles that will ensure a uniform application of water.

### PART 3 EXECUTION

#### 3.01 OVERVIEW

- A. Contractor is responsible for excavating sediment, hauling to specified fill areas in accordance with the plans and these specifications.

#### 3.02 EXAMINATION

- A. Verification of Conditions: Prior to commencement of site grading work the Contractor shall notify the Construction Manager that the site has been cleared. The Construction Manager shall have sufficient time to review the site. Site grading shall not commence until the Construction Manager has completed review of the site and the Construction Manager has given approval to proceed.

#### 3.03 PREPARATION

- A. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, freezing temperatures or frost, and other hazards created by earthwork operations. Provide protective insulating materials as necessary.
- B. Provide erosion-control measures to prevent erosion or displacement of soils and discharge of soil-bearing water runoff or airborne dust to adjacent properties and roadways.
- C. Prevent surface water and ground water from entering excavations, from ponding on prepared subgrades, and from flooding Project site and surrounding area.
- D. Protect subgrades from softening, undermining, washout, and damage by rain or water accumulation.

#### 3.04 CONTROL OF WATER

- A. The Contractor shall be responsible for furnishing temporary drainage facilities to convey and dispose of surface water falling on or passing over the site. This work shall be accomplished in accordance with the provisions of Section 01 57 00 of these specifications.

#### 3.05 EXISTING UTILITIES

- A. The known existing utilities are shown on the Drawings in their approximate location. The Contractor shall exercise care in avoiding damage to all utilities, as he will be held responsible for their repair if damaged. There is no guarantee that all utilities or obstructions are shown, or that locations indicated are accurate. Utilities are piping,

conduits, wire, cable, ducts, manholes, pull boxes and the like, located at the project site and adjoining said site.

- B. Excavations around underground electrical ducts and conduits shall be performed using extreme caution to prevent injury to workers or damage to electrical ducts or conduits. Similar precautions shall be exercised around gas lines, telephone and television cables.

### 3.06 AGGREGATE BASE PLACEMENT

- A. Soil below the aggregate base foundation shall be compacted to the minimum density as shown on the plans. Compacted aggregate base shall be placed under structures as specified on the plans.
- B. Each layer of the aggregate base shall be compacted to the density shown on the plans with approved compaction equipment. Water content shall be maintained during the compaction procedure to within plus or minus 1 percent of the optimum water content determined from ASTM D 1557.

### 3.07 PROTECTION

- A. The Contractor shall prevent erosion of freshly graded areas during construction and until such time as a permanent drainage and erosion control measures have been installed.
- B. Earthwork operations shall be conducted so as to prevent windblown dust and dirt from interfering with the surrounding normal operations. Contractor shall assume liability for all claims related to windblown dust and dirt. Water shall be applied in conformance with applicable provisions of Section 17 of the State Standard Specifications and with Section 1590 (e) of CAL/OSHA, Title 8.

END OF SECTION 31 20 00