

DOCUMENT 00 9113

ADDENDA

SPECIFICATION NO. 21-11604-C

CITY OF BERKELEY

WEST BERKELEY SERVICE CENTER IMPROVEMENT PROJECT

1900 SIXTH STREET, BERKELEY, CA 94710

The following Addenda were issued, modifying the Project Manual:

Addendum No. 1, issued on **February 20, 2024**

**ADDNDUM NO. 1
February 20, 2024**

The contract documents for Specification No. 23-11600-C for the Central Library HVAC Replacement Project are amended as follows:

- 1-1. Article 1.01, Document 00 1113 – Notice Inviting Bids**
The bid date has changed from February 22, 2024 to March 5, 2024. The time will remain at 2:00PM.
- 1-2. Article 4.01, Document 00 5200 – Agreement – See below for revised provisions:**
 - A. Article 4.01-A - As liquidated damages for delay, Contractor shall pay City four thousand two hundred dollars (\$4,200.00) for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.
 - B. Article 4.01-B - As liquidated damages for delay, Contractor shall pay City four thousand two hundred dollars (\$4,200.00) for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.
- 1-3. Article 1.07, Document 00 7317 – Supplementary Conditions – City of Berkeley Contracting Policies**
References to the Community Workforce Agreement have been struck from this document. The Community Workforce Agreement will not apply to this Project.
- 1-4. West Berkeley Senior Center Record Drawings dated November 1978**
Plan set dated November 1978 added to Contract Documents as reference only. City does not guarantee accuracy.
- 1-5. West Berkeley Senior Center Renovations Record Drawings dated July 1998**
Plan set dated July 1998 added to the Contract Documents as reference only. City does not guarantee accuracy.
- 1-6. Roof tile and roofing paper test report dated May 2022**
Analytical results of terra cotta roof tile and roof felt paper samples collected by Acumen Industrial Hygiene, Inc. and analyzed for asbestos containing materials by Micro Analytical Laboratories, Inc. Asbestos was not detected in all samples.

Questions and Responses:

- 2-1. When are bids due?**
City Response: Bids are due at 2:00PM Tuesday March 5, 2024.
- 2-2. When is the deadline for RFIs?**
City Response: The deadline for RFIs is Monday February 26, 2024.
- 2-3. Could you please advise if Landscape/Irrigation will not be part of the bidding process?**
City Response: Landscaping/irrigation are not in contract. Refer to Plans and Specifications for scope within contract.
- 2-4. Is there an engineer's estimate?**
City Response: The Engineer's estimate is \$945,000 for all work of the Contract Documents, including all Deduct Alternates.
- 2-5. Is this a DVBE project?**
City Response: No.

- 2-6. Is there a hazardous material report available and will hazardous material remediation be part of the scope?**
City Response: The City conducted a hazardous material survey on existing roofing material to be removed. All samples were non-detect for asbestos containing materials and the report will be made available with this Addendum. The City is in the process of conducting a second hazardous materials survey in areas to be disturbed as part of the contract work. This second report will be added to the Contract Documents when it is available. The base bid shall assume that hazardous materials remediation is not in contract.
- 2-7. Will there be a second pre-bid site visit?**
City Response: No.
- 2-8. Will contractor on this project be bound to any labor agreements?**
City Response: This contract will not be subject to either the Community Workforce Agreement or First Source Construction Agreement. However, the contract will be subject to Supplementary Conditions for Federal Funding. Refer to Project Specification Sections 00 1113 Notice Inviting Bids and 00 7201 Supplemental General Conditions.
- 2-9. What are the bonding requirements to bid this project?**
City Response: Refer to Project Specifications Sections 00 2113 Instructions to Bidders, 00 4313 Bond Accompanying Bid, and 00 4513 Statement of Qualifications for Construction Projects.
- 2-10. Where will laydown be?**
City Response: The courtyard will be made available for materials laydown. Portions of the building interior may be made available for materials that must be stored indoors.
- 2-11. Will the building be occupied during construction?**
City Response: The City currently intends to continue occupying the building during construction, but is open to relocating operations for limited durations when necessary.
- 2-12. Will restrooms for occupants need to be provided?**
City Response: City will provide temporary restrooms for occupants. Contractor to provide separate temporary restroom facilities for contractor's & subcontractor's use.
- 2-13. When is the project projection to begin construction?**
City Response: The project is currently estimated to begin construction in June/July 2024.
- 2-14. The Room Finish Schedule on sheet A9.11 calls for new LVT-01 flooring in Mechanical Room 20, but the Finish Plan shows this room as having the existing flooring remain. Please confirm if Mechanical Room 20 is to receive new flooring.**
City Response: The room finish schedule will be adjusted to show existing flooring in room #20 to remain. Revised plans will be included in Addendum 2.
- 2-15. Sheet G1.31 shows five semi-recessed fire-extinguishers cabinets with 2-A compliant extinguishers but only calls out one new one. Please confirm that we are only providing one new semi-recessed fire extinguisher and cabinet.**
City Response: Only one new semi-recessed FEC will be required in the location shown on Line 3 on sheets G1.31 and on A2.31.
- 2-16. Specification section 11 52 00 - Audio Visual Equipment is in the table of contents but is not elsewhere in the project manual. Please confirm that this specification is not in scope.**
City Response: No Audio Visual equipment is in the scope. The specification T.O.C. will be adjusted to omit section 11 52 00. Revised specifications will be included in Addendum 2.
- 2-17. Please confirm that fire suppression is not a part of this contract.**
City Response: There is no fire suppression component to the project.

- 2-18. The summary of work states that we have a few bid deductions for an exterior storage #31 and for a canopy at Alcove #17. Where are these structures located at on the plans?**
City Response: Refer to Sheets A2.31, A2.33, and A2.33 – see along Line 1 between C & F for exterior storage #31, and between Lines 4 & 5 and D & E for the canopy at Alcove #17. Sheet A2.01 is illustrative of the relative locations of the exterior storage and canopy within the courtyard. Bidder is responsible for examining plans and specifications for other work associated with the deduct alternatives, i.e. architectural, structural, and electrical.
- 2-19. Will you be willing to accept an alternative roofing manufacturer other than Tremco for this job?**
City Response: City will accept an approved equal; refer to Project Specifications 07 52 16 SBS Modified Bituminous Membrane Roofing for product requirements.
- 2-20. Please confirm if digital signatures are acceptable to sign the bid docs.**
City Response: Physical signatures are required for all bid documents.
- 2-21. Is Builder's Risk Insurance to be provided by the Contractor or the Owner?**
City Response: To be provided by the Contractor. Refer to Project Specifications 00 7316 Supplementary Conditions – Insurance and Indemnification.
- 2-22. Please confirm the correct LDs for this project – in Specification 00 52 00 the number is shown as \$4,200/day but the wording says "one thousand two hundred dollars"**
City Response: The correct amount is \$4,200/day. Specification Section 00 52 00 has been revised and is included with this Addendum.
- 2-23. Will we be able to use the existing power on site for construction? Same for existing restrooms, will they be open to us to use during construction?**
City Response: Existing power will be available on site for construction. Contractor to provide temporary restrooms for contractor's employees and subcontractors.
- 2-24. Are all required permits, including building permits, to be paid for by the Contractor or by the Owner?**
City Response: Permits will be paid by Owner.
- 2-25. I know in the NTB it says that this project is NOT subject to the First Source Construction Agreement or the Community Workforce Agreement. But there are other mentions of having to comply with these requirements later on in the specs if the project value is over \$100,000 or \$500,000. For example, section 00 73 17 note 1.07 says for Community Workforce Agreement to be added to the General Conditions if the contract exceeds \$500,000, which the value should exceed. Can you please confirm if we are subject or not to any type of labor, construction, or workforce agreement besides prevailing wages?**
City Response: The project is NOT subject to either the First Source Construction Agreement or the Community Workforce Agreement. Specification Section 00 7317 has been revised to clarify.
- 2-26. Are walkway pads on the new roof system required? None are shown on the drawings but the specifications give information on design and material requirements**
City Response: Yes, revised roof plan will be provided showing walkway pads
- 2-27. Does the Contractor or Owner pay for geotechnical testing services?**
City Response: Refer to Specification Section 01 4500 Testing and Inspection Article 1.08 Paragraph E.
- 2-28. Are there any changes to the roof framing plan in rooms 6 & 6A for where the condensing units will be removed and reinstalled? Detail 6 on M3.00 says to reference structural drawings for framing below but structural drawings do not give any**

- information on the framing in that existing room.**
City Response: Answer deferred to Addendum 2.
- 2-29. Please confirm the size of the roof rafters/joist for the exterior canopy at the alcove. Architectural drawings A3.31 calls out for 3x8 rafters but S2.01 calls out for 2x8 joists. Please clarify which is correct.**
City Response: Use 3x8 rafters.
- 2-30. Is the added 6" concrete slab for the water heaters in room #8 to be located in the entire room or is it just to be located under the water heaters? If only under the water heater are there any specific dimensions the pad must be?**
City Response: New slab over existing slab per detail 3/S3.01 is just under new water heaters. Dimensions deferred to Addendum 2.
- 2-31. Please confirm if we are to provide gypsum wallboard and paint over the wall sheathing for the new walls at the exterior storage #31 area. Do you all have a detail of a wall section for this area to show any wall insulation, gypsum, and paint requirements. Finish schedule on A9.11 does not provide any information for the finish for these new walls.**
City Response: The storage room #31 has no finish on the interior, just bare studs.
- 2-32. For the items listed as TME on the project drawings, are we to exclude that scope of work from our base proposal and be included as a change order during the project, or are we to provide an allowance for all of the TME items with our proposal. If so, please clarify where we should put the allowance on the bid form.**
City Response: City clarifies that TME stands for "to match existing".
- 2-33. What is the height of the new walls for the exterior storage #31 area?**
City Response: Note will be added to drawings showing wall height.
- 2-34. Is detail 10 on S3.01 in relation to the new foundation for the new walls at exterior storage #31 area? If not please clarify what area this detail is referring to.**
City Response: Answer deferred to Addendum 2.
- 2-35. Is detail 9 on S3.01 in relation to the walls and foundation for the new walls at exterior storage #31 area? If so, that detail calls for 1/2" plywood sheathing for the walls but S2.00 calls out for 5/8" plywood sheathing. Please clarify which thickness is correct.**
City Response: Answer deferred to Addendum 2.
- 2-36. Are the new walls for the interior restroom supposed to sit on a 6" high concrete curb? Details 5 & 6 on S3.01 says all toilet rooms to sit on a 6" curb but the curb is not shown in the architectural drawings or the structural foundation drawings (S2.00).**
City Response: No curb required for interior restroom walls.
- 2-37. Will the demo shown on L1.0 be done by others since the landscape drawings are not in our scope of work? Or will we need to perform exterior demolition of existing flatwork/landscaping in order to install the exterior foundations for the exterior storage #31, exterior canopy at the alcove, and the fence area.**
City Response: Answer deferred to Addendum 2.
- 2-38. Do you have specifications for the existing insulation in the existing interior walls, ceiling, and roof? If so please provide in order to match for areas we are removing existing insulation for new work.**
City Response: Answer deferred to Addendum 2.
- 2-39. Are there any low voltage, AV, and/or security systems needed for this project as a deferred submittal?**
City Response: No low voltage, AV, or security systems are included in scope.

- 2-40. Per G1.31, it states that the building does NOT have an existing automatic sprinkler system. Are we to provide any new sprinkler systems or are they excluded from this work?**

City Response: Fire sprinklers are not included in scope.

END OF DOCUMENT

DOCUMENT 00 1113**NOTICE INVITING BIDS****ARTICLE 1 - INVITATION TO BID**

- 1.01 Notice Inviting Bids:** City of Berkeley ("City") will receive sealed Bids at City of Berkeley, Purchasing Manager's Office, located at the Martin Luther King Jr. Civic Center, 2180 Milvia Street, Third Floor, Berkeley, CA 94704, Telephone (510) 981-7320, until **2:00PM Tuesday March 5, 2024** for the following public work:

**SPECIFICATION NO. 21-11604-C
CITY OF BERKELEY
West Berkeley Service Center Improvement Project
1900 Sixth Street**

- 1.02 Project Description: West Berkeley Service Center Improvement Project**, including ancillary work in accordance with the terms and conditions of the Contract Documents. Work shall be completed within **182** Calendar Days from the date when Contract Time commences to run.
- 1.03 Procurement of Bidding Documents:**
Bidding Documents contain the full description of the Work. Bidders may obtain Bidding Documents by Thursday, February 22, 2024 from City of Berkeley's Public Works website under Current Construction Project Bid Opportunities:
<https://berkeleyca.gov/doing-business/working-city/bid-proposal-opportunities>
For information pertaining to the Bidding Documents, please contact the Project Manager, Titus Chen, 1947 Center Street, 4th Floor, Berkeley, CA 94704, by Email at tchen@berkeleyca.gov or by Telephone at (510) 981-6410 or by FAX **(510) 981-6390**.
- 1.04 Planholders List:**
Bidders are responsible for notifying Titus Chen, via email at tchen@berkeleyca.gov to be included on the Planholders List. Please include the following in the email subject header: "Planholders list for Specification No. 21-11604-C for West Berkeley Service Center Improvement Project". In the body of the email, please state the Name of the Company Representative, Company Name, Address, Telephone Number, Fax Number, and Email Address.
- 1.05 Instructions:** Bidders shall refer to Document 00 2113 (Instructions to Bidders) for required documents and items to be submitted in a sealed envelope for deposit into the Bid Box, located at **City of Berkeley, Purchasing Manager's Office, Martin Luther King Jr. Civic Center, 2180 Milvia Street, Third Floor, Berkeley, CA 94704, Telephone (510) 981-7320** no later than the time and date set forth in Paragraph 1.01 above.
- 1.06 Mandatory Pre-Bid Site Visit:** City will conduct a Mandatory Pre-Bid Conference and Site Visit at 1900 Sixth Street. The location of work is open to the public during normal business or daylight hours. It is recommended that potential bidders visit the site independently to review site conditions prior to bid. City will conduct a Pre-Bid Conference and Site Visit at 1900 Sixth Street, at 2:00 P.M. on February 6, 2024
- 1.07 Bid Preparation Cost:** Bidders are solely responsible for the cost of preparing their Bids.
- 1.08 Reservation of Rights:** City specifically reserves the right, in its sole discretion, to reject any or all Bids, to re-bid, or to waive inconsequential defects in bidding not involving time, price or quality of the work. City may reject any and all Bids and waive any minor irregularities in the Bids.

ARTICLE 2 - LEGAL REQUIREMENTS

- 2.01 Required Contractor's License(s):** A California "B" contractor's license is required to bid this contract. Joint ventures must secure a joint venture license prior to award of this Contract. Specialty work may require a specialty contractor's license, held by Bidder or a listed subcontractor.
- 2.02 Bid Alternates:** Bid alternates are identified in Document 00 4113 (Bid Form). The determination of lowest bid shall be based upon: Base contract bid price only.
- 2.03 Substitution of Securities:** City will permit the successful bidder to substitute securities for any retention monies withheld to ensure performance of the contract, as set forth in Document 00 6290 Escrow Agreement For Security Deposits In Lieu Of Retention and incorporated herein in full by this reference, in accordance with Section 22300 of the California Public Contract Code.
- 2.04 Prevailing Wage Laws:** The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at <http://www.dir.ca.gov/oprl/pwd/> and are deemed included in the Bidding Documents. The successful Bidder shall post the applicable prevailing wage rates at the Site.
- 2.05 Community Workforce Agreement:** This contract will NOT be subject to the Community Workforce Agreement approved by the Berkeley City Council on June 23, 2015 (See Document 00 6580 – City of Berkeley Contracting Policies). The successful bidder and all subcontractors, at any tier, will NOT be required to sign an Agreement to be Bound as a condition precedent to entering into any contract for this project.
- 2.06 First Source Construction Agreement:** This contract will NOT be subject to the First Source Construction Agreement (See Document 00 6580 – City of Berkeley Contracting Policies).
- 2.07** This contract WILL be subject to Supplementary Conditions for Federal Funding. Section 00 7201.

END OF SECTION

DOCUMENT 00 5200**AGREEMENT**

THIS AGREEMENT, dated this [date] day of [Month], [20__], by and between whose place of business is located at ("Contractor"), and **City of Berkeley** ("City"), acting under and by virtue of the authority vested in Owner by the laws of the State of California.

SPECIFICATION NUMBER 21-11604-C**West Berkeley Service Center Improvement Project
at
1900 Sixth Street**

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Contractor and City agree as follows:

ARTICLE 1 – SCOPE OF WORK OF THE CONTRACT**1.01 WORK OF THE CONTRACT**

- A. Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract Documents (**Work**).

1.02 PRICE FOR COMPLETION OF THE WORK

- A. City shall pay Contractor the following Contract Sum for completion of Work in accordance with Contract Documents as follows: [HERE INSERT LUMP SUM, UNIT PRICES, OR CONTRACTOR'S BID IN WORDS AND NUMBERS]
- B. The Contract Sum includes all allowances (if any).

ARTICLE 2 – COMMENCEMENT AND COMPLETION OF WORK**2.01 COMMENCEMENT OF WORK**

- A. Contractor shall commence Work on the date established in the Notice to Proceed (**Commencement Date**).
- B. City reserves the right to modify or alter the Commencement Date.

2.02 COMPLETION OF WORK

- A. Contractor shall achieve Substantial Completion of the entire Work within **182** calendar days from the Commencement Date.
- B. Contractor shall achieve Final Completion of the entire Work **203** calendar days from the Commencement Date.

ARTICLE 3 – PROJECT REPRESENTATIVES**3.01 CITY'S PROJECT MANAGER**

- A. City has designated Titus Chen as its Project Manager to act as City's Representative in all matters relating to the Contract Documents.
- B. Project Manager shall have final authority over all matters pertaining to the Contract Documents and shall have sole authority to modify the Contract Documents on behalf of City, to accept work, and to make decisions or actions binding on City, and shall have sole signature authority on

behalf of City.

- C. City may assign all or part of the Project Manager’s rights, responsibilities and duties to a Construction Manager, or other City Representative.

3.02 CONTRACTOR’S PROJECT MANAGER

- A. Contractor has designated [redacted] or other] as its Project Manager to act as Contractor’s Representative in all matters relating to the Contract Documents.

3.03 ARCHITECT/ENGINEER

- A. **NOLL & TAM ARCHITECTS** furnished the Plans and Specifications and shall have the rights assigned to Architect/Engineer in the Contract Documents.
- B. Architect/Engineer has designated **Tom Beil** as its project manager, to act as its representative for receiving and making communications authorized under the Contract Documents.

ARTICLE 4 – LIQUIDATED DAMAGES FOR DELAY IN COMPLETION OF WORK

4.01 LIQUIDATED DAMAGE AMOUNTS

- A. As liquidated damages for delay, Contractor shall pay City four thousand two hundred dollars (\$4,200.00) for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.
- B. As liquidated damages for delay, Contractor shall pay City four thousand two hundred dollars (\$4,200.00) for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

4.02 SCOPE OF LIQUIDATED DAMAGES

- A. Measures of liquidated damages shall apply cumulatively.
- B. Limitations and stipulations regarding liquidated damages are set forth in Document 00 7200 (General Conditions).

ARTICLE 5 – CONTRACT DOCUMENTS

5.01 Contract Documents consist of the following documents, including all changes, Addenda, and Modifications thereto:

Document 00 5100	Notice of Award
Document 00 5200	Agreement
Document 00 5500	Notice to Proceed
Document 00 6113.13	Construction Performance Bond
Document 00 6113.16	Construction Labor and Material Payment Bond
Document 00 6536	Guaranty
Document 00 6530	Release of Claims
Document 00 6325	Substitution Request Form
Document 00 6290	Escrow Agreement for Security Deposits
Document 00 6580	City of Berkeley Contracting Policies
Document 00 7200	General Conditions
Document 00 7201	Supplementary Conditions
Document 00 7316	Supplementary Conditions – Insurance
Document 00 7319	Supplemental Conditions – Hazardous Materials
Document 00 7380	Apprenticeship Programs
Document 00 9113	Addenda [LIST ADDENDA ISSUED]

Specifications Divisions 1 through 9
 Maps, Drawings and Sketches listed in Document 00 0115

- 5.02** There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented as provided in Document 00 7200 (General Conditions).

ARTICLE 6 – CONTRACTOR’S REPRESENTATIONS

In order to induce City to enter into this Agreement, Contractor makes the following representations and warranties:

- 6.01** Contractor has visited the site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- 6.02** Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, identified in the Bid Documents, or which may appear in the Drawings, and accepts the determination set forth in these documents and Document 00 7200 General Conditions of the limited extent of the information contained in such reports and drawings upon which the Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in such reports and drawings.
- 6.03** Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Article 6.02 above) which pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the site or otherwise which may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, test, reports, studies or similar information or data are or will be required by Contractor for such purposes.
- 6.04** Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 6.05** Contractor has given the Project Manager prompt written notice of all conflicts, errors, ambiguities or discrepancies that it has discovered in or among the Contract Documents and as-built and actual conditions and the written resolution thereof through Addenda issued by Project Manager is acceptable to Contractor.

ARTICLE 7 – MISCELLANEOUS

- 7.01** Terms and abbreviations used in this Agreement are defined in Document 00 7200 (General Conditions) and Section 01 4200 (References and Definitions) and will have the meaning indicated therein.
- 7.02** It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of City or acting as an employee, agent, or representative of City, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of City is limited and confined to such liability as

authorized or imposed by the Contract Documents or applicable law.

- 7.03** In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body 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 public works contract or the subcontract. This assignment shall be made and become effective at the time City tenders final payment to Contractor, without further acknowledgment by the parties.
- 7.04** Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at Owner's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §§ 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees. Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code 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 Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.
- 7.05** No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.06** This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Alameda, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Alameda.

IN WITNESS WHEREOF the parties have executed this Agreement in triplicate the day and year first above written.

CITY OF BERKELEY

By: _____
City Manager

(Print Name)

By: _____
(Signature)

Its: _____
Title (If Corporation: Chairman, President
or Vice President)

Attest:
CITY OF BERKELEY

City Clerk

(Print Name)

By: _____
(Signature)

Its: _____
Title (If Corporation: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer)

Pre-approved as to form:
CITY ATTORNEY
8/2016

END OF DOCUMENT

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DOCUMENT 00 7317**SUPPLEMENTARY CONDITIONS – CITY OF BERKELEY CONTRACTING POLICIES****ARTICLE 1 – GENERAL****1.01 DESCRIPTION**

- A. This document includes requirements which supplement the sections of the General Conditions.

1.02 PROHIBITED DISCRIMINATION. The following paragraphs shall be added to the General Conditions as a new Article 16.A, and, with the additions set forth in paragraphs 1.03 through 1.08, below, shall constitute a new Section 16 of Document 00 7200, General Conditions, entitled “16: City of Berkeley Contracting Policies”.

“16. A PROHIBITED DISCRIMINATION: During prosecution of the Work to be done under the Contract, Contractor shall comply with the provisions of Berkeley Municipal Code (“B.M.C.”) Chapter 13.26, including, but not limited to, the following:

1. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.
2. Contractor shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, Contractor shall submit forms supplied by the City to monitor this non-discrimination provision.”

1.03 CONFLICTS OF INTEREST PROHIBITED. The following paragraphs shall be added to Document 00 7200, General Conditions, as a new Section:

“16. B CONFLICTS OF INTEREST PROHIBITED:

1. In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, neither Contractor nor any employee, officer, director, partner or member of Contractor or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of the Agreement.
2. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the Contractor, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Contractor.
 - a. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64.”

- 1.04** NUCLEAR FREE BERKELEY ORDINANCE. The following paragraphs shall be added to Document 00 7200, General Conditions, as a new Section:

“16. C NUCLEAR FREE BERKELEY ORDINANCE:

1. Contractor agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.”

- 1.05** CONTRACTUAL RELATIONS WITH PROHIBITED ENTITIES. The following paragraphs shall be added to Document 00 7200, General Conditions, as a new Section:

“16. D CONTRACTUAL RELATIONS WITH PROHIBITED ENTITIES

1. OPPRESSIVE STATES

- a. In accordance with Resolution No. 59,853-N.S. (Appendix 00812-A), Contractor certifies that it has no contractual relations with, and agrees during the term of this agreement to forego contractual relations to provide personal services to, the following entities:
 1. The governing regime in any Oppressive State.
 2. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
 3. Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.
- b. Appendix A to Resolution No. 59,853-N.S., and Resolution No. 60,382-N.S. and 70,606-N.S. designates the following as Oppressive States for the purposes of this Contract:
 1. Tibet Autonomous Region and the provinces of Abo, Kham, and U-Tsang; and Burma (Myanmar)
- c. Contractor’s failure to comply with this section shall constitute a default of this Contract and City may terminate the Contractor’s right to proceed with the Work pursuant to Document 00 7200, General Conditions, Article 14.05.
 1. In the event that the City terminates Contractor due to a default under this provision, City may deem Contractor a non-responsible bidder for five (5) years from the date this Contract is terminated.”

- 1.06** REQUIRED AND PROHIBITED WORK MATERIALS. The following paragraphs are added to Document 00 7200, General Conditions, as a new Section:

“16. E REQUIRED AND PROHIBITED WORK MATERIALS

1. RECYCLED PAPER

- a. If Contractor is required by this Agreement to prepare a written report or study, Contractor shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Agreement, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, Contractor shall use white paper. Written reports or studies prepared under this Agreement shall be printed on both sides of the page whenever practical.

TROPICAL HARDWOODS

- a. Contractor shall comply with the terms of Resolution No. 58,291-N.S. (Appendix 00812-B) prohibiting the use of any tropical hardwood or wood product, including, but not limited to, those enumerated in Resolution No. 58,291-N.S. Contractor must submit, with its bid, a statement Tropical Hardwood Disclosure form.
- b. Except as expressly permitted by the application of Sections 3.B and 4.B. of Resolution No. 58,291-N.S., Contractor shall not provide any items to the City in performance of this contract which are tropical hardwoods or tropical wood products.
- c. Contractor's failure to comply with this section shall constitute a default of this Agreement and Contractor agrees that City may take any of the following actions:
 1. terminate the Contractor's right to proceed with the Work pursuant to Document 00 7200, General Conditions, Article 14.05;
 2. withhold funds due the Contractor under any contract with the City;
 3. order revision of the Contract Documents based upon a material breach of Contract Documents provisions or pertaining to representations made in bidding, execution or performance of the Contract Documents;
 4. disqualify the Contractor from eligibility for providing commodities or services to the City for a period not to exceed five (5) years, with a right to review and reconsideration by the City after two (2) years upon a showing of corrective action, indicating violations are not likely to recur.
- d. Notwithstanding Article 4 of the Agreement, Contractor acknowledges and agrees that its failure to comply with this requirement justifies the imposition of liquidated damages in an amount equal to Contractor's net profit, or five percent (5%) of the total contract amount, whichever is greater.
 1. Liquidated damages under this provision shall be payable to the City upon demand and may be set off against any monies due to the Contractor from any contract with the City.

3. VIRGIN REDWOOD

- a. Contractor agrees to comply with the City Council's October 29, 1996, directive not to purchase virgin redwood for the prosecution of the work to be done under this Contract and in its place purchase and use:
 1. Redwood that has been previously used or;

2. Certified, sustainable-harvested redwood as the preferred alternative to virgin and non-certified redwood, and not pressure-treated lumber of other species as an alternative to redwood.”

4. TREATED WOOD

- a. Contractor shall comply with the terms of Resolution No. 61,724-N.S. (Appendix 00812-E) prohibiting the use of Pentachlorophenol, arsenic and creosote treated wood. No such wood shall be used by the contractor in this or any other City project without the express written consent of the City Council.

1.07 ~~COMMUNITY WORKFORCE AGREEMENT. The following paragraph shall be added to Document 00 7200 (General Conditions) as a new Section if the contract exceeds \$500,000.~~

~~“16.F COMMUNITY WORKFORCE AGREEMENT~~

- ~~1. Contractor and any subcontractor at any tier shall comply with the City’s Community Workforce Agreement set forth in the Appendix 00812-C.~~
 - ~~a. Under the Community Workforce Agreement, Contractor must sign and comply with the Agreement to be Bound prior to execution of the Contract.~~
 - ~~b. Subcontractors at any tier must also sign and comply with an Agreement to be Bound prior to execution of their respective subcontracts.~~
 - ~~c. The signing of an Agreement to be Bound is a condition precedent to entering into any contract for this project.”~~

1.08 EQUAL BENEFITS ORDINANCE. The following paragraph shall be added to Document 00 7200 (General Conditions) as a new Section:

“16.G EQUAL BENEFITS ORDINANCE:

1. Contractor hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29 (Appendix 00812-D). If Contractor is currently subject to the Berkeley Equal Benefits Ordinance, as indicated by the Equal Benefits Certification form, as contained in Document 00680, Contractor will be required to provide all eligible employees with City mandated equal benefits, as defined in B.M.C. Chapter 13.29, during the term of this contract, as well as comply with the terms enumerated herein.
2. If Contractor is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Contractor agrees to provide the City with all records the City deems necessary to determine compliance with this provision. These records are expressly subject to the auditing terms described in Document 00 7200, General Conditions, Article 8.02.
3. If Contractor fails to comply with the requirements of this Article, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.
 3. Contractor’s failure to comply with this Article shall constitute a material breach of the Contract, upon which City may terminate the Contractor’s right

to proceed with the Work pursuant to Document 00 7200, General Conditions, Article 14.05. In the event the City terminates the Contractor's right to proceed with the Work due to a default by Contractor under this Article, the City may deem Contractor a non-responsible bidder for not more than five (5) years from the date this Contract is terminated. In addition, at City's sole discretion, Contractor may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Contractor's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Contractor's breach. City may deduct any assessed liquidated damages from any payments otherwise due Contractor.

1.09 SANCTUARY CITY CONTRACTING: The following paragraph shall be added to Document 00 7200 (General Conditions) as a new Section:

"16. H SANCTUARY CITY ORDINANCE:

1. Contractor hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Contractor agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:
 - a. "Data Broker" means either of the following:
 - ii. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;
 - iii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
 - b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:
 - i. The City's computer-network health and performance tools;
 - ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer based activity."

SCHEDULE OF APPENDENCES
TO
MODIFICATIONS TO GENERAL CONDITIONS

Schedule of Exhibits: (the following Exhibits are on file at the Berkeley City Clerk's office and will be made available on request to any interested party)

- A. City Council Resolution No. 59,853-N.S. (Re: Oppressive States).
- B. City Council Resolution No. 58,291-N.S. (Re: Tropical Hardwoods).
- C. City Council Resolution No. 61,724-N.S. (Re: Treated Wood).
- D. Berkeley Municipal Code, Chapter 13.29, Equal Benefits Ordinance
- ~~E. Community Workforce Agreement and Agreement to be Bound for contract exceeding \$500,000. – Not applicable to this project.~~
- F. Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105.

END OF DOCUMENT