

**DOCUMENT 007200**

**GENERAL CONDITIONS**

	<u>Page</u>
ARTICLE 1 – INTERPRETATION OF CONTRACT DOCUMENTS.....	1
1.01 Interpretation Of Documents.....	1
1.02 Order Of Precedence Of Documents.....	1
ARTICLE 2 – PRE-BID INVESTIGATIONS.....	1
2.01 Pre-Bid Investigations Required.....	1
2.02 Limited Reliance Permitted On City’s Existing Conditions Data.....	2
2.03 Pre-Bid Investigation Requirements For Excavation And Utilities Relocation Projects.....	2
ARTICLE 3 – SUBCONTRACTORS.....	3
3.01 Subcontractor Listing Law.....	3
3.02 Subcontracts.....	3
ARTICLE 4 – DRAWINGS AND SPECIFICATIONS.....	3
4.01 Intent Of Drawings And Specifications.....	3
4.02 Checking Of Drawings And Specifications.....	3
4.03 Interpretation Of Drawings And Specifications.....	4
4.04 Use Of Drawings And Specifications.....	4
ARTICLE 5 – COMMENCEMENT OF THE WORK.....	4
5.01 Submission Of Required Schedules.....	4
5.02 Commencement Date Of Contract Time.....	5
ARTICLE 6 – CONTRACTOR’S ORGANIZATION AND EQUIPMENT.....	5
6.01 Contractor’s Legal Address.....	5
6.02 Contractor’s Superintendents Or Forepersons.....	5
6.03 Proficiency In English.....	5
6.04 Contractor’s And Subcontractors’ Employees.....	5
6.05 Contractor’s Use Of The Site.....	5
6.06 Contractor’s Site Office.....	6
ARTICLE 7 – City’S ADMINISTRATION OF WORK.....	6
7.01 City’s Representative(s).....	6
7.02 City’s Observation Of The Work.....	6
7.03 Architect/Engineer’s Observation Of Work.....	6
7.04 Owner’s And Architect/Engineer’s Exercise Of Contract Responsibilities.....	7
7.05 City’s Right Of Access To The Work.....	7
7.06 City’s Right Of Separate Construction.....	7
ARTICLE 8 – CONTRACTOR’S PROSECUTION AND PROGRESS OF THE WORK.....	7
8.01 Contractor To Supervise The Work.....	7
8.02 Contractor To Maintain Cost Data.....	8
8.03 Contractor To Supply Sufficient Workers And Materials.....	8
8.04 Contractor To Maintain Project Record Documents.....	9
8.05 Contractor To Not Disrupt City Operation.....	9
8.06 Contractor To Provide Temporary Facilities And Controls.....	9
ARTICLE 9 – WARRANTY, GUARANTY, AND INSPECTION OF WORK.....	9
9.01 Warranty And Guaranty.....	9
9.02 Inspection Of Work.....	10
9.03 Correction Of Defective Work.....	11
9.04 Acceptance And Correction Of Defective Work By City.....	12
9.05 Rights Upon Inspection, Correction Or Acceptance.....	12
9.06 Proof Of Compliance Of Contract Provisions.....	12
9.07 Correction Period And Project Warranty Period:.....	13
9.08 No Waiver.....	13

ARTICLE 10 – MODIFICATIONS OF CONTRACT DOCUMENTS..... 13

    10.01 City’s Right To Direct Changed Work..... 13

    10.02 Required Documentation For Changed Work..... 14

    10.03 Procedures And Pricing Of Changed Work ..... 14

ARTICLE 11 – TIME ALLOWANCES ..... 14

    11.01 Time Allowances ..... 14

    11.02 Excusable Delay And Inexcusable Delay Defined..... 14

    11.03 Notice Of Delay ..... 15

    11.04 Compensable Time Extensions ..... 15

    11.05 Non-Compensable Time Extensions ..... 15

    11.06 Adverse Weather ..... 15

    11.07 Liquidated Damages ..... 16

ARTICLE 12 – CLAIMS BY CONTRACTOR ..... 16

    12.01 Obligation to File Claims for Disputed Work ..... 16

    12.02 Form And Contents Of Claim..... 17

    12.03 Administration During/After Claim Submission ..... 17

    12.04 Compliance ..... 17

ARTICLE 13 – UNDERGROUND CONDITIONS ..... 18

    13.01 Contractor To Locate Underground Facilities. .... 18

    13.02 Contractor To Protect Underground Facilities. .... 18

    13.03 Concealed Or Unknown Conditions..... 19

    13.04 Notice Of Hazardous Waste Or Materials Conditions..... 20

ARTICLE 14 – LEGAL AND MISCELLANEOUS ..... 21

    14.01 Laws And Regulations ..... 21

    14.02 Permits And Taxes..... 21

    14.03 Communications And Information Distribution..... 21

    14.04 Suspension Of Work ..... 22

    14.05 Termination Of Contract For Cause..... 22

    14.06 Termination Of Contract For Convenience ..... 22

    14.07 Contingent Assignment Of Subcontracts ..... 23

    14.08 Remedies And Contract Integration..... 23

    14.09 Interpretation. .... 24

    14.10 Patents ..... 24

    14.11 Substitution For Patented And Specified Articles ..... 24

    14.12 Interest Of Public Officers ..... 25

    14.13 Limit Of Liability..... 25

ARTICLE 15 – WORKING CONDITIONS AND PREVAILING WAGES..... 25

    15.01 Use Of Site/Sanitary Rules ..... 25

    15.02 Protection Of Work, Persons, And Property ..... 25

    15.03 Responsibility For Safety And Health ..... 26

    15.04 Emergencies ..... 26

    15.05 Use Of Roadways And Walkways ..... 26

    15.06 Nondiscrimination..... 27

    15.07 Prevailing Wages And Working Hours..... 27

    15.08 Environmental Controls..... 28

    15.09 Shoring Safety Plan ..... 28

## GENERAL CONDITIONS

### ARTICLE 1 – INTERPRETATION OF CONTRACT DOCUMENTS

#### 1.01 Interpretation Of Documents

- A. Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- B. Individual Contract Documents subdivide at first level into Articles, and then into paragraphs.

#### 1.02 Order Of Precedence Of Documents

- A. In the case of discrepancy or ambiguity in the Contract Documents, the following order of precedence shall prevail:
  - 1. Modifications in inverse chronological order (i.e., most recent first), and in the same order as specific portions they are modifying;
  - 2. Agreement Forms (Document 00 5200), and terms and conditions referenced therein;
  - 3. Supplementary General Conditions (Document 00 7201 et seq), if included;
  - 4. General Conditions (Document 00 7200);
  - 5. Division 1 Specifications, if included;
  - 6. Drawings and Technical Specifications (Division 2 and above);
  - 7. Written numbers over figures, unless obviously incorrect;
  - 8. Figured dimensions over scaled dimensions;
  - 9. Large-scale Drawings over small-scale Drawings.
- B. Any conflict between Drawings and Technical Specifications (Division 2 and above) will be resolved in favor of the document of the latest date (i.e., the most recent document), and if the dates are the same or not determinable, then in favor of Specifications.
- C. Any conflict between a bill or list of materials shown in the Contract Documents and the actual quantities required to complete Work required by Contract Documents, will be resolved in favor of the actual quantities.
- D. All Technical Specifications included in the Project manual shall be included within the Contract Documents unless identified otherwise.

### ARTICLE 2 – PRE-BID INVESTIGATIONS

#### 2.01 Pre-Bid Investigations Required

- A. Prior to and as a condition of submitting a Bid and executing Document 00 5200 (Agreement), Contractor shall make reasonable efforts to investigate fully the Work of the Contract. Contractor shall visit the Site, examine thoroughly and understand fully the nature and extent of the Contract Documents, Work, Site, locality, actual conditions and as-built conditions.
- B. Contractor's investigation shall include, without limitation, requesting and thoroughly examining of all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, product specification(s) or reports, made available by City for contracting purposes or during Contractor's pre-bid investigations, of existing above ground and (to the extent applicable) below ground conditions (together, "Existing Conditions Data"), including, as applicable, Underground Facilities, geotechnical data, as-built data, utility surveys, record documents of all types, hazardous materials surveys, or similar materials which may appear or be referenced in the Project Manual or the in the Contract Documents, 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.
- C. Contractor's investigations shall consider fully the fact that Existing Conditions Data is in many cases based on information furnished to City by others (e.g., the prior owner or builders), and that due to their age or their chain of custody since preparation, may not meet current industry standards for accuracy. Contractor shall also: (i.) provide City with prompt written notice of all

conflicts, errors, ambiguities, or discrepancies of any type, that it discovered in or among the Contract Documents and the Existing Conditions Data, and (ii.) subject to City's approval, conduct any such additional or supplementary examinations, investigations, explorations, tests, studies and data compilations, concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which Contractor may deem necessary in order to perform and furnish the Work in accordance with the terms and conditions of Contract Documents.

- D. During performance of the Contract, Contractor will be charged with knowledge of all information that it should have learned in performing these pre-bid investigations and other obligations, and shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work.

## **2.02 Limited Reliance Permitted On City's Existing Conditions Data**

- A. Regarding aboveground and as-built conditions shown on the Contract Documents or supplied by City, such information has been compiled in good faith, however, City does not expressly or impliedly warrant or represent that such information is correctly shown or indicated, or otherwise complete for construction purposes. Contractor must independently verify such information as part of its pre-bid investigations, and where conditions are not reasonably verifiable or discrepancies are identified, bring such matters to City's attention through written question issued during the bid period. In executing Document 00 5200 (Agreement), Contractor shall rely on the results of its own independent investigation and shall not rely on City-supplied information regarding aboveground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.
- B. Regarding subsurface conditions other than Underground Facilities shown on the Contract Documents or otherwise supplied by City, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated in the Contract Documents. City is not responsible for the completeness of any subsurface condition information, Contractor's conclusions or opinions drawn from any subsurface condition information, or subsurface conditions that are not specifically shown. (For example, City is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown.)

## **2.03 Pre-Bid Investigation Requirements For Excavation And Utilities Relocation Projects**

- A. As part of its pre-bid investigations for Projects involving excavation and/or relocation of existing utilities, Contractor shall make reasonable efforts to verify information regarding Underground Facilities, including but not limited to, requesting additional information or verification of information as necessary.
- B. Because of the nature and location of City and the Project, the existence of Underground Facilities is deemed inherent in the Work of the Contract, as is the fact that Underground Facilities are not always accurately shown or completely shown on as-built records, both as to their depth and location. Contractor shall, therefore, take care to note the existence and potential existence of Underground Facilities, in particular, above and below grade structures, drainage lines, storm drains, sewers, water, gas, electrical, chemical, hot water, and other similar items and utilities. Contractor shall carefully consider all supplied information, request additional information Contractor may deem necessary, and visually inspect the Site for above ground indications of Underground Facilities (such as, for example not by way of limitation, the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site). Contractor shall also consider local underground conditions and typical practices for Underground Facilities, either through its own direct knowledge or through its subcontractors, and fully consider this knowledge in assessing the existing information and the reasonableness of its reliance.

**ARTICLE 3 – SUBCONTRACTORS****3.01 Subcontractor Listing Law**

- A. Contractor shall comply with the Subcontractor Listing law, California Public Contract Code §§4101 et seq. Contractor shall not substitute any other person or firm in place of any Subcontractor listed in the Bid except as may be allowed by law.
- B. Subcontractors shall not assign or transfer their subcontracts or permit them to be performed by any other contractor without City's written approval. At City's request, Contractor shall provide City with a complete copy of all executed subcontracts or final commercial agreements with Subcontractors and/or suppliers.

**3.02 Subcontracts**

- A. Subcontract agreements shall preserve and protect the rights of City under the Contract Documents so that subcontracting will not prejudice such rights. To the extent of the Work to be performed by a Subcontractor, Contractor shall require the Subcontractor's written agreement (1) to be bound to the terms of Contract Documents and (2) to assume vis-à-vis Contractor all the obligations and responsibilities that Contractor assumes toward City under the Contract Documents. (These agreements include for example, and not by way of limitation, all warranties, claims procedures and rules governing submittals of all types to which Contractor is subject under the Contract Documents.)
- B. Contractor shall provide for the assignment to City of all rights any Subcontractor (of any tier) may have against any manufacturer, supplier, or distributor for breach of warranties and guarantees relating to the Work performed by the Subcontractor under the Contract Documents. Subcontracts shall provide and acknowledge City as an intended third-party beneficiary of each subcontract and supply contract (of any tier).

**ARTICLE 4 – DRAWINGS AND SPECIFICATIONS****4.01 Intent Of Drawings And Specifications**

- A. Contractor shall interpret words or phrases used to describe Work (including services), materials, or equipment that have well-known technical or construction industry or trade meaning in accordance with that meaning. Drawings' intent specifically includes the intent to depict construction that complies with all applicable laws, codes and standards.
- B. As part of the "Work," Contractor shall provide all labor, materials, equipment, machinery, tools, facilities, services, employee training and testing, hoisting facilities, Shop Drawings, storage, testing, security, transportation, disposal, the securing of all necessary or required field dimensions, the cutting or patching of existing materials, notices, permits, documents, reports, agreements and any other items required or necessary to timely and fully complete Work described and the results intended by Contract Documents and, in particular, Drawings and Specifications. Divisions and Specification Sections and the identification on any Drawings shall not control Contractor in dividing Work among Subcontractors or suppliers or delineating the Work to be performed by any specific trade.
- C. Contractor shall perform reasonably implied parts of Work as "incidental work" although absent from Drawings and Specifications. Incidental work includes any work not shown on Drawings or described in Specifications that is necessary or normally or customarily required as a part of the Work shown on Drawings or described in Specifications. Incidental work includes any work necessary or required to make each installation satisfactory, legally operable, functional, and consistent with the intent of Drawings and Specifications or the requirements of Contract Documents. Contractor shall perform incidental work without extra cost to City. Incidental work shall be treated as if fully described in Specifications and shown on Drawings, and the expense of incidental work shall be included in price Bid and Contract Sum.

**4.02 Checking Of Drawings And Specifications**

- A. Before undertaking each part of Work, Contractor shall carefully study and compare Contract Documents and check and verify pertinent figures shown in the Contract Documents and all

applicable field measurements. Contractor shall be responsible for any errors that might have been avoided by such comparison. Figures shown on Drawings shall be followed; Contractor shall not scale measurements. Contractor shall promptly report to City, in writing, any conflict, error, ambiguity or discrepancy that Contractor may discover. Contractor shall obtain a written interpretation or clarification from City before proceeding with any Work affected thereby. Contractor shall provide City with a follow-up correspondence every ten calendar days until it receives a satisfactory interpretation or clarification.

#### **4.03 Interpretation Of Drawings And Specifications**

- A. A typical or representative detail on Drawings shall constitute the standard for workmanship and material throughout corresponding parts of Work. Where necessary, and where reasonably inferable from Drawings, Contractor shall adapt such representative detail for application to such corresponding parts of Work. The details of such adaptation shall be subject to prior approval by City. Repetitive features shown in outline on Drawings shall be in exact accordance with corresponding features completely shown.
- B. Should any discrepancy appear or any misunderstanding arise as to the import of anything contained in Drawings and Specifications, or should Contractor have any questions or requests relating to Drawings or Specifications, Contractor shall refer the matter to City, in writing, with a copy to the Architect/Engineer. City will issue with reasonable promptness written responses, clarifications or interpretations as City may determine necessary, which shall be consistent with the intent of and be reasonably inferable from Contract Documents. Such written clarifications or interpretations shall be binding upon Contractor. If Contractor believes that a written response, clarification or interpretation justifies an adjustment in the Contract Sum or Contract Time, Contractor shall give City prompt written notice. If the parties are unable to agree to the amount or extent of the adjustment, if any, then Contractor shall perform the Work in conformance with City's response, clarification, or interpretation and may make a written claim for the adjustment as provided in Article 12.
- C. The following general specifications shall apply wherever in the Specifications, or in any directions given by City in accordance with or supplementing Specifications, it is provided that Contractor shall furnish materials or manufactured articles or shall do Work for which no detailed specifications are shown. Materials or manufactured articles shall be of the best grade, in quality and workmanship, obtainable in the market from firms of established good reputation. If not ordinarily carried in stock, the materials or manufactured articles shall conform to industry standards for first class materials or articles of the kind required, with due consideration of the use to which they are to be put. Work shall conform to the usual standards or codes, such as those cited herein, for first class work of the kind required. Contractor shall specify in writing to City the materials to be used or Work to be performed under this Paragraph ten Business Days prior to furnishing such materials or performing such Work.

#### **4.04 Use Of Drawings And Specifications.**

- A. Drawings, Specifications and other Contract Documents were prepared for use for Work of Contract Documents only. No part of Contract Documents shall be used for any other construction or for any other purpose except with the written consent of City. Any unauthorized use of Contract Documents is prohibited and at the sole liability of the user.

### **ARTICLE 5 – COMMENCEMENT OF THE WORK**

#### **5.01 Submission Of Required Schedules**

- A. Contractor shall submit to City in draft for review and discussion at the Preconstruction Conference, and in final prior to the first payment application, the following schedules:
  - 1. Schedule of Values
  - 2. Progress Schedule, and
  - 3. Schedule of Submittals.
- B. No progress payment shall be due or owing to Contractor until such schedules are submitted to and acceptable to City and/or Architect/Engineer as meeting the requirements of the Contract

Documents. In City's sole discretion, City may elect to instead withhold a portion of any progress payment for unacceptable compliance with contract requirements for such schedules.

- C. City's acceptance of Contractor's schedules will not create any duty of care or impose on City any responsibility for the sequencing, scheduling or progress of Work nor will it interfere with or relieve Contractor from Contractor's full responsibility therefore.

#### **5.02 Commencement Date Of Contract Time**

- A. The Contract Time will commence to run on the 60th Day after the issuance of the Notice of Award or, if a Notice to Proceed is given, on the date indicated in the Notice to Proceed.
- B. City may give a Notice to Proceed at any time within 60 calendar days after the Notice of Award. Contractor shall not do any Work at the Site prior to the date on which the Contract Time commences to run.

### **ARTICLE 6 – CONTRACTOR'S ORGANIZATION AND EQUIPMENT**

#### **6.01 Contractor's Legal Address**

- A. Address and facsimile number given in Contractor's Bid are hereby designated as Contractor's legal address and facsimile number. Contractor may change its legal address and facsimile number by notice in writing, delivered to City, which in conspicuous language advises City of a change in legal address or facsimile number, and which City accepts in writing. Delivery to Contractor's legal address or depositing in any post office or post office box regularly maintained by the United States Postal Service, in a wrapper with postage affixed, directed to Contractor at legal address, or of any drawings, notice, letter or other communication, shall be deemed legal and sufficient service thereof upon Contractor. Facsimile to Contractor's designated facsimile number of any letter, memorandum, or other communication on standard or legal sized paper, with proof of facsimile transmission, shall be deemed legal and sufficient service thereof upon Contractor.

#### **6.02 Contractor's Superintendents Or Forepersons**

- A. Contractor shall at all times be represented on Site by one or more superintendents or forepersons authorized and competent to receive and carry out any instructions that City may give, and shall be liable for faithful observance of instructions delivered to Contractor or to authorized representative or representatives on Site.

#### **6.03 Proficiency In English**

- A. Supervisors, security guards, safety personnel and employees who have unescorted access to the Site shall possess proficiency in the English language in order to understand, receive and carry out oral and written communications or instructions relating to their job functions, including safety and security requirements.

#### **6.04 Contractor's And Subcontractors' Employees**

- A. Contractor shall employ, and shall permit its Subcontractors to employ, only competent and skillful personnel to do Work. If City notifies Contractor that any of its employees, or any of its Subcontractors' employees on Work is incompetent, unfaithful, disorderly or profane, or fails to observe customary standards of conduct or refuses to carry out any provision of the Contract Documents, or uses threatening or abusive language to any person on Work representing City, or violates sanitary rules, or is otherwise unsatisfactory, and if City requests that such person be discharged from Work, then Contractor or its Subcontractor shall immediately discharge such person from Work and the discharged person shall not be re-employed on the Work except with consent of City.

#### **6.05 Contractor's Use Of The Site**

- A. Contractor shall not make any arrangements with any person to permit occupancy or use of any land, structure or building within the limits of the Work, for any purpose whatsoever, either with or without compensation, in conflict with any agreement between City and any owner, former owner

or tenant of such land, structure or buildings. Contractor may not occupy City-owned property outside the limit of the Work as indicated on the Drawings unless it obtains prior approval from City.

#### **6.06 Contractor's Site Office**

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide a site office staffed by a resident project manager or job superintendent.

### **ARTICLE 7 – CITY'S ADMINISTRATION OF WORK**

#### **7.01 City's Representative(s)**

- A. City's Representative(s) will have limited authority to act on behalf of City as set forth in the Contract Documents.
- B. Except as otherwise provided in these Contract Documents or subsequently identified in writing by City, City will issue all communications to Contractor through City's Representative, and Contractor shall issue all communications to City through City's Representative in a written document delivered to City.
- C. Should any direct communications between Contractor and City's consultants, architects or engineers not identified in Article 2 of Document 00 5200 (Agreement) occur during field visits or by telephone, Contractor shall immediately confirm them in a written document copied to City.

#### **7.02 City's Observation Of The Work**

- A. Work shall be performed under City's general observation and administration. Contractor shall comply with City's directions and instructions in accordance with the terms of Contract Documents, but nothing contained in these General Conditions shall be taken to relieve Contractor of any obligations or liabilities under the Contract Documents. City's failure to review or, upon review, failure to object to any aspect of Work reviewed, shall not be deemed a waiver or approval of any non-conforming aspect of Work.
- B. Subject to those rights specifically reserved in the Contract Documents, City will not supervise, or direct, or have control over, or be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or Contractor's failure to comply with laws and regulations applicable to the furnishing or performance of Work. City will not be responsible for Contractor's failure to perform or furnish the Work in accordance with Contract Documents.

#### **7.03 Architect/Engineer's Observation Of Work**

- A. City may engage an Architect/Engineer, an independent consultant or Project Manager (collectively for purposes of this Paragraph, "Project Manager/Architect") to assist in administering the Work. If so engaged, Project Manager/Architect will advise and consult with City, but will have authority to act on behalf of City only to extent provided in the Contract Documents or as set forth in writing by City. Project Manager/Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with Work. Project Manager/Architect will not be responsible for or have control over the acts or omissions of Contractor, Subcontractors or their agents or employees, or any other persons performing Work.
- B. Project Manager/Architect may review Contractor's Submittals, such as Shop Drawings, Product Data, and Samples, but only for conformance with design concept of Work and with information given in the Contract Documents.
- C. Project Manager/Architect may visit the Site at intervals appropriate to stage of construction to become familiar generally with the progress and quality of Work and to determine in general if Work is proceeding in accordance with Contract Documents. Based on its observations, Project Manager/Architect may recommend to City that it disapproves or rejects Work that Project Manager/Architect believes to be Defective or will not produce a complete Project that conforms to Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by Contract Documents. City will also have authority

to require special inspection or testing of Work, whether or not the Work is fabricated, installed or completed.

- D. Project Manager/Architect may conduct inspections to recommend to City the dates that Contractor has achieved Substantial Completion and Final Acceptance, and will receive and forward to City for review written warranties and related documents required by Contract Documents.

#### **7.04 Owner's And Architect/Engineer's Exercise Of Contract Responsibilities**

- A. City, Project Manager, Architect/Engineer and all City's representatives, in performing their duties and responsibilities under the Contract Documents, accept no duties, responsibilities or duty of care, nor may the same be implied or inferred, towards Contractor, any Subcontractor, sub-Subcontractor or supplier, except those set forth expressly in the Contract Documents.

#### **7.05 City's Right Of Access To The Work**

- A. During performance of Work, City and its agents, consultants, and employees may at any time enter upon Work, shops or studios where any part of the Work may be in preparation, or factories where any materials for use in Work are being or are to be manufactured, and Contractor shall provide proper and safe facilities for this purpose, and shall make arrangements with manufacturers to facilitate inspection of their processes and products to such extent as City's interests may require. Other contractors performing work for City may also enter upon Work for all purposes required by their respective contracts. Subject to the rights reserved in the Contract Documents, Contractor shall have sole care, custody, and control of the Site and its Work areas.

#### **7.06 City's Right Of Separate Construction**

- A. City may perform with its own forces, construction or operations related to the Project, or the Site during Contractor's operations. City may also award separate contracts in connection with other portions of the Project or other construction or operations, on the Site or areas contiguous to the Site, under conditions similar to these Contract Documents, or may have utility owners perform other work.
- B. Contractor shall adjust its schedule and fully coordinate with and shall afford all other contractors, utility districts and City (if City is performing work with its own forces), proper and safe access to the Site, and reasonable opportunity for the installation and storage of their materials. Contractor shall ensure that the execution of its Work properly connects and coordinates with others' work, do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work, and shall cooperate with them to facilitate the progress of the Work.
- C. To the extent that any part of Contractor's Work is to interface with work performed or installed by other contractors or utility owners, Contractor shall inspect and measure the in-place work. Contractor shall promptly report to City in writing any defect in in-place work that will impede or increase the cost of Contractor's interface unless corrected.

### **ARTICLE 8 – CONTRACTOR'S PROSECUTION AND PROGRESS OF THE WORK**

#### **8.01 Contractor To Supervise The Work**

- A. Subject to those rights specifically reserved in the Contract Documents, Contractor shall supervise, direct, have control over, and be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, safety precautions and programs incident thereto, and compliance with laws and regulations applicable to the furnishing or performance of Work.
- B. Contractor shall keep on the Site at all times during Work progress a competent resident Superintendent, who shall not be replaced without City's express written consent. The Superintendent shall be Contractor's representative at the Site and shall have complete authority to act on behalf of Contractor. All communications to and from the Superintendent shall be as binding as if given to or by Contractor.
- C. Contractor shall supervise, inspect, and direct Work competently and efficiently, devoting the

attention and applying such personal skills and expertise as may be required and necessary to perform Work in accordance with Contract Documents. Contractor shall be solely responsible for and have control and charge of construction means, methods, techniques, sequences and procedures, safety precautions and programs in connection with the Work. Contractor shall be responsible to see that the completed Work complies accurately with Contract Documents.

- D. Contractor is fully responsible for Contractor's own acts and omissions. Contractor is responsible for all acts and omissions of its Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work, labor, materials, or equipment under a direct or indirect contract with Contractor.
- E. Contractor shall conduct monthly Contractor Safety Committee meetings, and weekly toolbox safety talks.

### **8.02 Contractor To Maintain Cost Data**

- A. Contractor shall maintain full and correct information as to the number of workers employed in connection with each subdivision of Work, the classification and rate of pay of each worker in form of certified payrolls, the cost to Contractor of each class of materials, tools and appliances used by Contractor in Work, and the amount of each class of materials used in each subdivision of Work. Contractor shall provide City with monthly summaries of this information. If Contractor maintains or is capable of generating summaries or reports comparing actual Project costs with Bid estimates or budgets, Contractor shall provide City with a copy of such report upon City's request.
- B. Contractor shall maintain daily job reports recording all significant activity on the job, including the number of workers on Site, Work activities, problems encountered and delays. Contractor shall provide City with copies for each Day Contractor works on the Project, to be delivered to City either the same Day or the following morning before starting work at the Site. Contractor shall take pre-construction and monthly progress photographs of all areas of the Work. Contractor shall maintain copies of all correspondence with Subcontractors and records of meetings with Subcontractors.
- C. City shall have the right to audit and copy Contractor's books and records of any type, nature or description relating to the Project (including but not limited to financial records reflecting in any way costs claimed on the Project), and to inspect the Site, including Contractor's trailer, or other job Site office, and this requirement shall be contained in the subcontracts of Subcontractors working on Site. By way of example, City shall have the right to inspect and obtain copies of all Contract Documents, planning and design documents, Bid proposal and negotiation documents, cost records and job cost variance reports, design modification proposals, value engineering or other cost reduction proposals, revisions made to the original design, job progress reports, photographs, and as-built drawings maintained by Contractor. City and any other applicable governmental entity shall have the right to inspect all information and documents maintained hereunder at any time during the Project and for a period of five years following Final Completion, in accordance with the provisions of Section 8546.7 of the California Government Code. This right of inspection shall not relieve Contractor of its duties and obligations under the Contract Documents. This right of inspection shall be specifically enforceable in a court of law, either independently or in conjunction with enforcement of any other rights in the Contract Documents.

### **8.03 Contractor To Supply Sufficient Workers And Materials**

- A. Unless otherwise required by City under the terms of Contract Documents, Contractor shall at all times keep on the Site materials and employ qualified workers sufficient to prosecute Work at a rate and in a sequence and manner necessary to complete Work within the Contract Time. This obligation shall remain in full force and effect notwithstanding disputes or claims of any type.
- B. At any time during progress of Work should Contractor directly or indirectly (through Subcontractors) refuse, neglect, or be unable to supply sufficient materials or employ qualified workers to prosecute the Work as required, then City may require Contractor to accelerate the Work and/or furnish additional qualified workers or materials as City may consider necessary, at no cost to City. If Contractor does not comply with the notice within three Business Days of date of service thereof, City shall have the right (but not a duty) to provide materials and qualified

workers to finish the Work or any affected portion of Work, as City may elect. City may, at its discretion, exclude Contractor from the Site, or portions of the Site or separate work elements during the time period that City exercises this right. City will deduct from moneys due or which may thereafter become due under the Contract Documents, the sums necessary to meet expenses thereby incurred and paid to persons supplying materials and doing Work. City will deduct from funds or appropriations set aside for purposes of Contract Documents the amount of such payments and charge them to Contractor as if paid to Contractor. Contractor shall remain liable for resulting delay, including liquidated damages and indemnification of City from claims of others.

- C. Exercise by City of the rights conferred upon City in this subparagraph is entirely discretionary on the part of City. City shall have no duty or obligation to exercise the rights referred to in this subparagraph and its failure to exercise such rights shall not be deemed an approval of existing Work progress or a waiver or limitation of City's right to exercise such rights in other concurrent or future similar circumstances. (The rights conferred upon City under this subparagraph are, like all other such rights, cumulative to City's other rights under any provision of the Contract Documents.)

#### **8.04 Contractor To Maintain Project Record Documents**

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to City for reference. Upon completion of the Work, Contractor shall deliver to City, the Project Record Documents, Samples and Shop Drawings and as-built drawings.
- B. Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittal; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to City. At the completion of the Project, Contractor shall deliver all such records to the City to have a complete set of record as-built drawings.

#### **8.05 Contractor To Not Disrupt City Operation**

- A. Contractor shall schedule and execute all Work in a manner that does not interfere with or disrupt City operations, including but not limited to, parking, utilities (electricity, gas, water), noise, access by employees and administration, access by vendors, physicians, patients and any other person or entity using City facilities or doing business with City. Contractor shall produce and supply coordination plans and requests to City, following City procedures, for all necessary interference of construction with City, which City will reasonably cooperate with.

#### **8.06 Contractor To Provide Temporary Facilities And Controls**

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide all temporary utilities (including without limitation electricity, water, natural gas), lighting, heating, cooling and ventilating devices, telephone, sanitary facilities, barriers, fences and enclosures, tree and plant protection, fire protection, pollution, erosion, Storm Water Pollution Prevention controls, noise and traffic control, and any other necessary services required for construction, testing or completion of the Work.

### **ARTICLE 9 – WARRANTY, GUARANTY, AND INSPECTION OF WORK**

#### **9.01 Warranty And Guaranty**

- A. General Representations and Warranties: Contractor represents and warrants that it is and will

be at all times fully qualified and capable of performing every Phase of the Work and to complete Work in accordance with the terms of Contract Documents. Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices and all requirements of Contract Documents. Contractor warrants that Work, including but not limited to each item of materials and equipment incorporated therein, shall be new, of suitable grade of its respective kind for its intended use, and free from defects in design, engineering, materials, construction and workmanship.

Contractor warrants that Work shall conform in all respects with all applicable requirements of federal, state and local laws, applicable construction codes and standards, licenses, and permits, Drawings and Specifications and all descriptions set forth therein, and all other requirements of Contract Documents. Contractor shall not be responsible, however, for the negligence of others in the specification of specific equipment, materials, design parameters and means or methods of construction where that is specifically shown and expressly required by Contract Documents.

- B. Extended Guarantees: Any guarantee exceeding one year provided by the supplier or manufacturer of any equipment or materials used in the Project shall be extended for such term. Contractor expressly agrees to act as co-guarantor of such equipment and materials and shall supply City with all warranty and guarantee documents relative to equipment and materials incorporated in the Project and guaranteed by their suppliers or manufacturers.
- C. Environmental and Toxics Warranty: The covenants, warranties and representations contained in this Paragraph are effective continuously during Contractor's Work on the Project and following cessation of labor for any reason including, but not limited to, Project completion. Contractor covenants, warrants and represents to City that:
  - 1. To Contractor's knowledge after due inquiry, no lead or Asbestos-containing materials were installed or discovered in the Project at any time during Contractor's construction thereof. If any lead or Asbestos-containing materials were discovered, Contractor made immediate written disclosure to City.
  - 2. To Contractor's knowledge after due inquiry, no electrical transformers, light fixtures with ballasts or other equipment containing PCBs are or were located on the Project at any time during Contractor's construction thereof.
  - 3. To Contractor's knowledge after due inquiry, no storage tanks for gasoline or any other toxic substance are or were located on the Project at any time during Contractor's construction thereof. If any such materials were discovered, Contractor made immediate written disclosure to City.
  - 4. Contractor's operations concerning the Project are and were not in violation of any applicable environmental federal, state, or local statute, law or regulation dealing with hazardous materials substances or toxic substances and no notice from any governmental body has been served upon Contractor claiming any violation of any such law, ordinance, code or regulation, or requiring or calling attention to the need for any Work, repairs, construction, alteration, or installation on or in connection with the Project in order to comply with any such laws, ordinances, codes, or regulations, with which Contractor has not complied. If there are any such notices with which Contractor has complied, Contractor shall provide City with copies thereof.

## 9.02 Inspection Of Work

- A. Work and materials, and manufacture and preparation of materials, from beginning of construction until Final Completion and acceptance of Work, shall be subject to inspection and rejection by City, its agents, representatives or independent contractors retained by City to perform inspection services, or governmental agencies with jurisdictional interests. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and program so that they may comply therewith as applicable. Upon request or where specified, City shall be afforded access for inspection at the source of supply, manufacture or assembly of any item of material or equipment, with reasonable accommodations supplied for making such inspections.
- B. Contractor shall furnish, in such quantities and sizes as may be required for proper examination and tests, Samples or test specimens of all materials to be used or offered for use in connection

with Work. Contractor shall prepare Samples or test specimens at its expense and furnish them to City. Contractor shall submit all Samples in ample time to enable City to make any necessary tests, examinations, or analyses before the time it is desired to incorporate the material into the Work.

- C. Contractor shall give City timely notice of readiness of Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- D. If applicable laws or regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, and furnish City with the required certificates of inspection, or approval. City will pay the cost of initial testing and Contractor shall pay all costs in connection with any follow-up or additional testing. Contractor shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for the acceptance of materials or equipment to be incorporated in the Work, or of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
- E. If Contractor covers any Work, or the work of others, prior to any required inspection, test or approval without written approval of City, Contractor shall uncover the Work at City's request. Contractor shall bear the expense of uncovering Work and replacing Work. In any case where Contractor covers Work contrary to City's request, Contractor shall uncover Work for City's observation or inspection at City's request. Contractor shall bear the cost of uncovering Work.
- F. Whenever required by City, Contractor shall furnish tools, labor and materials necessary to make examination of Work that may be completed or in progress, even to extent of uncovering or taking down portions of finished Work. Should Work be found unsatisfactory, cost of making examination and of reconstruction shall be borne by Contractor. If Work is found to be satisfactory, City, in manner herein prescribed for paying for alterations, Modifications, and extra Work, except as otherwise herein specified, will pay for examination.
- G. Inspection of the Work by or on behalf of City, or City's failure to do so, shall not under any circumstances be deemed a waiver or approval of any non-conforming aspect of the Work. Contractor shall have an absolute duty, in the absence of a written Change Order signed by City, to perform Work in conformance with the Contract Documents and to immediately correct Defective Work immediately upon Contractor's knowledge.
- H. Any inspection, evaluation, or test performed by or on behalf of City relating to the Work is solely for the benefit of City, and shall not be relied upon by Contractor. Contractor shall not be relieved of the obligation to perform Work in accordance with the Contract Documents, nor relieved of any guaranty, warranty, or other obligation, as a result of any inspections, evaluations, or tests performed by City, whether or not such inspections, evaluations, or tests are permitted or required under the Contract Documents. Contractor shall be solely responsible for testing and inspecting Work already performed to determine whether such Work is in proper condition to receive later Work.

### **9.03 Correction Of Defective Work**

- A. City may direct Contractor to correct any Defective Work or remove it from the Site and replace it with Work that is not Defective and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting from the correction or removal. Contractor shall be responsible for any and all claims, costs, losses and damages caused by or resulting from such correction or removal. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, City may decide the proper amount or, in its discretion may elect to leave the Contract Sum unchanged and deduct from monies due Contractor, all such claims, costs, losses and damages caused by or resulting from the correction or removal. If Contractor disagrees with City's calculations, it may make a claim as provided in Article 12 of this Document 00 7200. City's rights under this Paragraph shall be in addition to any other rights it may have under the Contract Documents or by law.

- B. If Contractor fails to supply sufficient skilled workers, suitable materials or equipment, or to furnish or perform the Work in such a way that the completed Work will conform to Contract Documents, City may order Contractor to replace any such Defective Work, or stop any portion of Work to permit City (at Contractor's expense) to replace such Defective Work. These City rights are entirely discretionary on the part of City, and shall not give rise to any duty on the part of City to exercise the rights for the benefit of Contractor or any other party.

#### **9.04 Acceptance And Correction Of Defective Work By City**

- A. City may in its sole discretion elect to accept Defective Work. Contractor shall pay all claims, costs, losses and damages attributable to City's evaluation of and determination to accept such Defective Work. If City accepts any Defective Work prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, City may deduct from monies due Contractor, all claims, costs, losses, damages, expenses and liabilities attributable to the Defective Work. If Contractor disagrees with City's calculations, Contractor may make a claim as provided in Article 12 of this Document 00 7200. If City accepts any Defective Work after final payment, Contractor shall pay to City, an appropriate amount as determined by City.
- B. City may correct and remedy deficiency if, after five calendar days' written notice to Contractor, Contractor fails to correct Defective Work or to remove and replace rejected Work; or provide a plan for correction of Defective Work acceptable to City; or perform Work in accordance with Contract Documents. In connection with such corrective and remedial action, City may exclude Contractor from all or part of the Site; take possession of all or part of Work and suspend Contractor's Work related thereto; take possession of all or part of Contractor's tools, appliances, construction equipment and machinery at the Site; and incorporate in Work any materials and equipment stored at the Site or for which City has paid Contractor but which are stored elsewhere. Contractor shall allow City, its representatives, agents, employees, and other contractors and Project Manager/Architect's consultants' access to the Site to enable City to exercise the rights and remedies under this Paragraph. Contractor shall be responsible for all claims, costs, losses, damages, expenses and liabilities incurred or sustained by City in exercising such rights and remedies. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, City may deduct from moneys due Contractor, all claims, costs, losses and damages caused by or resulting from the correction or removal. If Contractor disagrees with City's calculations, Contractor may make a claim as provided in Article 12.

#### **9.05 Rights Upon Inspection, Correction Or Acceptance**

- A. Contractor shall not be allowed an extension of Contract Time because of any delay in the performance of Work attributable to the exercise by City of its rights and remedies under this Article. Where City exercises its rights under this Article, it retains and may still exercise all other rights it has by law or under the Contract Documents including, but not limited to, the right to terminate Contractor's right to proceed with the Work under the Contract Documents for cause and/or make a claim or back charge where a Change Order cannot be agreed upon.
- B. Inspection by City or its authorized agents or representatives shall not relieve Contractor of its obligation to have furnished material and workmanship in accordance with Contract Documents. Payment for Work completed through periodic progress payments, final payment or otherwise shall not operate to waive City's right to require full compliance with Contract Documents and shall in no way be deemed as acceptance of any defective Work paid therefor. Contractor's obligation to complete the Work in accordance with Contract Documents shall be absolute, unless City agrees otherwise in writing.

#### **9.06 Proof Of Compliance Of Contract Provisions**

- A. In order that City may determine whether Contractor has complied or is complying with requirements of Contract Documents not readily enforceable through inspection and tests of

Work and materials, Contractor shall at any time, when requested, submit to City properly authenticated documents or other satisfactory proofs of compliance with all applicable requirements.

- B. Before commencing any portion of Work, Contractor shall inform City in writing as to time and place at which Contractor wishes to commence Work, and nature of Work to be done, in order that proper provision for inspection of Work may occur, and to assure measurements necessary for record and payment. Information shall be given to City a reasonable time in advance of time at which Contractor proposes to begin Work, so that City may complete necessary preliminary work without inconvenience or delay to Contractor.

#### **9.07 Correction Period And Project Warranty Period:**

- A. If within one year after the date of Final Acceptance, or such longer period of time as may be prescribed by laws, regulations or by the terms of Contract Documents or any extended warranty or guaranty, any Work (completed or incomplete) is found to be Defective, Contractor shall promptly without cost to City and in accordance with City's written instructions, correct such Defective Work. Contractor shall remove any Defective Work rejected by City and replace it with Work that is not Defective, and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, City may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, City shall have all rights and remedies granted by law.
- B. In special circumstances where a part of the Work is occupied or a particular item of equipment is placed in continuous service before Final Acceptance of all the Work, the correction period for that part of Work or that item may start to run from an earlier date if so provided by Change Order.
- C. Where Defective Work or rejected Work (and damage to other Work resulting therefrom) has been corrected, removed, or replaced under this provision after the commencement of the correction period, the correction period hereunder with respect to such Work shall be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

#### **9.08 No Waiver**

- A. Neither recordation of Final Acceptance nor final certificate for payment nor provision of the Contract nor partial or entire use or occupancy of premises by City shall constitute acceptance of Work not done in accordance with Contract Documents nor relieve Contractor of liability in respect to express warranties or responsibility for faulty materials or workmanship.
- B. If, after installation, operation, or use of materials or equipment to be provided under Contract proves to be unsatisfactory to City, City shall have right to operate and use materials or equipment until said materials and equipment can, without damage to City, be taken out of service for correction or replacement. Period of use of Defective materials or equipment pending correction or replacement shall in no way decrease guarantee period required for acceptable corrected or replaced items of materials or equipment.
- C. Nothing in the Contract Documents shall be construed to limit, relieve, or release Contractor's, Subcontractors', and equipment suppliers' liability to City for damages sustained as result of latent defects in materials or equipment caused by negligence of Contractor, its agents, suppliers, employees, or Subcontractors.

### **ARTICLE 10 – MODIFICATIONS OF CONTRACT DOCUMENTS**

#### **10.01 City's Right To Direct Changed Work.**

- A. City may, without notice to the sureties and without invalidating the Contract, make changes in the Work ("Changed Work"), including without limitation: alterations, deviations, additions to, or

deletions from Contract Documents; increase or decrease the quantity of any item or portion of the Work; expand, reduce or otherwise change the Contract Time; delete any item or portion of the Work; and require extra Work. Contractor shall perform such Work under applicable provisions of the Contract Documents, unless specifically provided otherwise at the time the change is ordered. In the case of any ordered extra Work, City reserves the right to furnish all or portions of associated labor, material, and equipment, which Contractor shall accept and use without payment for costs, markup, profit, or otherwise for such City-furnished labor, materials, and equipment.

- B. If Changed Work is of such a nature as to increase or decrease the time or cost of any part of Work, price fixed in Contract shall be increased or decreased by amount as the Contractor and City may agree upon as reasonable and proper allowance for increase or decrease in cost of Work using the cost guidelines set forth in this Article, and absent such agreement, then as City may direct (with Contractor retaining its rights under Article 12 herein).

#### **10.02 Required Documentation For Changed Work**

- A. Changes affecting the Contract Time or Contract Sum of the Work shall be set forth in a written Change Order or Change Directive that shall specify:
  - 1. The Work performed in connection with the change to be made;
  - 2. The amount of the adjustment of the Contract Sum, if any, and the basis for compensation for the Work ordered; and
  - 3. The extent of the adjustment in the Contract Time, if any.
- B. A Change Order or Change Directive will become effective when signed by City, notwithstanding that Contractor has not signed it. A Change Order will become effective without Contractor's signature, provided City indicates same thereon (by indicating it as a "unilateral change order").
- C. All changes in any plans and specifications approved by any authority with jurisdiction may also require addenda or change orders approved by that authority.
- D. Where City requests, a performance bond rider covering the changed Work must be executed and delivered to City before proceeding with the changed Work or shortly in time thereafter.

#### **10.03 Procedures And Pricing Of Changed Work**

- A. Procedures for changed work and pricing of changed work, claims and all forms of extra compensation, are set forth in Section 01 2600 (Modification Procedures).

### **ARTICLE 11 – TIME ALLOWANCES**

#### **11.01 Time Allowances**

- A. Time is of the essence. Contract Time may only be changed by Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence.

#### **11.02 Excusable Delay And Inexcusable Delay Defined.**

- A. Excusable Delay. Subject to the provisions on Notice of Delay below, Contract Time may be adjusted in an amount equal to the time lost due to:
  - 1. Changes in the Work ordered by City ("**Changes**");
  - 2. Acts or neglect by City, Architect, any City Representative, utility owners or other contractors performing other work, not permitted or provided for in the Contract Documents, provided that Contractor has performed its responsibilities under the Contract Documents (including but not limited to pre-bid investigations) ("**Acts or Neglect**"); or
  - 3. Fires, floods, epidemics, abnormal weather conditions beyond the parameters otherwise set forth in this Article, earthquakes, civil or labor disturbances, or acts of God (together, "force majeure events"), provided damages resulting therefrom are not the result of Contractor's failure to protect the Work as required by Contract Documents ("**Force Majeure**").
- B. Inexcusable Delay. Contract Time shall not be extended for any period of time where Contractor (and/or any Subcontractor) is delayed or prevented from completing any part of the Work due to a

cause that is within Contractor's risk or responsibility under the Contract Documents. Delays attributable to or within the control of a Subcontractor, or its subcontractors, or supplier, are deemed delays within the control of Contractor.

- C. Float. Float shall be treated as a Project resource. Contractor shall not be entitled to a time extension for impacts that consume float, but do not impact the critical path.

### **11.03 Notice Of Delay**

- A. Within seven calendar days of the beginning of any delay (excepting adverse weather delays), Contractor shall notify City in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. If Contractor requests an extension of time, Contractor shall submit a Time Impact Evaluation (TIE) within ten calendar days of the notice of delay. City will determine all claims and adjustments in the Contract Time. No claim for an adjustment in the Contract Time will be valid and such claim will be waived if not submitted in accordance with the requirements of this subparagraph. In cases of substantial compliance with the seven-day notice requirement here (but not to exceed twenty-one calendar days from the beginning of the delay event), City may in its sole discretion recognize a claim for delay accompanied with the proper TIE, provided Contractor also shows good faith and a manifest lack of prejudice to City from the late notice.

### **11.04 Compensable Time Extensions**

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Sum in addition to Contract Time for:
1. Excusable delay caused solely by Changes in the Work ordered by City, as provided above, and/or
  2. Excusable delay caused solely by Acts or Neglect by City or other person, as provided above.

### **11.05 Non-Compensable Time Extensions**

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Time only, without adjustment in Contract Sum, for
1. Periods of excusable delay caused solely by weather or Force Majeure events as provided above in this Article, or
  2. Periods of concurrent delay, where delay results from two or more causes, one of which is compensable (resulting from Changes or Acts or Neglect as set forth above in this Article), and the other of which is non-compensable or unexcusable, such as: acts or neglect of Contractor, Subcontractors or others for whom Contractor is responsible; other acts, omissions and conditions which would not entitle Contractor to adjustment in Contract Time; adverse weather; and/or actions of Force Majeure as provided above in this Article.

### **11.06 Adverse Weather**

- A. Adverse weather delays may be allowed only if the number of workdays of adverse weather exceeds the parameters listed or referenced immediately below in this subparagraph and Contractor proves that adverse weather actually caused delays to work on the critical path. Contractor shall give written notice of intent to claim an adverse weather day within one Day of the adverse weather day occurring.
- B. Claims for extension of time for rain delay will not be granted unless the number of calendar days work is prevented by rain exceeds 110% of the average number of rain days expected for the period of the Contract Time, based on the records of the National Oceanic & Atmospheric Administration (NOAA) weather station closest to the Project Site, as measured and reported by NOAA. (For example, for California, Oregon and Washington, these figures are contained in the ">=0.10 inch" column at the applicable weather station's "General Climate Summary Table" for "Precipitation" at <http://www.wrcc.dri.edu/Climsum.html>), pro-rated in the individual month Contractor starts and finishes Work. Delays due to adverse weather conditions will not be allowed for weather conditions that fall within these parameters.

- C. In order to qualify as an adverse weather delay with respect to the foregoing parameters, (i.) daily rainfall must exceed .1 inch, and/or (ii.) daily snowfall must exceed 1.0 inch or more, at the NOAA station located closest to the Project site, as measured and reported by NOAA. Notwithstanding these allowances, Contractor shall at all times employ all available mitigation measures to enable Work to continue, Contractor shall take reasonable steps to mitigate potential weather delays, such as dewatering the Site, lime treatment, and covering Work and material that could be affected adversely by weather. Failure to do so shall be cause for City to not grant a time extension due to adverse weather, where Contractor could have avoided or mitigated the potential delay by exercising reasonable care.
- D. Contractor shall include the foregoing precipitation parameters as a monthly activity in its progress schedule. As Work on the critical path is affected by precipitation, Contractor shall notify City and request that the days be moved to the affected activities. Any adverse weather days remaining shall be considered Project float available to either City or Contractor.
- E. Adverse weather delay for precipitation shall be recognized for the actual period of time Contractor proves it was delayed by precipitation exceeding the specified parameters. For example, and not by way of limitation, if precipitation exceeding the specified parameters does not in fact delay Contractor's progress on the critical path, then no time extension shall be recognized; and conversely, if Contractor proves to City's satisfaction that precipitation exceeding the specified parameters causes delay to Contractor for a period longer than the number of precipitation days incurred (e.g., if it rains or snows during grading work), then Contractor shall be entitled to a time extension equal to the actual period of such delay.
- F. During unfavorable weather, wet ground, or other unsuitable construction conditions, Contractor shall employ best practices to protect the Work, manage the construction site and rainwater during inclement weather. Persons performing the Work shall examine surfaces to receive their Work and shall report in writing to Contractor, with copy to City representative and the Architect conditions detrimental to the Work. Failure to examine and report discrepancies makes the Contractor responsible, at no increase in Contract Sum, for corrections City may require. Commencement of Work constitutes acceptance of surface.

#### **11.07 Liquidated Damages**

- A. Time is of the essence. Execution of Contract Documents by Contractor shall constitute its acknowledgement that City will actually sustain damages in the form of Contract administration expenses (such as Project management and consultant expenses) in the amount fixed in the Contract Documents for each and every Day during which completion of Work required is delayed beyond expiration of time fixed for completion plus extensions of time allowed pursuant to provisions hereof.
- B. Contractor and City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of such actual damages incurred by City because of a delay in completion of all or any part of the Work. Contractor and City agree that specified measures of liquidated damages shall be presumed to be the amount of such damages actually sustained by City, and that because of the nature of the Project, it would be impracticable or extremely difficult to fix the actual damages.
- C. Liquidated damages for delay shall cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by City as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof. City may deduct from any money due or to become due to Contractor subsequent to time for completion of entire Work and extensions of time allowed pursuant to provisions hereof, a sum representing then-accrued liquidated damages.

### **ARTICLE 12 – CLAIMS BY CONTRACTOR**

#### **12.01 Obligation to File Claims for Disputed Work**

- A. Should it appear to Contractor that the Work to be performed or any of the matters relative to the

Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER, then Contractor shall first follow procedures set forth in the Contract (including but not limited to other Articles of this Document 00 7200 and Section 01 2600.) If a dispute remains, then Contractor shall give written notice to City that expressly invokes this Article 12. City shall decide the issue in writing within 15 calendar days; and City's written decision shall be final and conclusive. If Contractor disagrees with City's decision, or if Contractor contends that City failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written claim setting forth Contractor's position as required herein.

#### **12.02 Form And Contents Of Claim**

- A. Contractor's written claim must identify itself as a "Claim" under this Article 12 and must include the following: (1) a narrative of pertinent events; (2) citation to contract provisions; (3) theory of entitlement; (4) complete pricing of all cost impacts; (5) a time impact analysis of all time delays that shows actual time impact on the critical path; (6) documentation supporting items 1 through 5; a verification under penalty of perjury of the claim's accuracy. The Claim shall be submitted to City within thirty (30) calendar days of receiving City's written decision, or the date Contractor contends such decision was due, and shall be priced like a change order according to Section 01 2600, and must be updated monthly as to cost and entitlement if a continuing claim. Routine contract materials, for example, correspondence, RFI, Change Order requests, or payment requests shall not constitute a claim. Contractor shall bear all costs incurred in the preparation and submission of a claim.

#### **12.03 Administration During/After Claim Submission**

- A. City may render a final determination based on the Claim or may in its discretion conduct an administrative hearing on Contractor's claim, in which case Contractor shall appear, participate, answer questions and inquiries, and present any further evidence or analysis requested by City prior to rendering a final determination. Should City take no action on the Claim within 45 calendar days of submission, it shall be deemed denied.
- B. Notwithstanding and pending the resolution of any claim or dispute, Contractor shall diligently prosecute the disputed work to final completion in accordance with City's determination.
- C. After their submission, claims less than \$375,000 shall also be subject to the Local Agency Disputes Act.

#### **12.04 Compliance**

- A. The provisions of this Article 12 constitute a non-judicial claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Government Code Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a claim. Any claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the claims procedure herein and the previous dispositions under Paragraph 12.3 above of the claims asserted. Pursuant to Government Code Section 930.2, the one-year period in Government Code section 911.2 shall be reduced to 150 calendar days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.
- B. Failure to submit and administer claims as required in Article 12 shall waive Contractor's right to claim on any specific issues not included in a timely submitted claim. Claim(s) or issue(s) not raised in a timely protest and timely claim submitted under this Article 12 may not be asserted in any subsequent litigation, Government Code Claim, or legal action.
- C. City shall not be deemed to waive any provision under this Article 12, if at City's sole discretion, a

claim is administered in a manner not in accord with this Article 12. Waivers or modifications of this Article 12 may only be made a signed change order approved as to form by legal counsel for both City and Contractor; oral or implied modifications shall be ineffective.

## **ARTICLE 13 – UNDERGROUND CONDITIONS**

### **13.01 Contractor To Locate Underground Facilities.**

- A. During construction, Contractor shall comply with Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part: “Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two working days, but no more than 14 calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation.”
- B. Contractor shall contact USA, and schedule the Work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities. Contractor is charged with knowledge of all subsurface conditions reflected in USA records. Prior to commencing excavation or trenching work, Contractor shall provide City with copies of all USA records secured by Contractor. Contractor shall advise City of any conflict between information provided in Document 00 3132 (Geotechnical Data and Existing Conditions), the Drawings and that provided by USA records. Contractor’s excavation shall be subject to and comply with the Contract Documents.
- C. Contractor shall also investigate the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site, even if not shown or indicated in Document 00 3132 (Geotechnical Data and Existing Conditions), the Drawings or that provided by USA records. Contractor shall immediately secure all such available information and notify City and the utility owner, in writing, of its discovery.

### **13.02 Contractor To Protect Underground Facilities.**

- A. At all times during construction, all operating Underground Facilities shall remain in operation, unless the Contract Documents expressly indicate otherwise. Contractor shall maintain such Underground Facilities in service where appropriate; shall repair any damage to them caused by the Work; and shall incorporate them into the Work, including reasonable adjustments to the design location (including minor relocations) of the existing or new installations. Contractor shall take immediate action to restore any in service installations damaged by Contractor’s operations.
- B. Prior to performing Work at the Site, Contractor shall lay out the locations of Underground Facilities that are to remain in service and other significant known underground installations indicated by the Underground Facilities Data. Contractor shall further locate, by carefully excavating with small equipment, potholing and principally by hand, all such utilities or installations that are to remain and that are subject to damage. If additional utilities whose locations are unknown are discovered, Contractor shall immediately report to City for disposition of the same. Additional compensation or extension of time on account of utilities not shown or otherwise brought to Contractor’s attention, including reasonable action taken to protect or repair damage, shall be determined as provided in this Document 00 7200.
- C. If during construction, an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the materials supplied by City for bidding or in information on file at USA or otherwise reasonably available to Contractor, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby (and in no event later than seven calendar days), and prior to performing any Work in connection therewith (except in an emergency), identify the owner of such Underground Facility and give written notice to that owner and to City. During such time, Contractor shall be responsible for the

- safety and protection of such Underground Facility.
- D. The cost of all of the following will be included in the Contract Sum and Contractor shall have full responsibility for (a) reviewing and checking all available information and data including, but not limited to, information made available for bidding and information on file at USA; (b) locating all Underground Facilities shown or indicated in the Contract Documents, available information, or indicated by visual observation including, but not limited to, and by way of example only, engaging qualified locating services and all necessary backhoeing and potholing; (c) coordination of the Work with the owners of such Underground Facilities during construction; and (d) the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.
  - E. Consistent with California Government Code §4215, as between City and Contractor, City will be responsible for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Site only if such utilities are not identified in the Contract Documents or information made available for bidding. City will compensate for the cost of locating and repairing damage not due to Contractor's failure to exercise reasonable care, removing and relocating such main or trunk line utility facilities not indicated in the Contract Documents or information made available for bidding with reasonable accuracy, and equipment on the Project necessarily idled during such Work. Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of City or the utility to provide for removal or relocation of such utility facilities.

### **13.03 Concealed Or Unknown Conditions**

- A. If either of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall give a written Notice of Differing Site Conditions to City promptly before conditions are disturbed, except in an emergency as set forth in this Document 00 7200, and in no event later than seven calendar days after first observance of:
  - 1. Subsurface or Latent physical conditions which differ materially from those indicated in the Contract Documents; or
  - 2. Unknown physical conditions of an unusual nature or which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
- B. In response to Contractor's Notice of Differing Site Conditions under this Paragraph, City will investigate the identified conditions, and if they differ materially and cause increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, City will negotiate the appropriate change order following the procedures set forth in the Contract Documents. If City determines that physical conditions at the Site are not Latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, City will so notify Contractor in writing, stating reasons (with Contractor retaining its rights under Article 12 of this Document 00 7200.)
- C. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed Latent or materially different Site conditions (whether above or below grade) if Contractor knew or should have known of the existence of such conditions at the time Contractor submitted its Bid, failed to give proper notice, or relied upon information, conclusions, opinions or deductions of the kind that the Contract Documents preclude reliance upon.
- D. Regarding Underground Facilities, Contractor shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that is owned and was built by City only where the Underground Facility:
  - 1. Was not shown or indicated in the Contract Documents or in the information supplied for bidding purposes or in information on file at USA; and
  - 2. Contractor did not know of it; and
  - 3. Contractor could not reasonably have been expected to be aware of it or to have anticipated it from the information available. (For example, if surface conditions such as

pavement repairs, valve covers, or other markings, indicate the presence of an Underground Facility, then an increase in the Contract Sum or an extension of the Contract Time will not be due, even if the Underground Facility was not indicated in the Contract Documents, in the information supplied to Contractor for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor.)

- E. Contractor shall bear the risk that Underground Facilities not owned or built by City may differ in nature or locations shown in information made available by City for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor. Underground Facilities are inherent in construction involving digging of trenches or other excavations on City's Project, and Contractor is to apply its skill and industry to verify the information available.
- F. Contractor's compensation for claimed Latent or materially different Site conditions shall be limited to the actual, reasonable, incremental increase in cost of that portion of the Work, resulting from the claimed Latent or materially different Site conditions. Such calculation shall take into account the estimated value of that portion of the Work and the actual value of that portion of the Work, using for guidance Contractor's or its subcontractor's bid amount and actual amounts incurred for that portion of the Work and the reasonable expectation (if any) of differing or difficult site conditions in the Work area based on the available records and locale of the Work. For example, if Contractor excavates in an area unexpected, then such costs would be recoverable entirely; while if Contractor extends an existing excavation, then such costs would be recoverable if the resulting excavation costs in that work area exceeded the reasonable expectations therefore.

#### **13.04 Notice Of Hazardous Waste Or Materials Conditions**

- A. Contractor shall give a written Notice of Hazardous Materials Condition to City promptly, before any of the following conditions are disturbed (except in an emergency as set forth in this Document 00 7200), and in no event later than 24 hours after first observance of any:
  - 1. Material that Contractor believes may be hazardous waste or hazardous material, as defined in Section 25117 of the Health and Safety Code (including, without limitation, Asbestos, lead, PCBs, petroleum and related hydrocarbons, and radioactive material) that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law ("hazardous material"); or
  - 2. Other material that may present an imminent substantial danger to persons or property exposed thereto in connection with Work at the Site ("other materials").
- B. Except as otherwise provided in the Contract Documents or as provided by applicable law, Contractor shall not be required to give any notice for the disturbance or observation of any such hazardous materials or other materials where such matter is disturbed or observed as part of the scope of Work under the Contract Documents (such as hazardous waste or hazardous material investigation, remediation or disposal activities which are identified as the subject of Work under the Contract Documents), where Contractor complies with all requirements in the Contract Documents and applicable law respecting such materials.
- C. Contractor's Notice of Hazardous Materials Condition shall indicate whether the hazardous materials or other materials were shown or indicated in the Contract Documents to be within the scope of Work, and whether the hazardous materials or other materials were brought to the Site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible.
- D. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed hazardous waste or materials if:
  - 1. Contractor knew of the existence of such hazardous materials or other materials at the time Contractor submitted its Bid; or
  - 2. Contractor should have known of the existence of such hazardous material or other materials as a result of its having the responsibility to obtain additional or supplementary examinations, investigation, explorations, tests, studies, and data concerning the conditions at or contiguous to the Site prior to submitting its Bid; or
  - 1. Contractor failed to give the written notice within the required timeframe set forth below.
- E. If City determines that conditions involve hazardous materials or other materials and that a

change in Contract Document terms is justified, City will issue either a Request for Proposal or Construction Change Directive under the procedures described in the Contract Documents. If City determines that conditions do not involve hazardous materials or other materials or that no change in Contract Document terms is justified, City will notify Contractor in writing, stating the reasons for its determination.

- F. In addition to the parties' other rights under this Document 00 7200, if Contractor does not agree to resume Work based on a reasonable belief that it is unsafe, or does not agree to resume Work under special conditions, City may order the disputed portion of Work deleted from the Work, or performed by others, or City may invoke its right to terminate Contractor's right to proceed under the Contract Documents in whole or in part, for convenience or for cause as the facts may warrant.
- G. If Contractor does not agree with any City determination of any adjustment in the Contract Sum or Contract Time under this Article, Contractor may make a claim as provided in Article 12 of this Document 00 7200.

## **ARTICLE 14 – LEGAL AND MISCELLANEOUS**

### **14.01 Laws And Regulations**

- A. Contractor shall keep fully informed of and shall comply with all laws, ordinances, regulations and orders of any properly constituted authority affecting the Contract Documents, Work and persons connected with Work, and shall protect and indemnify City and its officers, employees, consultants and agents against any claim or liability, including attorney's fees, arising from or based on violation of law, ordinance, regulation or order, whether by Contractor or by Subcontractors, employees or agents. Authorized persons may at any time enter upon any part of Work to ascertain compliance of all applicable laws, ordinances, regulations and orders.

### **14.02 Permits And Taxes**

- A. Contractor shall procure all permits and licenses applicable to the Work (including environmental matters to the extent applicable); pay all charges and fees, including fees for street opening permits; comply with, implement and acknowledge effectiveness of all permits; initiate and cooperate in securing all required notifications or approvals therefore; and give all notices necessary and incident to due and lawful prosecution of Work, unless otherwise provided herein. City will pay applicable building permits, sanitation and water fees for the completed construction, except as otherwise provided in the Contract Documents. Contractor shall pay all sales and/or use taxes levied on materials, supplies, or equipment purchased and used on or incorporated into Work, and all other taxes properly assessed against equipment or other property used in connection with Work, without any increase in the Contract Sum. Contractor shall make necessary arrangements with proper authorities having jurisdiction over roads, streets, pipelines, navigable waterways, railroads, and other works in advance of operations, even where City may have already obtained permits for the Work.

### **14.03 Communications And Information Distribution**

- A. All communications recognized under the Contract Documents shall be in writing, in the form of a serialized document, by type of communication. For example, RFI's shall be serialized beginning with RFI No. 1; payment applications shall be serialized beginning with Payment Application No. 1, submittals shall be serialized per specification section and transmitted with transmittal sheets beginning with Transmittal No. 1; and correspondence shall be serialized beginning with letter No. 1. Contractor may propose other record management and identification systems or protocols, intended to facilitate orderly transmittal of project information, storage and retrieval of such information, which City will review consistent with these stated objectives, and accept or reject in its sole discretion.
- B. Documents Requiring Signatures. All documents requiring signatures for approval prior to implementing action, as stipulated in other portions of Contract Documents, shall require a manually signed, serialized letter delivered to the other party at its address for notice otherwise specified in the Contract Documents, either personally or by mail.

- C. Electronic data transfer of such correspondence will serve to expedite preliminary concurrence of information, only. Receipt of "hard copy" signature on forms is required prior to implementing action or work as the conditions may require. For example, change orders and authorizations for extra cost, require signatures. A party may acknowledge receipt of PDF copies of required correspondence by e-mail, but in the absence of such acknowledgment, mail or personal delivery is required.
- D. All emails shall be copied to City's and Contractor's Project Representative. City reserves the right to preclude e-mail communication, in whole or in part, as Project needs may require. Communication between City and Contractor shall not be via Twitter, Facebook, or other types of instant text message systems. Any such communications shall be inadmissible for any purpose related to this Contract.

#### **14.04 Suspension Of Work**

- A. City may, without cause, order Contractor in writing to suspend, delay or interrupt Work in whole or in part for such period of time as City may determine. An adjustment shall be made for increases in cost of performance of Work of the Contract Documents caused by any such suspension, delay or interruption, calculated using the measures set forth in Section 01 2600 (Modification Procedures). No adjustment shall be made to extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible.

#### **14.05 Termination Of Contract For Cause**

- A. The Contractor shall be in default of the Contract Documents and City may terminate the Contractor's right to proceed under the Contract Documents, for cause, in whole or in part, should the Contractor commit a material breach of the Contract Documents and not cure such breach within ten (10) calendar days of the date of notice from City to the Contractor demanding such cure; or, if such breach is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for the Contractor to avail itself of a time period in excess of 10 calendar days, the Contractor must provide City within the ten (10) day period with a written plan acceptable to City that demonstrates actual resources, personnel and a schedule to promptly to cure said breach, and then diligently commence and continue such cure according to the written plan).
- B. In the event of termination by City for cause as provided herein, the Contractor shall deliver to City possession of the Work in its then condition, including but not limited to, all designs, engineering, Project records, cost data of all types, plans and specifications and contracts with vendors and subcontractors, all other documentation associated with the Project, and all construction supplies and aids dedicated solely to performing the Work which, in the normal course of construction, would be consumed or only have salvage value at the end of the construction period. The Contractor shall remain fully liable for the failure of any Work completed and materials and equipment provided through the date of such termination to comply with the provisions of the Contract Documents. The provisions of this Section shall not be interpreted to diminish any right which City may have to claim and recover damages for any breach of the Contract Documents or otherwise, but rather, the Contractor shall compensate City for all loss, cost, damage, expense, and/or liability suffered by City as a result of such termination and/or failure to comply with the Contract Documents.
- C. In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall have no greater rights than it would have had following a termination for convenience. Any Contractor claim arising out of a termination for cause shall be made in accord with Article 12 herein. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by the Contractor.

#### **14.06 Termination Of Contract For Convenience**

- A. City may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever City shall determine that termination is

in City's best interest. Termination shall be effected by City delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.

- B. Contractor shall comply strictly with City's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- C. Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by (i.) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule, (ii.) offset by payments made and other contract credits. In connection with any such calculation, however, City shall retain all rights under the Contract Documents, including but not limited to claims, indemnities, or setoffs.
- D. Under no circumstances may Contractor recover legal costs of any nature, nor may Contract recover costs incurred after the date of the termination.

#### **14.07 Contingent Assignment Of Subcontracts**

- A. Contractor hereby assigns to City each Subcontract for a portion of the Work, provided that:
  - 1. The assignment is effective only after City's termination of Contractor's right to proceed under the Contract Documents (or portion thereof relating to that Subcontract) as set forth herein.
  - 2. The assignment is effective only for the Subcontracts which City expressly accepts by notifying the Subcontractor in writing;
  - 3. The assignment is subject to the prior rights, if any, of the Surety, obligated by Document 00 6113.13 (Construction Performance Bond) provided under the Contract Documents, where the Surety exercises its rights to complete the Contract;
  - 4. After the effectiveness of an assignment, Contractor shall, at its sole cost and expense (except as otherwise provided in this Document 00 7200), sign all instruments and take all actions reasonably requested by City to evidence and confirm the effectiveness of the assignment in City; and
  - 5. Nothing in this Paragraph shall modify or limit any of Contractor's obligations to City arising from acts or omissions occurring before the effectiveness of any Subcontract assignment, including but not limited to all defense, indemnity and hold-harmless obligations arising from or related to the assigned Subcontract.

#### **14.08 Remedies And Contract Integration**

- A. Subject to Contract Documents provisions regarding Contractor claims, claim review, and claim resolution, and subject to the limitations therein, the exclusive jurisdiction and venue for resolving all claims, counter claims, disputes and other matters in question between City and Contractor arising out of or relating to Contract Documents, any breach thereof or the Project shall be the applicable court of competent jurisdiction located in the State and County where the Project is located. All City remedies provided in the Contract Documents shall be taken and construed as cumulative and not exclusive; that is, in addition to each and every other remedy herein provided; and in all instances City shall have any and all other equitable and legal rights and remedies which it would have according to law.
- B. The Contract Documents, any Contract Modifications and Change Orders, shall represent the entire and integrated agreement between City and Contractor regarding the subject matters hereof and thereof and shall constitute the exclusive statement of the terms of the parties' agreement. The Contract Documents, and any Contract Modifications and Change Orders, shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of the Contract Documents or written Modifications. City and Contractor represent and agree that, except as otherwise expressly provided in the Contract Documents, they are entering into the Contract Documents and any subsequent written Modification in sole reliance upon the information set forth or referenced in the Contract Documents or Contract Modifications; the parties are not and will not rely on any other

information, which shall be inadmissible in any proceeding to enforce these documents.

- C. Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- D. Neither acceptance of the whole or any part of Work by City nor any verbal statements on behalf of City or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to City herein nor any right to damages provided in the Contract Documents.

#### **14.09 Interpretation.**

- A. Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- B. Contract Documents shall not be construed to create a contractual relationship of any kind between (1) Project Manager or any City's representative and Contractor; (2) City and/or its Representatives and a Subcontractor, sub-Subcontractor, or supplier of any Project labor, materials, or equipment; or (3) between any persons or entities other than City and Contractor.

#### **14.10 Patents**

- A. Fees or claims for any patented invention, article or arrangement that may be used upon or in any manner connected with performance of the Work or any part thereof shall be included in the Bid price for doing the Work. Contractor shall defend, indemnify and hold harmless City and each of its officers, employees, consultants and agents, including, but not limited to, the Board and each City's Representative, from all damages, claims for damages, costs or expenses in law or equity, including attorney's fees, arising from or relating to any claim that any article supplied or to be supplied under the Contract Documents infringes on the patent rights, copyright, trade name, trademark, service mark, trade secret or other intellectual property right of any person or persons or that the person or entity supplying the article does not have a lawful right to sell the same. Such costs or expenses for which Contractor agrees to indemnify and hold harmless the above indemnities include but are not limited to any and all license fees, whether such fees are agreed by any indemnitee or ordered by a court or administrative body of any competent jurisdiction.

#### **14.11 Substitution For Patented And Specified Articles**

- A. Except as noted specifically in the instructions to Bidders or in Contract Documents, whenever in Specifications, material or process is designated by patent or proprietary name or by name of manufacturer, such designation shall be deemed to be used for purpose of facilitating description of material and process desired, and shall be deemed to be followed by the words "or Approved Equal" and Contractor may offer any substitute material or process that Contractor considers "equal" in every respect to that so designated and if material or process offered by Contractor is, in opinion of City, Equal in every respect to that so designated, its use will be approved. However, Contractor may utilize this right only by timely submitting Document 00 6325 (Substitution Request Form) as provided in Document 00 2113 (Instructions to Bidders). A substitution will be approved only if it is a true "or equal" item in every aspect of its design and quality, including but not limited to its dimensions, weights, service requirements, durability, functioning, impact on contiguous construction elements, overall schedule and design.

**14.12 Interest Of Public Officers**

- A. No representative, officer, or employee of City no member of the governing body of the locality in which the Project is situated, no member of the locality in which City was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during the tenure of the official or for one year thereafter, shall, as principal, agent, attorney or otherwise, be directly or indirectly interested, in the Contract Documents or the proceeds thereof.

**14.13 Limit Of Liability**

- A. CITY, AND EACH OF ITS OFFICERS, BOARD MEMBERS, EMPLOYEES, CONSULTANTS AND AGENTS INCLUDING, BUT NOT LIMITED TO, PROJECT MANAGER AND EACH OTHER CITY REPRESENTATIVE, SHALL HAVE NO LIABILITY TO CONTRACTOR FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, EXCEPT TO THE LIMITED EXTENT THAT THESE CONTRACT DOCUMENTS OR APPLICABLE PUBLIC CONTRACTING STATUTES MAY SPECIFY THEIR RECOVERY.

**ARTICLE 15 – WORKING CONDITIONS AND PREVAILING WAGES****15.01 Use Of Site/Sanitary Rules**

- A. All portions of the Work shall be maintained at all times in neat, clean and sanitary condition. Contractor shall furnish toilets for use of Contractor's and Subcontractors' employees on the Site where needed, and their use shall be strictly enforced. All toilets shall be properly secluded from public observation, and shall be located, constructed and maintained subject to City's approval.
- B. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Site and land areas identified in and permitted by Contract Documents and other land and areas permitted by applicable laws and regulations, rights of way, permits and easements or as designated by City, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, any improvement located thereon, or to City or occupant thereof resulting from the performance of Work.
- C. During the progress of the Work, Contractor shall keep the Site and the Project free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, Contractor shall clean the site, remove all waste materials, rubbish and debris from and about the Site as well as all tools, appliances, construction equipment and machinery and surplus materials. Contractor shall leave the premises clean and ready for occupancy by City at Substantial Completion of Work. Contractor shall restore to original condition all property not designated for alteration by Contract Documents.
- D. Contractor shall not load nor permit any part of any structure or pavement to be loaded in any manner that will endanger the structure or pavement, nor shall Contractor subject any part of Work or adjacent property to stresses or pressures that will endanger it. Contractor shall conduct all necessary existing conditions investigation regarding structural, mechanical, electrical or any other system existing, shall perform Work consistent with such existing conditions, and shall have full responsibility for insufficiencies or damage resulting from insufficiencies of existing systems, equipment or structures to accommodate performing the Work.

**15.02 Protection Of Work, Persons, And Property**

- A. Contractor shall be responsible for initiating, maintaining and supervising all safety and site security precautions and programs in connection with Work, and shall develop and implement a site security and safety plan throughout construction. Contractor shall comply with all safety requirements specified in any safety program established by City, or required by state, federal or local laws and ordinances. Contractor shall be responsible for all theft or damage to Work, property or structures, and all injuries to persons, either on the Site or constituting the Work (e.g., materials in transit), arising from the performance of Work of the Contract Documents from a cause.

- B. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.
- C. Contractor shall remedy all damage, injury or loss to any property referred to above in this Article, caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any Work or anyone for whose acts any of them may be liable. Contractor's duties and responsibility for safety and for protection of Work shall continue until such time as all the Work is completed and Final Acceptance of the Work. City and its agents do not assume any responsibility for collecting any indemnity from any person or persons causing damage to Contractor's Work.
- D. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- E. City may, at its option, retain such moneys due under the Contract Documents as City deems necessary until any and all suits or claims against Contractor for injury to persons or property shall be settled and City receives satisfactory evidence to that effect.
- F. Work within the right-of-way lines of the city and/or City and/or State shall be done in accordance with the standards and specifications of the controlling agency. Permit for such work shall be obtained and paid for by the Contractor before executing the work within such right-of-ways.

#### **15.03 Responsibility For Safety And Health**

- A. Contractor shall ensure that its and each tier of Subcontractors' employees, agents and invitees comply with applicable health and safety laws while at the Site. These laws include the Occupational Safety and Health Act of 1970 and rules and regulations issued pursuant thereto, and City's safety regulations as amended from time to time. Contractor shall comply with all City directions regarding protective clothing and gear.
- B. Contractor shall be fully responsible for the safety of its and its Subcontractors' employees, agents and invitees on the Site. Contractor shall notify City, in writing, of the existence of hazardous conditions, property or equipment at the Site that are not under Contractor's control. Contractor shall be responsible for taking all the necessary precautions against injury to persons or damage to the property of Contractor, Subcontractors or persons from recognized hazards until the responsible party corrects the hazard.
- C. Contractor shall confine all persons acting on its or its Subcontractors' behalf to that portion of the Site where Work under the Contract Documents is to be performed, City-designated routes for ingress and egress thereto, and any other City-designated area. Except those routes for ingress and egress over which Contractor has no right of control, within such areas, Contractor shall provide safe means of access to all places at which persons may at any time have occasion to be present.

#### **15.04 Emergencies**

- A. In emergencies affecting the safety or protection of persons or Work or property at the Site or adjacent thereto, Contractor, without special instruction or authorization from City, is obligated to act to prevent threat and damage, injury or loss, until directed otherwise by City. Contractor shall give City prompt written notice if Contractor believes that any significant changes in Work or variations from Contract Documents have been caused thereby. If City determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Change Order or Construction Change Directive will be issued to document the consequences of such action.

#### **15.05 Use Of Roadways And Walkways**

- A. Contractor shall not unnecessarily interfere with use of any roadway, walkway or other facility for

vehicular or pedestrian traffic. Before beginning any interference and only with City's prior concurrence, Contractor may provide detour or temporary bridge for traffic to pass around or over the interference, which Contractor shall maintain in satisfactory condition as long as interference continues. Unless otherwise provided in the Contract Documents, Contractor shall bear the cost of these temporary facilities.

#### **15.06 Nondiscrimination**

- A. No person or entity shall discriminate in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual preference, or gender of such persons, except as provided in Section 12940 of the California Government Code. Every contractor for public works violating the provisions of Section 1735 of the California Labor Code is subject to all the penalties imposed for a violation of Chapter 1, Part 7, Division 2 of the California Labor Code.

#### **15.07 Prevailing Wages And Working Hours**

- A. Contractor shall pay to persons performing labor in and about Work provided for in the Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and City to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Contract. Contractor shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each Site.
- B. Contractor shall forfeit, as a penalty to City, Fifty Dollars (\$50.00) for each laborer, workman, or mechanic employed in performing labor in and about the Work provided for in the Contract Documents for each Day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any Work done under the Contract Documents by him or her or by any Subcontractor under him or her, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the California Labor Code. The sums and amounts which shall be forfeited pursuant to this Paragraph and the terms of the California Labor Code shall be withheld and retained from payments due to Contractor under the Contract Documents, pursuant to this Document 00 7200 and the California Labor Code, but no sum shall be so withheld, retained or forfeited except from the final payment without a full investigation by either the State Department of Industrial Relations or by City. The Labor Commissioner pursuant to California Labor Code §1775 shall determine the final amount of forfeiture.
- C. Contractor shall insert in every subcontract or other arrangement which Contractor may make for performance of Work or labor on Work provided for in the Contract, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the California Labor Code.
- D. Contractor stipulates that it shall comply with all applicable wage and hour laws, including without limitation, California Labor Code §§ 1776 and 1810-1815. Failure to so comply shall constitute a default under this Contract.
- E. Contractor and its Subcontractors shall be responsible for compliance with Labor Code §§ 1810-1815.
  - 1. Eight hours of labor performed in execution of the Contract constitutes a legal day's work. The time of service of any workman employed on the Project is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week.
  - 2. Contractor and its Subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the Project. The record shall be kept open at all reasonable hours to the inspection City and to the Division of Labor Standards Enforcement.

3. Contractor or its Subcontractors shall, as a penalty to City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the Contract Documents by the respective Contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code §§ 1810-1815.
  4. Work performed on the Project by employees of Contractor or its Subcontractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.
- F. Contractor and its Subcontractors shall be responsible for compliance with Labor Code Section 1776.
1. Contractor and Subcontractors 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 by him or her in connection with the Work of the Contract Documents. Each payroll record shall contain or be verified by a written declaration as required by Labor Code Section 1776.
  2. The payroll records enumerated above must be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor as required by Labor Code Section 1776.
    - a. Contractor shall inform City of the location of records enumerated above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
    - b. Contractor or Subcontractor has 10 calendar days in which to comply subsequent to receipt of a written notice requesting the records enumerated above. In the event that the Contractor or Subcontractor fails to comply with the ten-day period, he or she shall, as a penalty to City on whose behalf the contract is made or awarded, forfeit \$25.00 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Contractor is not subject to a penalty assessment pursuant to this Paragraph due to the failure of a Subcontractor to comply with this Paragraph.
  3. Contractor shall also deliver certified payrolls to City with each Application for Payment as set forth above in this Document 00 7200 (General Conditions).

#### **15.08 Environmental Controls**

- A. Contractor shall comply with all rules, regulations, ordinances, and statutes that apply to any Work performed under the Contract Documents including, without limitation, any toxic, water, stormwater management and soil pollution controls and air pollution controls specified in California Government Code §11017. Contractor shall be responsible for insuring that Contractor's Employees, Subcontractors, and the public are protected from exposure to airborne hazards or contaminated water, soil, or other toxic materials used during or generated by activities on the Site or associated with the Project.

#### **15.09 Shoring Safety Plan**

- A. Any conflict between this Paragraph and Division 2 of the Specifications shall be resolved in favor of the most stringent requirement.
- B. At least five calendar days in advance of any excavation five feet or more in depth, Contractor shall submit to City a detailed plan showing the shoring, bracing and sloping design (including calculations) and other provisions to be made for worker protection from the hazard of caving ground during the excavation, as required by California Labor Code §6705. A civil or structural engineer registered in California shall prepare and sign any plan that varies from the shoring system standards established by the State Construction Safety Orders.

- C. During the course of Work, Contractor shall be responsible for determining where sloping, shoring, and/or bracing is necessary and the adequacy of the design, installation, and maintenance of all shoring and bracing for all excavation, including any excavation less than five feet in depth. Contractor will be solely responsible for any damage or injuries that may result from excavating or trenching. City's acceptance of any drawings showing the shoring or bracing design or Work schedule shall not relieve Contractor of its responsibilities under this Paragraph.
- D. Appoint a qualified supervisory employee who shall be responsible to determine the sloping or shoring system to be used depending on local soil type, water table, stratification, depth, etc.

**END OF DOCUMENT**

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**DOCUMENT 00 7201**

**SUPPLEMENTAL GENERAL CONDITIONS**

[OPTIONAL]

**END OF SECTION**

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## DOCUMENT 00 7316

## SUPPLEMENTARY CONDITIONS – INSURANCE AND INDEMNIFICATION

## ARTICLE 1 – INSURANCE

- 1.01** At or before the date specified in Document 00 2113 (Instructions to Bidders), Contractor shall furnish to City of Berkeley (“City”) satisfactory proof that Contractor has taken out for the entire period covered by the Contract the following classes of insurance in the form and with limits and deductibles specified below, unless otherwise specified in Contract Documents:
- A. Comprehensive General Liability Insurance covering claims for personal injury, bodily injury and property damage arising out of the Work and in a form providing coverage not less than that of a Standard Commercial General Liability Insurance policy (“Occurrence Form”). Such insurance shall provide for all operations and include independent contractors, products liability, completed operations for one year after Final Completion and acceptance of the final payment for the Work, contractual liability, and coverage for explosion, collapse, and underground hazards. The limits of such insurance shall not be coverage of less than **[\$2,000,000]** each occurrence, **[\$2,000,000]** general aggregate limit, and **[\$2,000,000]** aggregate for products and completed operations, with defense costs payable in addition to policy limits. The policies shall be endorsed to provide Broad Form Property Damage Coverage.
  - B. Comprehensive Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. Such insurance shall provide coverage not less than the standard Comprehensive Automobile Liability policy with limits not less than **[\$2,000,000]** each occurrence Bodily Injury, and **[\$2,000,000]** each occurrence Property Damage.
  - C. All-Risk Course of Construction Insurance including damage to property owned by City, Contractor or third parties caused by fire. Insurance shall be in the amount of 100 percent of the completed value of the Work to be performed under this Contract. Deductible shall not exceed **[\$25,000]**. Each loss shall be borne by Contractor.
  - D. Workers’ Compensation Insurance for all persons whom the Contractor may employ in carrying out Work contemplated under Contract Documents, in accordance with the Act of Legislature of State of California, known as “Workers’ Compensation Insurance and Safety Act,” approved May 26, 1913, and all acts amendatory or supplemental thereto, in the statutory amount. Workers’ Compensation Insurance is **[\$1,000,000]** each accident, with defense cost payable in addition to policy limits.
- 1.02** All policies of insurance shall be placed with insurers acceptable to City. The insurance underwriter(s) for all insurance policies except Workers’ Compensation shall have an A. M. Best Company rating of A-, VIII or better, unless otherwise specified in Contract Documents. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of City, warrant such increase. Contractor shall increase required insurance amounts upon direction by City.
- 1.03** Required Endorsements: The policies required under Document 00 7200 (General Conditions) and this Document 00 7316 shall be endorsed as follows:
- A. City of Berkeley, its officers, agents, volunteers, consultants, and employees shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
  - B. Each such policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limit of the insurance company’s liability required hereunder. Should any of the policies identified herein contain a “cross-suits” exclusion, such exclusion must not apply to any additional insureds.
  - C. Written notice of cancellation or of any limits reduction change in said policy shall be mailed to the City thirty (30) calendar days in advance of the effective date thereof, and ten (10) calendar days

- written notice to the same in advance of payment of any insurance claims under such policies to any person, firm or entity.
- D. Insurance shall be primary insurance and no other insurance or self-insured retention carried or held by any named or additional insureds shall be called upon to contribute to a loss covered by insurance for the named insured.
- 1.04** Written notice of cancellation, non-renewal, or reduction in coverage of any policy shall be mailed to City (Attention: Project Manager and the Construction Manager) at the address listed in Document 00 5200 (Agreement), 30 calendar days in advance of the effective date of the cancellation, non-renewal, or reduction in coverage. Written notice of cancellation for non-payment shall be mailed within 10 calendar days of cancellation.
- 1.05** Certificates of insurance and endorsements shall have clearly typed thereon City Specification Number, and Title of Project of Contract Documents. Contractor shall maintain insurance in full force and effect during entire period of performance of Contract Documents.
- 1.06** Contractor shall keep insurance in force during warranty and guarantee periods, except that Contractor may discontinue All-Risk Course of Construction Insurance after Final Payment. At time of making application for extension of time, and during all periods exceeding the Contract Time resulting from any cause, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time. Upon City's request, Contractor shall submit to City, within 30 calendar days, copies of the actual insurance policies or renewals or replacements.
- 1.07** Contractor shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If Contractor fails to maintain insurance, City may take out comparable insurance, and deduct and retain amount of premium from any sums due Contractor under Contract Documents.
- 1.08** If injury occurs to any employee of Contractor, Subcontractor or sub-subcontractor for which the employee, or the employee's dependents in the event of employee's death, is entitled to compensation from City under provisions of the Workers' Compensation Insurance and Safety Act, as amended, or for which compensation is claimed from City, City may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If City is compelled to pay compensation, City may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse City.
- 1.09** Nothing herein shall be construed as limiting in any way the extent to which Contractor or any Subcontractor may be held responsible for payment of damages resulting from their operations.
- 1.10** All Subcontractors shall maintain the same insurance required to be maintained by Contractor with respect to their portions of the Work unless otherwise indicated in Contract Documents, and Contractor shall cause the Subcontractors to furnish proof thereof to City within ten calendar days of City's request.
- 1.11** The following provisions apply to any licensed professional engaged by Contractor to perform portions of the Work ("Professional").
- A. Each Professional shall maintain the following insurance, unless otherwise specified in Contract Documents:
- B. Professional Liability Insurance, insuring against professional errors and omissions arising from Professional's Work on the Project, in an amount not less than **[\$2,000,000]** combined single limit for each occurrence. If Professional cannot provide an occurrence policy, Professional shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than two years following Final Completion of the Project.
- C. Professional shall satisfy all other provisions of this Document 00 7316 relating to that insurance, including without limitation providing required insurance certificates (containing the required

endorsements) before commencing its Work on the Project.

## **ARTICLE 2 – RESPONSIBILITY OF CONTRACTOR AND INDEMNIFICATION**

- 2.01** City and each of its officers, employees, consultants and agents including, but not limited to, the Board, Project Manager and Construction Manager and each City's Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the Work, and Contractor releases all of the foregoing persons and entities from any and all such claims.
- 2.02** To the furthest extent permitted by law (including without limitation California Civil Code §2782), Contractor shall assume defense of, and indemnify and hold harmless, City and each of its officers, employees, consultants and agents, including but not limited to the Board, Project Manager and Construction Manager and each City's Representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence.
- 2.03** With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against City and each of its officers, employees, consultants and agents including, but not limited to City, the Board, Project Manager and Construction Manager and each City's Representative. City shall provide timely notice to Contractor of any third-party claim relating to the Contract Documents, in accordance with Section 9201 of the California Public Contract Code.
- 2.04** Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.
- 2.05** To the furthest extent permitted by law (including, without limitation, Civil Code §2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout Contract Documents shall apply even in the event of breach of Contract, negligence (active or passive), fault or strict liability of the party(ies) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, City may in its discretion back charge Contractor for City's costs and damages resulting therefrom and withhold such sums from progress payments or other Contract moneys which may become due.
- 2.06** The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to City or other indemnified party to the extent of its active negligence.

**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 Amdo, 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** FIRST SOURCE HIRING REQUIREMENT. The following paragraphs shall be added to Document 00 7200, General Conditions, as a new Section if the contract exceeds \$100,000 but is less than \$500,000:

“16. F FIRST SOURCE HIRING REQUIREMENT

1. Contractor, and any subcontractors, shall utilize the City's First Source Construction Program under the terms set forth in the First Source specifications. (Appendix 00812-C).
  - a. Under the First Source program, Contractor must employ, to the extent possible, a work force where no less than twenty-five percent of the work hours are performed by Berkeley residents, and fifty percent of all new hires are Berkeley residents, on a craft-by-craft basis.
  - b. To achieve the goals, Contractor may either:
    1. Utilize the City's First Source referral service, or
    2. Demonstrate a good faith effort to achieve the goals.”

**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. Specifications for City's First Source Construction Program, for contracts between \$100,000 and \$500,000.
- F. Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105.

**END OF DOCUMENT**

**DOCUMENT 00 7319****SUPPLEMENTARY CONDITIONS – HEALTH AND SAFETY REQUIREMENTS;  
HAZARDOUS MATERIALS****ARTICLE 1 – GENERAL****1.01 Summary**

- A. This document includes requirements as they apply to location, removal, remediation and disposal of hazardous materials and hazardous waste.

**1.02 HAZARDOUS MATERIALS SURVEY**

- A. Reference Section 01 1100, Part 1.15 for a list of available documents, including any Hazardous Materials Surveys, if available.
- B. Data regarding the locations of hazardous materials was obtained only for use of City and its consultants, contractors, and tenants for planning and design and are not part of Contract Documents.
- C. Bidders may rely on this data and information for general accuracy regarding the locations of potentially hazardous materials subject of the Work. City does not warrant and makes no representation regarding the completeness or thoroughness of any data or information regarding existing conditions or hazardous materials, including, but not limited to, quantities, characteristics, volumes, or associated structural features. Bidder represents and agrees that in submitting a Bid it is not relying on any such data, information or deductions.
- D. Before submitting a Bid, each Bidder shall be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which 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 Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of Contract Documents.
- E. Bidders shall advise City in writing during the Bid period of any questions, suppositions, inferences or deductions Bidders may have for City's review and response. City has provided time in the period prior to bidding for Bidder to perform these investigations.
- F. During the Pre-Bid Site Visit(s), City will provide each Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies, as each Bidder deems necessary for submission of a Bid. Bidders must fill all holes and clean up and restore the Site to its former conditions upon completion of such explorations, investigations, tests, and studies. Such investigations may be performed only under the provisions of Document 00 2113 (Instructions to Bidders) and Document 00 7200 (General Conditions) including, but not limited to, proof of insurance and obligation to indemnify against claims arising from such investigation work. Each Bidder shall supply all equipment required to perform any investigations as each Bidder deems necessary. City has the right to limit the number of pieces of machinery operating at one time due to safety concerns.

**1.03 Precedence of Documents**

- A. Should any provision or requirement of any Contract Document conflict with another provision or requirement in the Contract Documents on subject matters of hazardous waste abatement, clean up, disposal, or required safety standards or methods, then the most stringent provision or requirement shall control.

**1.04 Means and Methods of Construction**

- A. Nothing contained in these Contract Documents or inferable therefrom shall be deemed or

construed (1) to make Contractor the agent, servant or employee of City, or (2) to create any partnership, joint venture or other association between City and Contractor.

### **1.05 Control of the Work**

- A. City shall exercise administration of the Contract. The City may employ a consultant to assist. City reserves the right to assign or delegate to this consultant, or any other consultant ("Consultant") any or all of the responsibilities of the Architect/Engineer under the Contract Documents, or alternatively, to act as City's representative.
- B. Contractor shall cooperate with Consultant as directed by City. Consultant's duties may include observing the Contractor's health and safety program and practices, observing the abatement construction activities, observing the contractor's abatement work practices for compliance with the Contract Documents, observing the extent of material removed from each job site, reviewing payment requests, reviewing reports required by governmental or quasi-governmental agencies or the Contract Documents, and providing clearance tests after abatement is completed. No action, omission to act, approval, or failure to advise Contractor as to any matter by Consultant shall in any way relieve the Contractor from its responsibility for the performance of the Work in strict accordance with the Contract Documents and applicable Law.

### **1.06 Warranty, Guarantee and Inspection of Work.**

- A. Contractor represents and warrants that it, its employees and its subcontractors and their employees, shall at all times have the required levels of familiarity with the Site and the Work, training and ability to comply fully with all applicable Law and contract requirements for safe and expeditious performance of the Work, including whatever training is or may be required regarding the activities to be performed (including, but not limited to, all training required to adequately address the actual or potential dangers of contract performance).
- B. Contractor represents and warrants that it, its employees and its subcontractors and their employees, shall at all times have and maintain in good standing any and all certifications and licenses required by applicable federal, state and other governmental and quasi-governmental requirements applicable to the Work.
- C. Contractor represents and warrants that it has studied carefully all requirements of the specifications regarding procedures for demolition, hazardous waste abatement, or safety practices, specified in this contract, and prior submitting its bid, has either (a) verified to its satisfaction that the specified procedures are adequate and sufficient to achieve the results intended by the Contract Documents, or (b) by way of approved "or equal" request or request for clarification and written Addenda, secured changes to the specified procedures sufficient to achieve the results intended by the Contract Documents. Contractor accepts the risk that any specified procedure will result in a completed project in full compliance with the contract requirements.
- D. City reserves the right, in its sole discretion, to conduct air monitoring, earth monitoring, work monitoring, and any other tests (in addition to testing required under the agreement or applicable law), to monitor contract requirements of safe and statutory compliant work methods and (where applicable) safe re-entry level air standards under State and Federal law upon completion of the job, and compliance of the work with periodic and final inspection of public and quasi-public entities having jurisdiction.
- E. Contractor acknowledges that City also has the right to perform, or cause to be performed, various activities and tests including, but not limited to, pre-abatement, during abatement and post-abatement air monitoring, provided that City shall have no obligation to perform said activities and tests, and that a portion of said activities and tests may take place prior to the completion of the Work by Contractor. In the event City elects to perform these activities and tests, Contractor shall afford City ample access to the Site and all areas of the Work as may be necessary for the performance of these activities and tests. Contractor will include the potential impact of these activities for tests by City in the Contract Sum and the Scheduled Completion Date. Contractor shall not be entitled to increases in the contract sum or any damages for delay in the event City elects to perform these activities and tests, provided any delays resulting therefrom are reasonable under the circumstances involved. Notwithstanding City's rights

granted by this paragraph, Contractor shall retain its own industrial hygiene consultant and shall have primary responsibility for collecting samples and perform all applicable, relevant or appropriate activities and tests including, but not limited to, pre-abatement, during abatement and post-abatement air monitoring, required or suggested by the Contract Documents, the Law, or both, and City reserves the right to request documentation of all such activities and tests performed by Contractor relating to the Work.

### **1.07 RECORDS**

- A. Contractor shall obtain and maintain and shall furnish to City on completion of the Work, or at any other time requested by City, all necessary permits, licenses, approvals, authorizations, notifications, training certificates, respirator certificates, reports, correspondence, test results, air monitoring certificates, forms, medical records, medical certificates, notes and photographs of work conditions, approved shipping and disposal facility receipts, manifests, and all other documentation required by the Contract Documents or applicable Law, or both.
- B. Contractor shall provide City with copies of each such document as it is generated and shall, as a condition to final payment, provide City with a complete set of such documents (bound, organized and indexed) at the conclusion of the Work. Contractor shall keep and maintain in retrievable files true and correct copies of all such documents for a period of not less than thirty (30) years after final completion of the Work. City shall have the right to inspect or photocopy these records and, if Contractor should cease business operations, then it shall furnish these records to City.

### **1.08 Compliance with laws**

- A. Contractor represents that it is familiar with shall comply with all laws applicable to the Work or completed Work including, but not limited to, all federal, state and local laws, statutes standards, rules, regulations and ordinances applicable to the Work (collectively, the "Law") relating to:
  - 1. the protection of the public health, welfare and environment;
  - 2. storage, handling or use of asbestos, PCB, lead, petroleum based products or other hazardous materials;
  - 3. the generation, processing, treatment, storage, transport, disposal, destruction or other management of asbestos, PCB, lead, petroleum or hazardous waste materials or other waste materials of any kind; or,
  - 4. the protection of environmentally sensitive areas such as wetlands.
- B. Contractor has the sole responsibility for determining current waste storage, handling, transportation and disposal regulations for the jobsite and for each waste disposal facility. Contractor must comply fully at its sole cost and expense with these regulations and any applicable Law. City, may, but is not obligated to, require submittals with this information for it to review consistent with the Contract Documents.
- C. Contractor shall develop and implement a system acceptable to City to track hazardous waste from the site to disposals, including appropriate "Hazardous Waste Manifests" on the EPA form, so that City may track the volume of waste it put in each landfill and receive from each landfill a certificate of receipt.
- D. Contractor shall provide City with the name and address of each waste disposal facility prior to any disposal, and City shall have the express right to reject any proposed disposal facility. Contractor shall not use any disposal facility to which City has objected. Contractor shall document actual disposal or destruction of waste at a designated facility by completing a disposal certificate or certificate of destruction forwarding the original to the general contractor.

### **1.09 Permits**

- A. Before performing any of the Work, and at such other times as may be required by applicable Law, Contractor shall deliver all requisite notices and obtain the approval of all governmental and quasi-governmental authorities having jurisdiction over the Work. Contractor shall submit evidence satisfactory to City that it and any disposal facility (1) have obtained all required permits, approvals and the like in a timely manner both prior to commencement of the Work and thereafter as and when required by applicable Law, and (2) are in compliance with all such permits,

approvals and the like. For example, before commencing any work in connection with the Work involving asbestos-containing materials or PCB subject to regulation, Contractor agrees to provide the required notice of intent to renovate or demolish to the appropriate state or federal agency having jurisdiction, by certified mail, return receipt requested, or by some other method of transmittal for which a return receipt is obtained, and to send a copy of that notice to City. Contractor shall not conduct any Work involving asbestos-containing materials or PCB unless Contractor has first confirmed that the appropriate agency having jurisdiction is in receipt of the required notification. All permits, licenses, bonds required by governmental or quasi-governmental authorities, fees, deposits, tap fees, offsite easements and asbestos and PCB disposal facilities necessary for the prosecution of the Work shall be procured and paid for by Contractor. Contractor shall give all notices and comply with the Law bearing on the conduct of the Work as drawn and specified. If Contractor observes or reasonably should have observed that Plans and Specifications and other Contract Documents are at variance therewith, it shall be responsible for promptly notifying City in writing of such fact. If Contractor performs any Work contrary to the Law without such notice to City, it shall bear all costs arising therefrom.

- B. In the case of any permits or notices held in City's name or of necessity to be made in City's name, City shall cooperate with Contractor in securing the permit or giving the notice, but the Contractor shall prepare for City's review and execution upon approval, all necessary applications, notices and other materials.

#### **1.10 Indemnification and Termination**

- A. To the extent permitted by law, the indemnities and limitations of liability expressed throughout the Contract Documents apply with equal force and effect to any claims or liabilities imposed or existing by virtue of the removal, abatement and disposal of hazardous waste. This includes liabilities connected to the selection and use of a waste disposal facility, personal injury, property damage, loss of use of property, damage to the environment or natural resources, or "disposal" and "release" of materials associated with the Work (as defined in 42 U.S.C. 9601 *et seq*).
- B. Notwithstanding anything in Document 00 7200 to the contrary, City shall have an absolute right to terminate the Contractor's right to proceed with the Work for cause immediately, without ten calendar days notice and without an opportunity to cure, should Contractor knowingly or recklessly commit a material breach of the terms of the Contract Documents or the Law, on any matter involving the exposure of persons or property to hazardous waste. However, if the breach of contract exposing persons or property to hazardous waste is due solely to an ordinary, unintentional and non-reckless failure to exercise reasonable care, then the procedures in Document 00 7200, Article 14.05, shall apply without modification.

#### **1.11 Protection of Work, Persons and Property**

- A. Contractor shall perform safe, expeditious and orderly work in accordance with the best practices and the highest standards in the hazardous waste abatement, removal and disposal industry, the Law (as herein defined), and the Contract Documents, including, but not limited to, all responsibilities relating to the preparation and return of waste shipment records, all requirements of the Law, delivering of all requisite notices, and obtaining all necessary governmental and quasi-governmental approvals.

**END OF DOCUMENT**

**DOCUMENT 00 7380****APPRENTICESHIP PROGRAM****ARTICLE 1 – COMPLIANCE REQUIRED**

- 1.01** Contractor and Subcontractors shall comply with the requirements of California Labor Code §§1776, 1777.5, and 1777.6 concerning the employment of apprentices by Contractor or Subcontractors. Willful failure to comply may result in penalties, including loss of the right to Bid on or receive public works contracts.

**ARTICLE 2 – CERTIFICATION OF APPROVAL**

- 2.01** California Labor Code §1777.5, as amended, requires a Contractor or Subcontractor employing tradespersons in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of a public works project and which administers the apprenticeship program in that trade for a certification of approval. The certificate shall also fix the ratio of apprentices to journeypersons that will be used in performance of the Contract. The ratio of work performed by apprentices to journeypersons in such cases shall not be less than one *hour* of apprentices work for every five *hours* of labor performed by journeypersons (the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeypersons), except:
- A. When unemployment for the previous three month period in the area exceeds an average of 15 percent;
  - B. When the number of apprentices in training in the area exceeds a ratio of one to five;
  - C. When a trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally; or
  - D. Assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyperson.

**ARTICLE 3 – FUND CONTRIBUTIONS**

- 3.01** Contractor is required to make contributions to funds established for administration of apprenticeship programs if Contractor employs registered apprentices or journeypersons in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.

**ARTICLE 4 – APPRENTICESHIP STANDARDS**

- 4.01** Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of the California Department of Industrial Relations, or from the Division of Apprenticeship Standards and its branch offices.

**END OF DOCUMENT**

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 1100

## SUMMARY OF WORK

## PART 1 - GENERAL

## 1.01 SUMMARY

A. Section includes Summary of Work and Work Restrictions including:

1. Work Covered By Contract Documents
2. Bid Item, Allowances and Alternates
3. Contract Document Organization
4. Maintenance
5. Work Under Other Contracts
6. Future Work
7. Work Sequence
8. Work Days and Hours
9. Shutdown for Discovery of Cultural Resources
10. Cooperation of Contractor and Coordination with Other Work
11. Partial Occupancy/Utilization Requirements
12. Contractor Use of Site
13. Air Quality Standards
14. Construction Staking, Monument Protection and Replacement
15. Geotechnical Data and Existing Conditions
16. Protection of Existing Structures and Underground Facilities
17. Permits
18. Actual Damages for Permit Violations
19. Reference Standards
20. Products Ordered in Advance
21. City-Furnished Products

## 1.02 WORK COVERED BY CONTRACT DOCUMENTS

- A. Work comprises of the construction of City's **K-Dock Restroom Renovation Project** located at **201 University Avenue, Berkeley, California 94710**. The Work includes, without limitation, renovating an existing slip holder restroom into a public restroom and separate slip holder restroom with shower room, work includes, demolition and waste tracking requirements, site security, temporary portable toilet facilities for public use while existing restroom is closed for construction, new perforated panels, doors, interior walls, ADA accessible ramps and stair, security fence, interior improvements, signage, HVAC and Mechanical components, motion activated seismic shut-off valve for gas-meter (included in Mechanical components), plumbing fixtures, water bottle filler, and electrical components including lighting, including ancillary work in accordance with the terms and conditions of the Contract Documents. Contract Documents fully describe the Work.
- B. The Work of this Contract comprises construction of all the Work indicated, described in the Specifications, or otherwise required by the Contract Documents. Unless provided otherwise in the Contract Documents, all risk of loss to Work covered by Contract Documents shall rest with Contractor until Final Acceptance of the Work. Cost of maintenance of systems and equipment prior to Final Acceptance will be considered as included in prices Bid and no direct or additional payment will be made therefore.
- C. For all Bid items, furnish and install all Work, including connections to existing systems, indicated and described in Specifications and all other Contract Documents. Work and requirements

applicable to each individual Bid item, or unit of Work, shall be deemed incorporated into the description of each Bid item (whether Lump Sum or Unit Price). Any Bid item may be deleted from the Work and Contract Sum, in total or in part, prior to or after award of Contract without compensation in any form or adjustment of other Bid items or prices therefore.

- D. Allowance Work shall be done as Change Orders and as specified in Section 01 2600 (Modification Procedures). Identify Allowance Items (See Document 00 4113 [Bid Form]) work on the Progress Schedules and on Applications for Payment. The Amount given on Document 00 4113 (Bid Form) under each Allowance Item is the sum of money set aside for each Allowance Item. These amounts shall be included in the Contract Sum on the Bid Form. If the cost of Work done under any Allowance Item is less than the amount given on the Bid Form under that Allowance Item, the Contract Sum shall be reduced by the difference between the amount given in the Bid Form and the cost of Work actually done.

### **1.03 BID ITEMS, ALLOWANCES AND ALTERNATES**

- A. Descriptions of Lump Sum Items (listed by Bid item numbers):

The work outlined in Section 011000, Section 012500, Section 013300, Section 014000, Section 016000, Section 017300, Section 017700, Section 017823, Section 017839, and Section 061000 of the Technical Specifications and are considered as part of all Lump Sum Bid Items and Bid Alternate Items.

1. Bid Item No. 1 – Mobilization, Staging Area, and Demobilization

Work under Bid Item No. 1 – Mobilization, Staging Area and Demobilization is outlined in Section 015000 of the Technical Specifications.

2. Bid Item No. 2 – Temporary Construction/Weather and Security Protection

Work under Bid Item No. 2 – Temporary Construction/Weather and Security Protection is outlined in Section 015000 of the Technical Specifications.

3. Bid Item No. 3 – Removal, Demolition, Trenching, Waste Management, Green Halo Tracking

Work under Bid Item No. 3 – Removal, Demolition, Trenching, Waste Management, Green Halo Tracking is outlined in Section 017419 and Section 024119 of the Technical Specifications.

4. Bid Item No. 4 – Exterior Access Ramps, Landings and Railings, Modular Aluminum Stair and Handrail

Work under Bid Item No. 4 – Exterior Access Ramps, Landings and Railings, Modular Aluminum Stair and Handrail is outlined in Section 055120 of the Technical Specifications.

5. Bid Item No. 5 – Exterior Perforated Panels

Work under Bid Item No. 5 – Exterior Perforated Panels is outlined in Section 057510 of the Technical Specifications.

6. Bid Item No. 6 – Metal Doors, Frame and Hardware

Work under Bid Item No. 6 – Metal Doors, Frame and Hardware is outlined in Section 081113 and Section 087100 of the Technical Specifications.

7. Bid Item No. 7 – Interior Floor Finishes

Work under Bid Item No. 7 – Interior Floor Finishes is outlined in Section 079200 and Section 093013 of the Technical Specifications.

8. Bid Item No. 8 – Interior Wall and Ceiling Finishes

Work under Bid Item No. 8 – Interior Wall and Ceiling Finishes is outlined in Section 079200, Section 092900, Section 099124, and Section 102600 of the Technical Specifications.

9. Bid Item No. 9 – Signage

Work under Bid Item No. 9 – Signage is outlined in Section 101423.16 of the Technical Specifications.

10. Bid Item No. 10 – Toilet Accessories

Work under Bid Item No. 10 – Toilet Accessories is outlined in Section 102800 of the Technical Specifications.

11. Bid Item No. 11 – Mechanical Components

Work under Bid Item No. 11 – Mechanical Components is outlined in Section 230529, Section 230553, Section 230593, Section 233113, Section 233300, and Section 233423 of the Technical Specifications.

12. Bid Item No. 12 – Plumbing Fixtures

Work under Bid Item No. 12 – Plumbing Fixtures is outlined in Section 220500, Section 220523, Section 220529, Section 220553, Section 220719, Section 221116, Section 221119, Section 221316, Section 221319, Section 224200, and Section 224713 of the Technical Specifications.

13. Bid Item No. 13 – Electrical Components

Work under Bid Item No. 13 – Electrical Components is outlined in Section 260500, Section 260519, Section 260526, Section 260533, Section 260553, Section 260923, Section 262416, Section 262726, and Section 265100 of the Technical Specifications.

B. Descriptions of Unit Price Items and Basis of Measurement for Payment (listed by Bid item numbers):

**(N/A)**

C. Allowances: **(N/A)**

1. Scope of Allowances: (N/A)

D. Bid Alternates: (listed by Alternate Bid Item number):

1. Alternate Bid Item No. 14 – Ornamental Steel Fence and Hardware

Work under Bid Item No. 14 – Ornamental Steel Fence and Hardware is outlined in Section 323100 of the Technical Specifications.

#### 1.04 CONTRACT DOCUMENT ORGANIZATION

- A. The Drawings illustrate locations, arrangements, dimensions, and details to determine the general character of the Work. Parts not detailed shall be subject to the Architect's approval. Where reasonably inferable that a Drawing illustrates only part of a given work on a number of items, the remainder shall be deemed repetitious and so construed. Drawings of greater scale take precedence over Drawings of lesser scale. Do not scale documents.
- B. Drawings indicate general arrangement and location of such items as piping, conduit, apparatus, and equipment. Drawings and Specifications are for guidance of the Contractor and exact locations, distances, and levels will be governed by building site and actual building conditions. The Contractor shall make minor changes, as directed, to arrangements or locations shown in order to meet Structural or Architectural conditions.
- C. Specifications describe performances and qualities required of materials and of methods. Items listed under each Section of the Specifications are not necessarily all inclusive. The Contractor shall be responsible for the complete work.
- D. For convenience, Specifications are separated into topical divisions of work, each of which is further related to topical divisions under which it occurs. Such separation shall not be construed as an attempt by the Architect to establish limits of any agreements between the Contractor and

his/her subcontractors.

- E. Portions of these Specifications are of abbreviated, simplified type and may include incomplete sentences.
1. Omissions of words or phrases such as “the Contractor shall”, “in conformity with”, “shall be”, “as noted on the Drawings”, “in accordance with the details”, “a”, “the”, “all”, “any”, and “each” are intentional. Omitted words or phrases shall be supplied by inference.
  2. Terms such as “approved”, “or approved equal”, “as directed”, “as required”, “as provided”, “acceptable”, and “satisfactory” mean by or to the Architect or the City.
  3. Furnish: The term furnish means supply and deliver to the Project Site, ready for unloading, unpacking, assembly, installation, and similar operations.
  4. Install: The term install describes operations at the Project Site, including the actual unloading, unpacking, assembly, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar ions.
  5. Provide: The term provide means to furnish and install, complete and ready for the intended use.
- F. Reference Standards
1. For products specified by association or trade standards, comply with requirements of the standard except where more rigid requirements are specified or are required by applicable codes.
  2. The date of the standard is that in effect as of bid date except where specific date is specified

#### **1.05 MAINTENANCE**

- A. Cost of maintenance of systems and equipment prior to Final Acceptance will be considered as included in prices bid and no direct or additional payment will be made therefor.

#### **1.06 WORK SEQUENCE**

- A. Construct Work in stages and at times to accommodate City operation requirements during the construction period; coordinate construction schedule and operations with City.

#### **1.07 WORK DAYS AND HOURS**

- A. Work Days and hours: Monday-Friday inclusive, [7:00 a.m.-5:00 p.m.] local time.
- B. Work at the Site on weekends or holidays is not permitted, unless Contractor requests otherwise from City in writing at least 48 hours in advance and City approves in its sole discretion.

#### **1.08 SHUTDOWN FOR DISCOVERY OF CULTURAL RESOURCES**

- A. If discovery is made of items of historical archaeological or paleontological interest, immediately cease all Work in the area of discovery. Archaeological indicators may include, but are not limited to, dwelling sites, locally darkened soils, stone implements or other artifacts, fragments of glass or ceramics, animal bones, human bones, and fossils. After cessation of excavation, immediately contact City. Do not resume Work until authorization is received from City. When resumed, excavation or other activities shall be as directed by City.

#### **1.09 COOPERATION OF CONTRACTOR AND COORDINATION WITH OTHER WORK**

- A. Coordinate with City and any City forces, or other contractors and forces, as required by Document 00 7200 (General Conditions).

#### **1.10 PARTIAL OCCUPANCY/UTILIZATION REQUIREMENTS**

- A. Allow City to take possession of and use any completed or partially completed portion of the Work during the progress of the Work as soon as is possible without interference to the Work.
- B. Possession, use of Work, and placement and installation of equipment by City shall not in any

way evidence the completion of the Work or any part of it.

- C. Contractor shall not be held responsible for damage to the occupied part of the Work resulting from City occupancy.
- D. Make available, in areas occupied, on a 24 hour per day and 7 day per week basis if required, any utility services, heating, and cooling in condition to be put in operation at the time of occupancy.
  - 1. Responsibility for operation and maintenance of said equipment shall remain with Contractor.
  - 2. Make, and City shall certify, an itemized list of each piece of equipment so operated with the date operation commences.
  - 3. Itemized list noted above shall be basis for commencement of warranty period for equipment.
  - 4. City shall pay for utility cost arising out of occupancy by City during construction.
- E. Use and occupancy by City prior to acceptance of Work does not relieve Contractor of its responsibility to maintain insurance and bonds required under the Contract until entire Work is completed and accepted by City.
- F. Prior to date of Final Acceptance of the Work by City, all necessary repairs or renewals in Work or part thereof so used, not due to ordinary wear and tear, but due to Defective materials or workmanship or to operations of Contractor, shall be made at expense of Contractor, as required in Document 00 7200 (General Conditions).
- G. Use by City of Work or part thereof as contemplated by this Section 01 1100 shall in no case be construed as constituting acceptance of Work or any part thereof. Such use shall neither relieve Contractor of any responsibilities under Contract, nor act as waiver by City of any of the conditions thereof.
- H. City may specify in the Contract Documents that portions of the Work, including electrical and mechanical systems or separate structures, shall be substantially completed on dates described in this Section 01 1100, if any, prior to Substantial Completion of all of the Work. Notify City in writing when Contractor considers any such part of the Work ready for its intended use and Substantially Complete and request City to issue a Certificate of Substantial Completion for that part of the Work.

#### **1.11 CONTRACTOR USE OF SITE**

- A. Access is available to the Site from **University Avenue**, along the route indicated. The entrance to the access road is protected with a gate and lock. Contractor shall insert Contractor's own lock in series and ensure that the entrance is locked at the end of each work day and at other times as may be necessary to control unauthorized entry.
- B. Contractor shall contact City at least 2 Business Days prior to entering the building and performing Work to allow City to arrange access into the building. Access Request forms shall be submitted 48 hours in advance of anticipated on-site Work to gain permission to enter Site and to allow notification to occupants.
- C. Confine operations at Site to areas permitted by Contract Documents, permits, ordinances, and laws. Do not unreasonably encumber Site with materials or equipment.
- D. Assume full responsibility for protection and safekeeping of products stored on premises. Move any stored products that interfere with operations of City or other contractor.
- E. Coordinate parking, storage, staging, and Work areas with City. City will review and approve the proposed storage area for Contractor's equipment and materials. Do not store construction materials in the dripline of any tree.
- F. Prior to commencement of Work or excavation, Contractor and City shall jointly survey the area adjacent to the Project area making permanent note and record of such existing damage such as cracks, sags or other similar damage. This record shall serve as a basis for determination of

subsequent damage to structures, conditions or other existing improvements due to Contractor's operations. All parties making the survey shall sign the official record of existing damage. Cracks, sags or damage of any nature to the adjacent Project area, not noted in the original survey but subsequently noted, shall be reported immediately to City.

- G. The Contractor shall follow all city ordinances in force during the duration of this Contract.
- H. It is essential that the Contractor perform the Work with as little interference and disturbance as possible to the surrounding neighborhood.
- I. When suspect materials, outside the scope of Work, are encountered during the Work or restoration process, the Contractor shall immediately contact the Project Manager for evaluation and approval of the methods for dealing with the material.

#### **1.12 AIR QUALITY STANDARDS**

- A. Ensure that idling time for all heavy equipment is minimized to reduce on-Site emissions.
- B. Maintain equipment in good mechanical condition.
- C. Cover trucks hauling dirt.
- D. Limit dust emissions during periods of high winds (greater than 15 miles per hour).
- E. Replace ground cover in disturbed areas as soon as possible.
- F. Enclose, cover, water, or apply soil binders to exposed stockpiles.
- G. Remove earth tracked onto neighboring paved roads at least once daily.
- H. Limit equipment speed to 10 miles per hour in unpaved areas.

#### **1.13 CONSTRUCTION STAKING, MONUMENT PROTECTION AND REPLACEMENT**

- A. Notify City at least three (3) Business Days prior to the need for initial staking. City will provide engineering surveys, City benchmarks, corner records, reference points, and/or monument cards that in City's judgment are necessary to establish site elevations for the Contractor to establish construction stakes in order to enable Contractor to proceed with the Work.
- B. If Contractor finds any additional information is necessary, notify City in writing 2 Business Days in advance. City shall have no liability for any inadequacy unless Contractor notifies City and City fails to cure within 3 Business Days of such notice.
- C. Contractor shall be responsible for laying out the Work and provide all construction staking. Contractor shall replace or repair construction stakes at own expense.
- D. Contractor shall perform brush clearing and traffic control, as necessary, in City's sole judgment.
- E. The Contractor shall protect and preserve all existing survey monuments, benchmarks, reference points, property monuments and stakes.
- F. Whenever Contractor knows or reasonably should know that any Work activity is likely to damage or destroy any survey monuments, benchmarks, reference points, property monuments, or construction stakes, or require relocation because of necessary changes in grades or locations, provide at least 3 Business Days advance notice to City. Survey monuments, benchmarks, reference points and property monuments shall not be disturbed until authorized by the City.
- G. Whenever the Contractor disturbs or removes any survey monuments, benchmarks, reference points, or property monuments, the Contractor shall replace the monument in accordance with City Standard Plan 8090 or City Standard Plan 8091, as applicable. Standard Plans are available upon request. Monument casings (boxes and lids) shall be provided by the Contractor, and dome brass markers shall be supplied by the City.
- H. In the event that any non-referenced monuments become in danger of being disturbed due to construction, the Contractor shall cease the threatening activity and notify the City immediately. Response to endangered monuments is a priority call, and each monument shall be referenced in

accordance with the City of Berkeley Monument Reference Guidelines, available upon request. In no case may an unreferenced monument be damaged during construction.

- I. Should any monument not designated for replacement sustain damage during construction, the Contractor shall bear the expense for rebuilding it as well as for the survey work the City survey crew or its survey consultant must perform in the process. In any instance where the City deems a damaged monument to be irreplaceable, the contractor shall be fined \$20,000 per monument.
- J. Monument replacement must be done in a neat, workman-like manner. Pavement cuts shall be accurate, with vertical cuts to exact dimensions as shown on the Standard Plans. Monument boxes and lids shall be placed at the proper finished grade and as detailed by Standard Plan 8090 or Standard Plan 8091. Existing monument lids shall be salvaged by the Contractor and delivered to the City.
- K. Each replacement monument shall be constructed such that the center of the dome brass marker is set within 0.04 foot of the referenced position. The new dome brass marker shall not receive final punching prior to seven (7) calendar days after completion of the monument construction.
- L. In any event, notify City whenever any survey monuments, benchmarks, reference points, or property monuments are lost or destroyed or require relocation because of necessary changes in grades or locations.
- M. If the City has elected to reference known monuments around or within the project site, a copy of the corner records for the referenced monuments shall be provided to the Contractor prior to the start of construction. For each monument that has been disturbed or removed, the replacement monument location(s) will be established by the City's survey crew or its survey consultant after final pavement is completed and upon request by the Contractor.
- N. All City of Berkeley Monuments located within the project area must be referenced, prior to work commencing, by a licensed land surveyor as required by Section 8771 of the Business and Professions Code. Corner Records of this work must be submitted for filing to both the County Surveyor of Alameda County, and the City of Berkeley, Public Works Department, Engineering Division, Survey Section.
- O. Illegible survey requests or requests without proper notification (at least 3 Business Days in advance), may result in delayed response. No extension of Contract Time will be allowed due to such delays.

#### **1.14 GEOTECHNICAL DATA AND EXISTING CONDITIONS**

- A. Available Documentation: In accordance with, and subject to, the provisions of Document 00 3132 (Geotechnical Data and Existing Conditions), the following documentation is available for review. This information is not part of the Contract Documents.

#### **1.15 PROTECTION OF EXISTING STRUCTURES AND UNDERGROUND FACILITIES**

- A. The Drawings may indicate existing above- and below-grade structures, drainage lines, storm drains, sewers, water lines, gas lines, electrical lines, hot water lines, and other similar items and Underground Facilities that are known to City. At least (2) two Business Days, or as otherwise noted, prior to commencement of excavation, notify the owners of the following Underground Facilities:
  1. **Water lines:** EBMUD
  2. **Sewer lines:** Berkeley Public Works Department
  3. **Telephone Conduit:** Telephone Provider
  4. **Cable:** Cable Provider
  5. **Electrical Lines:** PG&E
- B. Where overhead service to a structure, known to receive service, does not exist, then underground service shall be assumed to exist.

- C. Attention is also directed to the existence of overhead power and telephone lines.
- D. Perform pot-holing by hand within 24 inches (in any direction) of the Underground Facilities. This may be done on an area-by-area basis, but shall be accomplished at least 7 calendar days in advance of the date of construction within such area.
- E. Telemetry antennas: Ensure that the telemetry and voice communication antennas located on the Marina Office, 201 University Avenue, Berkeley, CA roof remain operational. City's telemetry system is critical to the function and operation of Owner's water supply and distribution system. Coordinate relocation of equipment related to the telemetry and voice communication systems with Owner. Notify Owner 3 calendar days prior to conducting any Work in the vicinity of the telemetry antenna.
- F. No attempt has been made to locate utilities on private property such as sprinkler irrigation systems or electrical conduits on the project site or adjacent property. Contractor is responsible for contacting all property owners as necessary, and locating and marking utilities in the vicinity of the work prior to construction.
- G. In addition to reporting, if a utility is damaged, Contractor must take appropriate action as provided in Document 00 7200 (General Conditions).
- H. Additional compensation or extension of time on account of utilities not indicated or otherwise brought to Contractor's attention including reasonable action taken to protect or repair damage shall be determined as provided in Document 00 7200 (General Conditions).

#### 1.16 PERMITS

- A. Permits, agreements, or written authorizations that are known by City to apply to this Project are listed below:
  - 1. Storm Water Pollution Prevention
  - 2. Cal/OSHA Permit. Obtain, as applicable, permit(s) as required by Cal/OSHA for the following:
    - a. Construction of trenches or excavations that are five feet or more in depth and into which a person is required to descend.
    - b. Construction or demolition of any building, structure, or scaffolding for falsework more than three stories high, or the equivalent height (36 feet).
    - c. Erection or dismantling of vertical shoring systems more than three stories high, or the equivalent height (36 feet).
  - 3. The local Cal/OSHA district office is located at:

CAL/OSHA Headquarters  
1515 Clay Street, Suite 1303  
Oakland, CA 94612  
  
(510) 622-2916
- B. All other permits that may be required, such as electrical, mechanical, fire prevention, irrigation, grading, slope protection, tree cutting, etc., have not been applied for and shall be obtained by Contractor. Applicable permit fees will be reimbursed to the extent specified in Document 00 7200 (General Conditions).

#### 1.17 ACTUAL DAMAGES FOR PERMIT VIOLATIONS

- A. In addition to damages which are impracticable or extremely difficult to determine, for which liquidated damages will be assessed as described in Document 00 5200 (Agreement) and Document 00 7200 (General Conditions), City may incur actual damages, including fines imposed by any regulatory agency, resulting from **loss of use of the K-Dock Restroom area or from use in violation of legal or regulatory requirements** where the violations result from Contractor's activities. Continuous operation of the **K-Dock Restroom area** in compliance with legal or regulatory requirements is essential to avoid discharges that would violate applicable regulations.

Violations or threatened violations may subject City to fines of up to **\$2,000** per Day or occurrence and/or other costs or civil liabilities.

- B. Contractor shall be liable for and shall pay City the amount of any actual losses in addition to liquidated damages or other remedies provided by the Contract Documents.
- C. The amount of liquidated damages provided in Document 00 5200 (Agreement) and Document 00 7200 (General Conditions) is not intended to include, nor does the amount include, any damages incurred by City for reasons other than those listed in that paragraph. Any money due or to become due to Contractor may be retained by City to cover both the liquidated and the actual damages described above and, should such money not be sufficient to cover such damages, City shall have the right to recover the balance from Contractor or its sureties.

## **PART 2 - PRODUCTS**

### **2.01 REFERENCE STANDARDS**

- A. For products specified by association or trade standards, comply with requirements of standard, except where more rigid requirements are specified or are required by applicable codes.

### **2.02 [OPTIONAL] PRODUCTS ORDERED IN ADVANCE**

- A. As provided in Document 00 7200 (General Conditions) and Section 01 2000 (Measurement and Payment), and subject to all other provisions of the Contract Documents, City will pay for the following materials and equipment prior to incorporation into the Work:

1. **[None]**

2. \_\_\_\_\_ **[Other materials and equipment at the sole discretion of City.]**

### **2.03 CITY-FURNISHED PRODUCTS**

- A. City-Furnished Products:

1. **[None]**

- B. City's Responsibilities:

- 1. Arrange for and deliver City-reviewed Shop Drawings, Product Data, and Samples, to Contractor.
- 2. Arrange and pay for delivery to Site.
- 3. On delivery, inspect products jointly with Contractor.
- 4. Submit claims for transportation damage and replace damaged, Defective, or deficient items.
- 5. Arrange for manufacturers' warranties, inspections, and service.

- C. Contractor's Responsibilities:

- 1. Review City-reviewed Shop Drawings, Product Data, and Samples.
- 2. Receive and unload products at Site; inspect for completeness or damage jointly with City.
- 3. Handle, store, install, and finish products.
- 4. Repair or replace items damaged after receipt.
- 5. Install into Project per Contract Documents.

## **PART 3 - EXECUTION – NOT USED**

**[OPTION IF THERE ARE PERMITS: Permit copies follow this page numbered consecutively as 01 1100]**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 2000

## MEASUREMENT AND PAYMENT

## PART 1 - GENERAL

## 1.01 SUMMARY

- A. Section includes description of requirements and procedures for determining amount of Work performed and for obtaining payment for Work performed.

## 1.02 REFERENCES

- A. California Public Contract Code
- B. Code of Civil Procedures
- C. Government Code

## 1.03 COMPOSITION AND SCOPE OF CONTRACT SUM

## A. Scope of Contract Sum

1. The Contract Sum for performance of the Work under Contract Documents, or under any Bid item, allowance, or Alternate, shall include full compensation for all Work required under the Contract Documents, including without limitation, all labor, materials, taxes, transport, handling, storage, supervision, administration, and all other items necessary for the satisfactory completion of the Work, whether or not expressly specified or indicated, incidental work and unexpected expenses, and all terms, conditions, requirements and limitations set forth in the Contract Documents.
2. Contract Sum may be expressed as lump sum, unit price, GMP, allowance, or combination thereof.

## B. Unit Price items

1. Quantity of Work to be paid for under any item for which a unit price is fixed in Contract Documents shall be determined by City based on, so far as practicable, actual number of units satisfactorily completed, as determined by City and certified by Contractor, within prescribed or ordered limits, and no payment will be made for Work unsatisfactorily performed or done outside of limits.
2. Unit Prices shall apply to Work covered by unit prices so long as actual quantities performed on the Project are not less than 75 percent or greater than 125 percent of the estimated quantities bid or otherwise stated in the Contract Documents. If actual quantities exceed these parameters, then the unit price shall be adjusted by an amount to reflect the Contractor's incremental cost differential resulting from increased or decreased economies of scale.

## C. Lump Sum Items

1. When estimated quantity for specific portion of Work is not indicated and/or Work is designated as lump sum, payment will be on a lump sum basis for Work satisfactorily completed in accordance with Contract Documents.
2. Payment for lump sum Work, or items of Work subject to a lump sum (e.g. without limitation, change order work), shall be made on the basis of satisfactory completion of such Work or work item, earned in progressive stages in accordance with the Contract Documents, up to but not exceeding the Contractor's percentage completion of the Work or item.
3. Lump sum items shall be paid based upon the approved Schedule of Values, which shall be

used to measure progressive payments based upon satisfactory progress towards completion of the item.

#### **D. Allowance Items**

1. Allowances: Allowance Work will be authorized by City in writing, following change order procedures to determine cost, supporting documentation and authorization to proceed. Unused allowance amounts at Contract completion shall reduce the Contract price accordingly.

### **1.04 PAYMENT PROCEDURES**

#### **A. Schedule of Values:**

1. Within ten calendar days from issuance of Notice of Award and prior to the Contractor's first Application for Payment, Contractor shall submit a detailed breakdown of its Bid by scheduled Work items and/or activities, including coordination responsibilities and Project Record Documents responsibilities. Where more than one Subcontractor comprises the work of a Work item or activity, the Schedule of Values shall show a separate line item for each subcontract. Contractor shall furnish such breakdown of the total Contract Sum by assigning dollar values (cost estimates) to each applicable Progress Schedule network activity, which cumulative sum equals the total Contract Sum. This breakdown shall be referred to as the Schedule of Values.
2. Contractor's overhead, profit, insurance, cost of bonds (except to the extent expressly identified in a Bid item) and/or other financing, as well as "general conditions costs," (e.g., Site cleanup and maintenance, temporary roads and access, off-Site access roads, temporary power and lighting, security, and the like), shall be prorated through all activities so that the sum of all the Schedule of Values line items equals Contractor's total Contract Sum, less any allowances designated by City. Scheduling, record documents and quality assurance control shall be separate line items.
3. City will review the breakdown in conjunction with the Progress Schedule to ensure that the dollar amounts of this Schedule of Values are, in fact, reasonable cost allocations for the Work items listed. Upon favorable review by City, City will accept this Schedule of Values for use. City shall be the sole judge of fair market cost allocations.
4. City will reject any attempt to increase the cost of early activities, i.e., "front loading," resulting in a complete reallocation of moneys until such "front loading" is corrected. Repeated attempts at "front loading" may result in suspension or termination of the Work for default, or refusal to process progress payments until such time as the Schedule of Values is acceptable to City.

#### **B. Contractor's Requests for Progress Payments**

1. If requested by Contractor, progress payments will be made monthly, under the following conditions:
2. On or before the 25th Day of each month, Contractor shall submit to City five copies of an Application for Payment for the cost of the Work put in place during the period from the last Day of the previous month to the end of the current month, along with one copy of an updated Progress Schedule. Such Applications for Payment shall be for the expected total value of activities completed or partially completed, based upon Schedule of Values prices (or Bid item prices if unit price) of all labor and materials incorporated in the Work up until midnight of the last Day of that one month period, less the aggregate of previous payments. Accumulated retainage shall be shown as separate item in payment summary. City and Contractor will reconcile any differences in the field, based on the reconciled monthly report sheets. If Contractor is late submitting its Application for Payment, that Application may be processed at any time during the succeeding one-month period, resulting in processing of Contractor's Application for Payment being delayed for more than a Day for Day basis.
3. Except as otherwise provided in a labor compliance program applicable to the Work (if any) or as otherwise required by City, concurrently with each Application for Payment, Contractor shall submit to the City the Contractor's and its Subcontractors' certified payroll records required to be maintained pursuant to Labor Code Section 1776 for all labor performed during pay periods

ending during the period covered by the Application for Payment.

4. No progress payment will be processed prior to City receiving all requested, acceptable schedule update information and certified payrolls, and in City's sole and absolute discretion, City may deny the entire Application for Payment for noncompliance.
5. Each Application for Payment shall list each Change Order and Construction Change Directive ("CCD") executed prior to date of submission, including the Change Order/CCD Number, and a description of the Work activities, consistent with the descriptions of original Work activities. Contractor shall submit a monthly Change Order/CCD status log to City.
6. If City requires substantiating data, Contractor shall submit information requested by City, with cover letter identifying Project, Application for Payment number and date, and detailed list of enclosures. Contractor shall submit one copy of substantiating data and cover letter for each copy of Application for Payment submitted.
7. If Contractor fails or refuses to participate in monthly Work reconciliations or other construction progress evaluation with City, Contractor shall not receive current payment until Contractor has participated fully in providing construction progress information and schedule update information to City.

#### C. City's Review of Progress Payment Applications

1. City will review Contractor's Application for Payment following receipt and during the Progress Schedule and Billing Meeting. If adjustments need to be made to percent of completion of each activity, City will make appropriate notations and return to Contractor. Contractor shall revise and resubmit. All parties shall update percentage of completion values in the same manner, i.e., express value of an accumulated percentage of completion to date.
2. If City determines that portions of the Application for Payment are not proper or not due under the Contract Documents, then City may approve the other portions of the Application for Payment, and in the case of disputed items or Defective Work not remedied, may withhold up to 150 percent of the disputed amount from the progress payment.
3. Pursuant to California Public Contract Code §20104.50, if City fails to make any progress payment within 30 calendar days after receipt of an undisputed and properly submitted Application for Payment from Contractor, City shall pay interest to the Contractor equivalent to the legal rates set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure. The 30-Day period shall be reduced by the number of calendar days by which City exceeds the seven-Day return requirement set forth herein.
4. As soon as practicable after approval of each Application for Payment for progress payments, City will pay to Contractor in manner provided by law, an amount equal to 95 percent of the amounts otherwise due as provided in the Contract Documents, or a lesser amount if so provided in Contract Documents and by law, provided that payments may at any time be withheld if, in judgment of City, Work is not proceeding in accordance with Contract, or Contractor is not complying with requirements of Contract, or to comply with stop notices or to offset liquidated damages accruing or expected. In City's sole discretion, if Contractor has failed to comply with either its Progress Schedule update or project record documents requirements, City may retain an additional 5% of any earned amounts until such requirements are satisfied.
5. Before any progress payment or final payment is due or made, Contractor shall submit satisfactory evidence that Contractor is not delinquent in payments to employees, Subcontractors, suppliers, or creditors for labor and materials incorporated into Work. This specifically includes, without limitation, conditional lien release forms for the current progress payment and unconditional release forms for past progress payments. This also includes copies of certified payroll from contractor and subcontractors for the current payment period.

#### D. Payment for Material and Equipment Not Yet Incorporated Into the Work

1. No payment shall be made for materials or equipment not yet incorporated into the Work,

except as specified elsewhere in the Contract Documents or as may be agreed to by City in its sole discretion. Where Contractor requests payment on the basis of materials and equipment not incorporated in the Work, Contractor must satisfy the following conditions:

2. The materials and/or equipment shall be delivered and suitably stored at the Site or at another local location agreed to in writing, for example, a mutually acceptable bonded and insured warehouse.
3. Full title to the materials and/or equipment shall vest in City at the time of delivery to the Site, warehouse or other storage location. Obtain a negotiable warehouse receipt, endorsed over to City for materials and/or equipment stored in an off-site warehouse. No payment will be made until such endorsed receipts are delivered to City.
4. Stockpiled materials and/or equipment shall be available for City inspection, but City shall have no obligation to inspect them and its inspection or failure to inspect shall not relieve Contractor of any obligations under the Contract Documents. Materials and/or equipment shall be segregated and labeled or tagged to identify these specific Contract Documents.
5. After delivery of materials and/or equipment, if any inherent or acquired defects are discovered, defective materials and/or equipment shall be removed and replaced with suitable materials and/or equipment at Contractor's expense.
6. At Contractor's expense, insure the materials and/or equipment against theft, fire, flood, vandalism, and malicious mischief, as well as any other coverages required under the Contract Documents.
7. Contractor's Application for Payment shall be accompanied by a bill of sale, invoice or other documentation warranting that City has received the materials and equipment free and clear of all liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect City interest therein, all of which must be satisfactory to City. This documentation shall include, but not be limited to, conditional releases of mechanics' liens and stop notices from all those providing materials and equipment as to which the Application for Payment relates, as well as unconditional releases of the same from the same as to the previous Application for Payment for which they have not already been provided. Amounts previously paid for materials and equipment prior to incorporation into the Work shall be deducted from amounts otherwise due Contractor as they are incorporated.

#### **1.05 FINAL PAYMENT**

##### **A. Final Payment**

1. As soon as practicable after all required Work is completed in accordance with Contract Documents, including punchlist, testing, record documents and Contractor maintenance after Final Acceptance, Contractor shall submit its Application for Final Payment.
2. Provided Contractor has met all conditions required for Final payment, City will pay to Contractor, in manner provided by law, unpaid balance of Contract Sum of Work (including, without limitation, retentions), or whole Contract Sum of Work if no progress payment has been made, determined in accordance with terms of Contract Documents, less sums as may be lawfully retained under any provisions of Contract Documents or by law.

##### **B. Final Accounting**

1. Prior progress payments and change orders shall be subject to audit and correction in the final payment.
2. Contractor and each assignee under an assignment in effect at time of final payment shall execute and deliver at time of final payment, and as a condition precedent to final payment, Document 00 6530 (Agreement and Release of Claims).

#### **1.06 SUBSTITUTION OF SECURITIES**

- A. Public Contract Code Section 22300.** In accordance with the provisions of Public Contract

Code Section 22300, substitution of securities for any moneys withheld under Contract Documents to ensure performance is permitted under following conditions:

1. At request and expense of Contractor, securities listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Contractor and City which are equivalent to the amount withheld under retention provisions of Contract shall be deposited with Controller or with a state or federally chartered bank in California, as the escrow agent, who shall then pay such moneys to Contractor. Upon satisfactory completion of Contract, securities shall be returned to Contractor.
2. Alternatively, Contractor may request and City shall make payment of retentions earned directly to the escrow agent at the expense of Contractor. At the expense of Contractor, Contractor may direct the investment of the payments into securities and receive the interest earned on the investments upon the same terms provided for securities deposited by Contractor. Upon satisfactory completion of the work of the Contract Documents, Contractor shall receive from escrow agent all securities, interest, and payments received by the escrow agent from City. Contractor shall then pay to each Subcontractor, not later than 10 calendar days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to insure the performance of Contractor.
3. Contractor shall be beneficial owner of securities substituted for moneys withheld and shall receive any interest thereon.
4. Contractor may enter into an escrow agreement, form included in Contract Documents, as authorized under Public Contract Code Section 22300, specifying amount of securities to be deposited, terms and conditions of conversion to cash in case of default of Contractor, and termination of escrow upon completion of Contract Documents.
5. Public Contract Code Section 22300, in effect on Bid Day, is hereby incorporated in full by this reference and shall supersede anything inconsistent therewith.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 2600

## MODIFICATION PROCEDURES

## PART 1 - GENERAL

## 1.01 SUMMARY

- A. Section includes requirements that supplement the paragraphs of Document 00 7200 (General Conditions).
- B. Description of procedures for modifying the Contract Documents and determining costs for changes in contract amounts.

## 1.02 PROCEDURES FOR CONTRACTOR INITIATED CHANGE ORDER

- A. Contractor-Initiated Change Proposal Request (CPR) and Procedures:
  - 1. Contractor may initiate changes by submitting a Change Proposal Request ("CPR").
  - 2. Whenever Contractor elects or is entitled to submit a CPR, Contractor shall prepare and submit to City for consideration a CPR using the form included in this Project Manual. All CPRs must contain a complete breakdown of costs of credits, deducts and extras; itemizing materials, labor, taxes, Markup and any requested changes to Contract Time. All Subcontractor Work shall be so indicated. Individual entries on the CPR form shall include applicable Schedule of Values code, with all amounts determined as provided herein. After receipt of a CPR with a detailed breakdown, City will act promptly thereon.
  - 3. If City accepts a CPR, City will prepare a Change Order for City and Contractor signatures.
  - 4. If CPR is not acceptable to City because it does not agree with Contractor's proposed cost and/or time, City will provide comments thereto. Contractor will then, within seven (7) calendar days (except as otherwise provided herein), submit a revised CPR.
  - 5. When necessity to proceed with a change does not allow City sufficient time to conduct a proper check of a CPR (or revised CPR), City may issue a Change Directive (CD) as provided below.
- B. Contractor-Initiated Request for Information (RFI) Procedures, Requirements and Limitations:
  - 1. Contractor may submit RFI's for clarifications in City-prepared Contract Documents, which may result in the Contractor submitting a CPR.
  - 2. Whenever Contractor requires information regarding the Project or City-prepared Contract Documents, or receives a request for such information from a Subcontractor, Contractor may prepare and deliver an RFI to City. Contractor shall use RFI format provided on approval by City. Contractor shall not issue an RFI to City solely to clarify Contractor-prepared Construction Documents. Contractor must submit time critical RFIs at least 30 calendar days before scheduled start date of the affected Work activity. Contractor shall reference each RFI to an activity of Progress Schedule and shall note time criticality of the RFI, indicating time within which a response is required. Contractor's failure to reference RFI to an activity on the Progress Schedule and note time criticality on the RFI shall constitute Contractor's waiver of any claim for time delay or interruption to the Work resulting from any delay in responding to the RFI.
  - 3. Contractor shall be responsible for its costs to implement and administer RFIs throughout the Contract duration. Regardless of the number of RFIs submitted, Contractor shall not be entitled to additional compensation for the effort required to submit the RFIs. Contractor shall be

responsible for City's administrative costs for answering RFIs where the answer could reasonably be found by reviewing the Contract Documents, as determined by City; at City discretion, such costs may be deducted from progress payments or final payment.

4. City will respond within ten (10) calendar days from receipt of RFI with a written response to Contractor. Contractor shall distribute response to all appropriate Subcontractors.
5. If Contractor is satisfied with the response and does not request a change in Contract Sum or Contract Time, then the response shall be executed without a change.
6. If Contractor believes the response is incomplete, Contractor shall issue another RFI (with the same RFI number with the letter "A" indicating it is a follow-up RFI) to City clarifying original RFI. Additionally, City may return RFI requesting additional information should original RFI be inadequate in describing condition.

C. Time Requirements:

1. If Contractor believes that a City response to an RFI, submittal or other City direction, results in change in Contract Sum or Contract Time, Contractor shall notify City with the issuance of a preliminary CPR within ten calendar days after receiving City's response or direction, and in no event after starting the disputed work or later than the time allowed under Article 12 of Document 00 7200 (General Conditions). If Contractor also requests a time extension, or has issued a notice of delay or otherwise requests a time extension with a CPR, then Contractor shall submit a Time Impact Evaluation (TIE) required herein concurrently with the CPR and in no event later than ten calendar days after providing the notice of delay.
2. If Contractor requires more time to accurately identify the required changes to the Contract Sum or Contract Time, Contractor may submit an updated and final CPR and TIE within 14 calendar days of submitting the preliminary CPR.
3. If City agrees with Contractor's CPR and/or TIE, then City will prepare a Change Order for City and Contractor signatures. If City disagrees with Contractor, then Contractor may give notice of potential claim as provided in Article 12 of Document 00 7200 (General Conditions), and proceed thereunder.
4. Contractor must submit CPRs, notices of potential claim or Claims within the required time periods. Any failure to do so waives Contractor's right to submit a CPR or file a Claim.

D. Cost Estimate Information:

1. Contractor and subcontractors shall, upon City's request, permit inspection of the original unaltered cost estimates, subcontract agreements, purchase orders relating to the change, and documents substantiating all costs associated with its CPR or Claims arising from changes in the Work.

### 1.03 PROCEDURES FOR CITY INITIATED CHANGE ORDERS

A. City Initiated Change Directives (CD):

1. City may, by Change Directive ("CD") or initially by Instruction Bulletin or by following the procedures for disputed work herein, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with or without adjustment to Contract Sum or Contract Time.
2. If at any time City believes in good faith that a timely Change Order will not be agreed upon using the foregoing procedures, or at any other time, City may issue a CD with its recommended cost and/or time adjustment (if any). Upon receipt of CD, Contractor shall promptly proceed with the change of Work involved and respond to City within ten (10) calendar days.
3. Contractor's response must be any one of following:
  - a. Return CD signed, thereby accepting City response, including adjustment to time and cost (if any).

- b. Submit a (revised if applicable) Cost Proposal with supporting documentation (if applicable, reference original Cost Proposal number followed by letter A, B, etc. for each revision), if City so requests.
  - c. Give notice of intent to submit a claim as described in Article 12 of Document 00 7200 (General Conditions), and submit its claim as provided therein.
4. If CPR or the CD provides for an adjustment to any Contract Sum, the adjustment shall be based on one of the following methods:
    - a. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
    - b. Contractor to proceed on cost reimbursable (force account) basis while negotiating towards a firm price.
    - c. Cost to be determined in a manner agreed.
  5. Change Directive signed by Contractor indicates the agreement of Contractor therewith, including adjustment in Contract Sum or the method for determining them. Such agreement shall be effective immediately and shall be finalized as a Change Order. Where City authorizes CD work on a time and materials basis up to a maximum amount, then Contractor shall promptly advise City upon reaching 75% of such maximum amount, otherwise Contractor shall accept fully the risk of completing the CD work without exceeding such maximum amount.
  6. If Contractor does not respond promptly or disagrees with the method for adjustment (or non-adjustment) in the Contract Sum, the method and the adjustment shall be determined by City on the basis of the Contract Documents and the reasonable expenditures and savings of those performing the Work attributable to the change. If the parties still do not agree on the proper adjustment due to a Change Directive, Contractor may file a Claim per Article 12 of Document 00 7200 (General Conditions) and/or City may direct the changed work through a unilateral change order. Contractor shall keep and present an itemized accounting in a manner consistent with the SOV, together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this paragraph shall be limited to those provided herein.
  7. Pending final determination of cost to City, Contractor may include amounts not in dispute in its Applications for Payment. The amount of credit to be allowed by Contractor to City for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by City. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for Markup shall be figured on the basis of net increase, if any, with respect to that change.
- B. City Initiated Change Order (CO) or Request for Proposal (RFP):
1. City may initiate changes in the Work or Contract Time by issuing a Request for Proposal ("RFP") or Change Order ("CO") to Contractor.
  2. City may issue an RFP to Contractor. Any RFP will detail all proposed changes in the Work and request a quotation of changes in Contract Sum and Contract Time from Contractor.
  3. In response to an RFP, Contractor shall furnish a Change Proposal Request (CPR) within twenty-one (21) Business Days of City's RFP. Upon approval of CPR, City may issue a Change Directive directing Contractor to proceed with extra Work.
  4. If the parties agree on price and time for the work, the City will issue a Contact Change Order. If the parties do not agree on the price or time for a CPR, City may either issue a CD or decide the issue per Article 12 of Document 00 7200 (General Conditions). Contractor shall perform the changed Work notwithstanding any claims or disagreements of any nature.

#### **1.04 PROCEDURES THAT APPLY TO CONTRACTOR- AND CITY-INITIATED CHANGE ORDERS**

- A. Adjustment of Schedules to Reflect Change Orders or CDs:
1. Contractor shall revise Schedule of Values and Application for Payment forms to record each

authorized Change Order or CD as a separate line item and adjust the Contract Sum as shown thereon prior to the next monthly pay period.

2. Contractor shall revise the Progress Schedules prior to the next monthly pay period, to reflect CO or CD.
  3. Contractor shall enter changes in Project Record Documents prior to the next monthly pay period.
- B. Required Documentation for Adjustments to Contract Amounts:
1. For all changes and cost adjustments requested, Contractor shall provide documentation of change in Contract Amounts asserted, with sufficient data to allow evaluation of the proposal.
  2. In all requests for compensation, cost proposals, estimates, claims and any other calculation of costs made under the Contract Documents, Contractor shall breakout and quantify costs of labor, equipment and materials identified herein, for Contractor and subcontractors of any tier.
  3. Contractor shall, on request, provide additional data to support computations for:
    - a. Quantities of products, materials, labor and equipment.
    - b. Taxes, insurance, and bonds.
    - c. Justification for any change in Contract Time and new Progress Schedule showing revision due, if any.
    - d. Credit for deletions from Contract, similarly documented.
  4. Contractor shall support each claim or computation for additional cost, with additional information including:
    - a. Origin and date of claim or request for additional compensation.
    - b. Dates and times Work was performed and by whom.
    - c. Time records and wage rates paid.
    - d. Invoices and receipts for products, materials, equipment and subcontracts, similarly documented.
    - e. Credit for deletions from Contract, similarly documented.
- C. Responses and Disputes:
1. For all responses for which the Contract Documents do not provide a specific time period, recipients shall respond within a reasonable time.
  2. For all disputes arising from the procedures herein, Contractor shall follow Article 12 of Document 00 7200 (General Conditions).

#### **1.05 COST DETERMINATION FOR CHANGES IN CONTRACT AMOUNTS**

- A. Calculation of Total Cost of Extra Work:
1. Total cost of changed Work, extra Work or of Work omitted shall be the sum of three components defined immediately below as: Component 1 (Direct Cost(s)); Component 2 (Markup); and, Component 3 (bonds, insurance, taxes)
  2. Component 1: Direct Cost(s) of labor, equipment and materials, is calculated based upon actually incurred (or omitted) labor costs, material costs and equipment rental costs, as defined herein;
  3. Component 2: Markup on such actually incurred Direct Costs, is applied in the percentages identified below; and
  4. Component 3: Actual additional costs for any additionally required insurance, bonds, and/or taxes, defined herein, is calculated without Markup.

#### **1.06 MEASUREMENT OF DIRECT COST OF CONSTRUCTION (COST COMPONENT NO. 1)**

- A. Composition of Component 1 (Direct Cost of Construction):

1. Component 1 has four subcomponents, also referred to as "LEMS":
  - a. Labor (Component 1A)
  - b. Equipment (Component 1B)
  - c. Materials (Component 1C)
  - d. Subcontractors (Component 1D)
- B. Measurement of Cost of Labor (Component 1A):
  1. Cost of Labor shall be calculated as: Cost of labor for workers (including forepersons when authorized by City) used in actual and direct performance of the subject work, whether employer is Contractor, Subcontractor or other forces, in the sum of the following:
    - a. Actual Wages: Actual wages paid shall include any employer payments to or on behalf of workers for health and welfare, pension, vacation, and similar purposes.
    - b. Labor surcharge: Payments imposed by local, county, state, and federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined, such as worker's compensation insurance. Such labor surcharge shall not exceed generally accepted standards in the State for labor rates in effect on date upon which extra Work is accomplished.
    - c. Cost of labor shall include no other costs, fees or charges.
  2. Labor cost for operators of equipment owned and operated by Contractor or any Subcontractor, shall be no more than rates of such labor established by collective bargaining agreements for type of worker and location of Work, whether or not owner-operator (i.e., Contractor or Subcontractor) is actually covered by such an agreement.
  3. Cost of labor shall be recorded and documented in certified payroll records, maintained in the form customary and/or required in the State, delivered to City weekly.
- C. Measurement of Cost of Equipment (Component 1B):
  1. Measurement of Component 1B (Cost of Equipment). Cost of Equipment shall be calculated as: Cost of Equipment used in actual and direct performance of the subject work, whether by Contractor, Subcontractor or other forces. Cost of Equipment shall be calculated as herein described.
  2. For rented equipment, cost will be based on actual rental invoices, appropriate for the use and duration of the work. Equipment used on extra Work shall be of proper size and type. If, however, equipment of unwarranted size or type and cost is used, cost of use of equipment shall be calculated at rental rate for equipment of proper size and type, as determined by City.
  3. Equipment rental cost for Contractor or Subcontractor-owned equipment, shall be determined by reference to, and not in excess of, the generally accepted standards in the State for equipment rental rates in effect on date upon which extra Work is accomplished. If there is no applicable rate for an item of equipment, then payment shall be made for Contractor- or Subcontractor-owned equipment at rental rate listed in the most recent edition of the CalTrans Standard Schedules and Specifications, and absent a rental rate therein, then the Association of Equipment Distributors (AED) book.
  4. In all cases, rental rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.
  5. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rental rates. Individual pieces of equipment or tools not listed in said publication and having a replacement value of \$100 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore as payment is included in payment for labor. Rental time will not be allowed while equipment is inoperative due to breakdowns.
  6. For equipment on Site, rental time to be paid for equipment shall be time equipment is in

operation on extra Work being performed or on standby as approved by City. The following shall be used in computing rental time of equipment:

- a. When hourly rates are listed, less than 30 minutes of operation shall be considered to be ½ hour of operation.
  - b. When daily rates are listed, less than four hours of operation shall be considered to be ½ Day of operation.
  - c. Rates shall correspond to actual rates paid by Contractor, i.e., if Contractor pays lower weekly or monthly rates, then same shall be charged to City.
7. For equipment that must be brought to Site to be used exclusively on extra Work, cost of transporting equipment to Site and its return to its original location shall be determined as follows:
- a. City will pay for costs of loading and unloading equipment.
  - b. Cost of transporting equipment in low bed trailers shall not exceed hourly rates charged by established haulers.
  - c. Cost of transporting equipment shall not exceed applicable minimum established rates of California Public Utilities Commission or appropriate State Dept. of Transportation.
  - d. City will not make any payment for transporting and loading and unloading equipment if equipment is used on Work in any other way than upon extra Work.
  - e. Rental period may begin at time equipment is unloaded at Site of extra Work and terminate at end of the performance of the extra Work or Day on which City directs Contractor to discontinue use of equipment, whichever first occurs. Excluding Saturdays, Sundays, and City legal holidays, unless equipment is used to perform extra Work on such Days, rental time to be paid per Day shall be four hours for zero hours of operation, six hours for four hours of operation and eight hours for eight hours of operation, time being prorated between these parameters. Hours to be paid for equipment that is operated less than eight hours due to breakdowns, shall not exceed eight less number of hours equipment is inoperative due to breakdowns.
8. Employee vehicles are not part of Component 1A, rather, are included within Component 2 (Markup).
9. Equipment costs shall include no other costs, fees or charges.
- D. Measurement of Cost of Material (Component 1C):
1. Cost of Material shall be calculated as herein described. Cost of such materials will be cost to purchaser (Contractor, Subcontractor or other forces) from supplier thereof, except as the following are applicable:
  2. If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to City notwithstanding fact that such discount may not have been taken.
  3. For materials salvaged upon completion of Work, salvage value of materials shall be deducted from cost, less discounts, of materials.
  4. If cost of a material is, in opinion of City, excessive, then cost of material shall be deemed to be lowest current wholesale price at which material is available in quantities concerned delivered to Site, less any discounts as provided in this Paragraph.
  5. Material costs shall include no other costs, fees or charges.
- E. Measurement of Cost of Subcontractors (Component 1D):
1. Where reimbursed or calculated per the terms of the Contract Documents, change order or Change Directive, cost of Subcontractors shall be calculated as amounts earned by Subcontractors procured in compliance with the Contract Documents and approved by the City, provided such subcontractor earned amounts meet the following requirements:
    - a. Such amounts are earned under the terms of the Subcontracts and the Work complies with the terms of the Contract Documents;

- b. Such amounts are properly requested, documented and permitted under the terms of the subcontract(s) and the Contract Documents.
- c. Total cost to City of Direct Costs of Construction (labor, equipment, materials), Markup, and costs of bonds, insurance and taxes, conform to contract limitations (i.e., totals paid by City do not exceed the 20% Markup limitation.).

#### **1.07 MEASUREMENT AND PAYMENT OF MARK UP (COST COMPONENT 2)**

##### **A. Markup Percentages for Changed Work (Component 2):**

1. Markup on Direct Cost of labor and materials for extra Work shall be 15%. Markup on Direct Cost of equipment for extra Work shall be 15%.
2. When extra Work is performed by Subcontractors, regardless of the number of tiers, total Markup on "Component 1" Direct Costs shall not exceed 20%. Contractor and its Subcontractors shall divide the 20% as they may agree.
3. Under no circumstances shall the total Markup on any extra Work exceed twenty (20) percent, stated as a percent of the Direct Cost of labor, equipment and materials. This limitation shall apply regardless of the actual number of subcontract tiers.
4. On proposals covering both increases and decreases in Contract Sum, Markup shall be allowed on the net increase only as determined above. When the net difference is a deletion, no percentage for Markup shall be allowed, but rather an appropriate percentage deduction shall be issued in the amount of the net difference.

##### **B. Measurement and Payment of Mark Up (Component 2):**

1. Mark Up (Component 2) provides complete compensation to Contractor for:
  - a. All Contractor profit;
  - b. All Contractor home-office overhead;
  - c. All Contractor assumption of risk assigned to Contractor under the Contract Documents;
  - d. Subject to the qualifications below regarding self-performed work, all General Conditions and General Requirements.
2. Profit. Compensation for profit included within Component 2 (Mark Up), includes without limitation: Fees of all types, nature and description; and Profit and margins of all types, nature and description.
3. Home Office Expenses. Compensation for home office expenses included within Component 2 (Mark Up), includes without limitation: Salaries and other compensation of any type of Contractor's personnel (management, administrative and clerical), and all direct and indirect operating, travel, payroll, safety, storage, quality control, maintenance and overhead costs of any nature whatsoever, incurred by Contractor at any location other than the Project specific site office, including without limitation, Contractor's principal or branch offices; insurance premiums other than those for Project specific insurance directed by the City in a change order; all hardware, software, supplies and support personnel necessary or convenient for Contractor's capture, documentation and maintenance of its costs and cost accounting data and cost accounting and control systems and work progress reporting.
4. Assumption of Risk. Compensation for Contractor's assumption of risk under the Contract Documents, included within Component 2 (Mark Up), includes without limitation loss, cost, damage, expense or liability resulting directly or indirectly from any of the following causes ("unallowable costs"), for Contractor and subcontractors of any tier: noncompliance with the Contract Documents, fault or negligence, defective or non-conforming Work, by Contractor or any Subcontractor or Vendor of any tier or anyone directly or indirectly employed by any of them, or for whose acts or omissions any of them are responsible or liable at law or under the Contract Documents; cost overruns of any type; costs in excess of any lump sum, not to exceed amount or GMP; costs resulting from bid or "buy out" errors, unallocated scope, or incomplete transfer of scope or contract terms to subcontractors; any costs incurred by Contractor relating to a Change in the Work without a Change Order or Change Directive in accordance with the

Contract Documents; costs for work or materials for which no price is fixed in the Contract Documents, unless it is expressly specified that such work or material is to be paid for as extra work.

5. General Conditions and Division 1 General Requirements. Compensation for Contractor's General Conditions and General Requirements Costs included within Component 2 (Mark Up), includes compensation to Contractor for: Contractor's direct costs, without overhead or profit, for salaries and related forms of compensation and employer's costs for labor and personnel costs, of Contractor's employees and subconsultant's employees (if any), while and only to the extent they are performing Work at the Project Site. Personnel and Work compensated by this Component include without limitation: All required Project management responsibilities; all on-site services; monthly reporting and scheduling; routine field inspection of Work; general superintendence; general administration and preparation of cost proposals, schedule analysis, change orders and other supporting documentation as necessary; salaries of project superintendent, project engineers, project managers, safety manager, other manager, timekeeper, and secretaries; all cost estimates and updates thereto; development, validation and updates to the project schedule; surveying; estimating. Compensation for Contractor's General Requirements Costs included within Component 2 (Mark Up), compensates Contractor for its "General Requirements" Costs, including without limitation: all scheduling hardware, software, licenses, equipment, materials and supplies; purchase, lease or rental, build out, procurement, supporting equipment and maintenance of temporary on-Site facilities, Project field and office trailers and other temporary facilities, office equipment and supporting utilities; platforms, fencing, cleanup and jobsite security; temporary roads, parking areas, temporary security or safety fencing and barricades, etc.; all Contractor's motor vehicles used by any Contractor's personnel, and all costs thereof; all health and safety requirements, required by law or City procedures; all surveying; all protection of Work; handling and disposal fees; final cleanup; repair or maintenance; other incidental Work; all items, activities and function similar to any of those described above; all travel, entertainment, lodging, board and the like.
6. Personnel compensated by the Markup Component do not include workers of foreman level or below in the case of self-performed work; rather, such personnel shall be treated as a Direct Cost of Construction. Costs compensated by the Markup component do not include temporary measures specifically required by the changed work, not otherwise required or ongoing in the prosecution of the Work, that commence specifically to support the changed work and conclude with the completion of the changed work. Such costs shall be treated as Direct Costs of Construction. Examples of General Requirements costs that this component may not cover are the following: temporary barricades or fencing of specific areas required specifically for the changed work; cranes required specifically for the changed work; extra security required specifically for the changed work.

#### **1.08 MEASUREMENT AND PAYMENT OF BONDS INSURANCE TAXES (COMPONENT 3)**

- A. Measurement of Bonds, Insurance, Taxes (Component 3):
  1. Component 3 (Bonds, Insurance, Taxes) consists of the cost of bonds, insurance and taxes, also referred to as "**BIT**". All State sales and use taxes, applicable County and applicable City sales taxes, shall be included. Federal and Excise tax shall not be included.
  2. There is no mark up on BIT.

#### **1.09 EFFECT OF PAYMENT**

- A. Change Order Compensation is All Inclusive.
  1. Except as provided expressly below regarding changes that extend the Contract Time, payment of calculated cost of extra work constitutes full and complete compensation for costs or expense arising from the extra Work, and is intended to be all inclusive.
  2. Payment for Direct Cost of Construction (Component 1 or LEMS) is intended to be all-inclusive. Any costs or risks not delineated within cost of labor, equipment or materials herein, shall be deemed to be within the costs and risks encompassed by the applicable Markups and

unallowable in any separate amount.

3. Payment of Markup (Component 2) is intended to be all-inclusive. Contractor waives claims for any further or different payment of cost and risk items delineated herein, other than the allowable percentage markup on costs set forth in the Contract Documents; such separate, further or different cost or risk items shall be unallowable, waived and liquidated within the allowable percentage markup.
  4. Contractor shall recover no other costs or markups on extra work of any type, nature or description.
- B. Exception for Changes Extending the Contract Time.
1. Where a change in the Work extends the Contract Time, Contractor may request and recover additional, actual direct costs, provided Contractor can demonstrate such additional costs are (i.) actually incurred performing the Work, (ii.) not compensated by the Markup allowed, and (iii) directly result from the extended Contract Time. Contractor shall make such request and provide such documentation following all required procedures, documentation and time requirements in the Contract Documents, and subject to all contract limitations of liability. Contractor may not seek or recover such costs using formulas (e.g., Eichleay).
- C. Limits of Liability / Accord and Satisfaction.
1. The foregoing limits of compensation apply in all cases of claims for changed Work, whether calculating Change Proposal Requests, Change Orders or CDs, or calculating claims and/or damages of all types, and applies even in the event of fault, negligence, strict liability, or tort claims of all kinds, including strict liability or negligence. Contractor may recover no other costs arising out of or connected with the performance of extra Work, of any nature.
  2. Under no circumstances may Contractor claim or recover special, incidental or consequential damages against City, its representatives or agents, whether arising from breach of contract, negligence, strict liability or other tort or legal theory, unless specifically and expressly authorized in the Contract Documents.
  3. No change in Work shall be considered a waiver of any other condition of Contract Documents. No claim shall be made for anticipated profit, for loss of profit, for damages, or for extra payment whatever, except as expressly provided for in Contract Documents.
  4. Accord and Satisfaction: Every Change Order and accepted CD shall constitute a full accord and satisfaction, and release, of all Contractor (and if applicable, Subcontractor) claims for additional time, money or other relief arising from or relating to the subject matter of the change including, without limitation, impacts of all types, cumulative impacts, inefficiency, overtime, delay and any other type of claim. Contractor may elect to reserve its rights to disputed claims arising from or relating to the changed Work at the time it signs a Change Order or approves a CD, but must do so expressly in a writing delivered concurrently with the executed Change Order or approved CD, and must also submit a Claim for the reserved disputed items pursuant to Article 12 of Document 00 7200 (General Conditions) no later than thirty (30) calendar days after Contractor's first written notice of its intent to reserve rights. Execution of any Change Order or CD shall constitute Contractor's representation of its agreement with this provision.

#### **1.10 MISCELLANEOUS REQUIREMENTS**

- A. City-Furnished Materials.
1. City reserves right to furnish materials as it deems advisable, and Contractor shall have no claims for costs and Markup on such materials.
- B. Records And Certification.
1. All charges shall be recorded daily and summarized in Change Proposal Request form attached hereto. Contractor or authorized representative shall complete and sign form each day. Contractor shall also provide with the form: the names and classifications of workers and hours worked by each; an itemization of all materials used; and a list by size type and identification

number of equipment and hours operated.

2. City shall have the right to audit all records in possession of Contractor relating to activities covered by Contractor's claims for modification of Contract, including CD Work. This right shall be specifically enforceable, and any failure of Contractor to voluntarily comply shall be deemed an irrevocable waiver and release of all claims then pending that were or could have been subject to Article 12 of Document 00 7200 (General Conditions).

C.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

[COST PROPOSAL FORM FOLLOWS ON NEXT PAGE]

**COST PROPOSAL (CP)**

Owner **K-Dock Restroom Renovation Project**  
 Contract Number \_\_\_\_\_

CP Number: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 In Response To \_\_\_\_\_  
 RFP #, etc.

**To: City of Berkeley**  
 Attention: **Jane Doe**  
**1947 Center Street, 5<sup>th</sup> Floor**  
**Berkeley, CA 94704**  
 Phone: (510) 981-6400  
 Fax: (510) 981-6390

**From: [Insert Contractor's Name/Address]**  
 \_\_\_\_\_  
 \_\_\_\_\_

This Cost Proposal is in response to the above-referenced \_\_\_\_\_ [insert RFP, etc. as applicable].  
 Brief description of change(s): \_\_\_\_\_  
 \_\_\_\_\_

ITEM DESCRIPTION	PRIME CONTRACTOR	SUB 1	SUB 2	SUB 3	SUB 4	TOTAL
<b>MATERIAL</b>						
<b>LABOR</b>						
<b>EQUIPMENT</b>						
Other (Specify) Extended Overhead						
<b>TOTAL COST</b>						
Subcontractor's Overhead & Profit 15 percent						
Contractor's Overhead & Profit 15 percent						
Overhead & Profit to Contractor for Subcontractor's Work 5 percent						
(percent of Total Cost above not including any Overhead & Profit – may not exceed 20%)						
<b>GRAND TOTAL</b>						
<b>REQUESTED CHANGE IN CONTRACT TIME (CALENDAR DAYS)</b>						
(Time Impact Evaluation Enclosed)						

By Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 3119

## PROJECT MEETINGS

## PART 1 - GENERAL

## 1.01 SUMMARY

## A. Summary

1. Section includes description of required project meetings.

## 1.02 PRECONSTRUCTION CONFERENCE

- A. Preconstruction Conference. City will call for and administer Preconstruction Conference at time and place to be announced (usually the week prior to start of Work at the Site). Contractor, all major Subcontractors, and major suppliers shall attend Preconstruction Conference. Agenda may include, but not be limited to, the following items:

1. Schedules
2. Personnel and vehicle permit procedures
3. Use of premises
4. Location of the Contractor's on-Site facilities & Temporary Utilities
5. Security
6. Housekeeping
7. Submittal and RFI procedures
8. Inspection and testing procedures, on-Site and off-Site
9. Utility shutdown procedures
10. Control and reference point survey procedures
11. Injury and Illness Prevention Program
12. Contractor's Initial Progress Schedule
13. Contractor's Schedule of Values
14. Contractor's Schedule of Submittals
15. Jurisdictional agency requirements
16. Project Communication Procedures
17. Modification Procedures
18. Site Access by City and Consultants
19. As-Built/Record Documents
20. Permits & Fees
21. Coordination: (Work Performed for City under separate contract). (As Appropriate)
22. City will distribute copies of minutes to attendees. Attendees shall have 7 calendar days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of Preconstruction Conference.

## 1.03 WEEKLY PROJECT MEETINGS

- A. City will schedule and administer weekly progress meetings throughout duration of Work. Progress meetings will be held weekly unless otherwise directed by City. Meetings shall be held at City's Offices unless otherwise specified in Contract Documents.
1. City's Representative will prepare agenda and distribute it 4 calendar days in advance of meeting to Contractor.
  2. Participants with agenda items shall present them.
  3. The Architect/Engineer and other responsible entities shall attend meetings unless otherwise

specified in Contract Documents or provided by City.

4. City shall record and distribute the meeting minutes. Minutes shall be distributed by the City to the Contractor within 3 business days after the meeting. Contractor shall distribute the minutes to those affected by decisions made at meeting. Attendees shall have five business days to submit comments or additions to the minutes. Minutes shall constitute final memorialization of results of meeting.
5. Progress meetings shall be attended by Contractor's job superintendent, major Subcontractors and suppliers, City, and others as appropriate to agenda topics for each meeting.
6. Agenda may contain the following items, as appropriate:
  - a. Review, revise as necessary, and approve previous meeting minutes
  - b. Review of Work progress since last meeting
  - c. Status of Construction Work Schedule, delivery schedules, adjustments
  - d. Submittal, RFI, and Change Order status
  - e. Review of the Contractor's safety program activities and results, including report on all serious injury and/or damage accidents
  - f. Other items affecting progress of Work

#### **1.04 PROGRESS SCHEDULE AND BILLING MEETINGS**

- A. A meeting will be held on approximately the 20th of each month to review the schedule update submittal and progress payment application.
- B. At this meeting, at a minimum, the following items will be reviewed:
  1. Percent complete of each activity;
  2. Time impact evaluations for Change Orders and Time Extension Request;
  3. Actual and anticipated activity sequence changes;
  4. Actual and anticipated duration changes; and
  5. Actual and anticipated Contractor delays.
  6. Waste Management Tracking/Tags
  7. As-Built/Record Documents
- C. These meetings are considered a critical component of overall monthly schedule update submittal and Contractor shall have appropriate personnel attend. At a minimum, Contractor's General Superintendent and Scheduler shall attend these meetings.

#### **PART 2 - PRODUCTS – NOT USED**

#### **PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

**DIVISION 1 GENERAL REQUIREMENTS****SECTION 01 3230****PROGRESS SCHEDULES AND SUBMITTALS****PART 1 - GENERAL****1.01 SUMMARY**

- A. Section includes description of requirements and procedures for submitting progress schedules and submittals.

**1.02 CONTRACTOR TO SUBMIT PROGRESS SCHEDULES**

- A. Contractor shall submit original (baseline) progress schedule two weeks prior to the first Application for Payment.
- B. Baseline Progress Schedule shall show Contractor's construction and procurement activities, including but not limited to, equipment procurement and delivery (Contractor and City supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on site, and necessary interface with City and third parties required to complete the Work in a timely manner and in accordance with Contract Time.

**1.03 SCHEDULE REQUIREMENTS.**

- A. Unless City agrees in writing otherwise, progress schedule shall be on Microsoft Project, Primavera P6, Suretrack, or equivalent software, as City may specify, which Contractor shall prepare and supply to City, with all datapoint entries completed for start dates, necessary work activities, durations (not longer than 21 calendar days) and logic ties.
- B. Contractor's progress schedule may be in the form of a CPM (arrow) diagram or, if City agrees in writing, a bar chart or a Gantt chart. The hard copies of the schedule supplied to City shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- C. Unless City agrees in writing otherwise, progress schedule shall also show early and late start and finish dates and total available float (float to the successor activity's late start date) for each activity. City has no obligation to accept an early completion schedule.

**1.04 MONTHLY UPDATES**

- A. Contractor's progress schedule shall be updated monthly to reflect actual progress. The schedule shall be subject to City's review and acceptance for use in monitoring Contractor's Work and evaluating Applications for Payment.
- B. Contractor shall supply City with an electronic copy of the updated progress schedule with each monthly payment application. Contractor shall provide City with **three-week** look ahead schedules weekly, showing in detail and activities and resources scheduled for the immediate two week period.

**1.05 RECOVERY SCHEDULE**

- A. City may request a recovery schedule should Contractor fall 21 or more calendar days behind any schedule Milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates.
- B. The recovery schedule shall show the intended critical path. If City requests, Contractor shall also:
  - 1. Secure and demonstrate appropriate Subcontractor and supplier consent to the recovery

Schedule.

2. Submit a narrative explaining trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or Subcontractors.

**1.06 TIME IMPACT EVALUATION (“TIE”) FOR CHANGE ORDERS, TIME EXTENSIONS AND DELAYS:**

- A. When Contractor requests a time extension for any reason, Contractor shall submit a TIE that includes both a written narrative and a schedule diagram depicting how the changed Work or other impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current Schedule update critical path or otherwise. Contractor is also responsible for requesting time extensions based on the TIE’s impact on the critical path. The diagram shall be tied to the main sequence of scheduled activities to enable City to evaluate the impact of changed Work to the scheduled critical path.
  
- B. Contractor is responsible for all costs associated with the preparation of TIE’s, and the process of incorporating TIE’s into the current schedule update. Provide City with four copies of each TIE.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

**DIVISION 1 GENERAL REQUIREMENTS****SECTION 01 3300****SUBMITTALS****PART 1 - GENERAL****1.01 SUMMARY**

- A. Section includes description of requirements and procedures for submittals.

**1.02 SCHEDULE OF SUBMITTALS**

- A. Contractor shall prepare for City's review and acceptance prior to commencement of work on the Site, for purposes of contract administration, a schedule of submittals (also referred to as a submittal register) required to complete the Work, prepared by Contractor and accepted by City for contract administration. Schedule of submittals shall include, for each submittal: the specification or drawing reference requiring the submittal, if applicable; the material, item, or process for which the submittal is required; the submittal number and identifying title of the submittal; the Contractor's anticipated submission date and the approval need date.
- B. Contractor shall update monthly the schedule of submittals to reflect actual submission and acceptance dates for submittals. Review by City of schedule of submittals does not excuse Contractor of obligation to supply, schedule and coordinate all submittals required by the Contract Documents.

**1.03 CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA AND SUBMITTALS.**

- A. Contractor shall review for compliance with Contract Documents, approve and submit to City Shop Drawings, Product Data, Samples and similar submittals required by Contract Documents.
- B. Contractor shall schedule and submit concurrently submittals covering component items forming a system or items that are interrelated. Contractor shall include certifications to be submitted with the pertinent drawings at the same time.
- C. Contractor shall coordinate scheduling, sequencing, preparing and processing of all submittals with performance of work so that work will not be delayed by submittal processing.
- D. Submittals shall specifically identify any Work depicted that does not conform to the Contract Documents.

**1.04 CITY REVIEW OF SHOP DRAWINGS, PRODUCT DATA AND SUBMITTALS.**

- A. After review by City of each Submittal, material will be returned to Contractor with actions defined as follows:
  - 1. NO EXCEPTIONS TAKEN - Accepted subject to its compatibility with general design concept of the Work, future Submittals and additional partial Submittals for any portions of the Work not covered in this Submittal. Does not constitute acceptance or deletion of specified or required items not shown on the Submittal.
  - 2. MAKE CORRECTIONS NOTED (NO RESUBMISSIONS REQUIRED) - Same as item 1 above, except that minor corrections as noted shall be made by Contractor.
  - 3. REVISE AS NOTED AND RESUBMIT - Rejected because of major inconsistencies or errors that shall be resolved or corrected by Contractor prior to subsequent review by City.
  - 4. REJECTED - RESUBMIT - Submitted material does not conform to Drawings and/or Specifications in major respect, i.e.: wrong size, model, capacity, or material.

- B. Favorable review will not constitute acceptance by City of any responsibility for the accuracy, coordination, or completeness of the Submittals. Accuracy, coordination, and completeness of Submittals shall be sole responsibility of Contractor, including responsibility to back-check comments, corrections, and modifications from City's review before fabrication. Contractor, Subcontractors, or suppliers may prepare Submittals, but Contractor shall ascertain that Submittals meet requirements of Contract Documents, while conforming to structural space and access conditions at point of installation. City's review will be only to assess if the items covered by the Submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as indicated by the Contract Documents. Favorable review of Submittal, method of Work, or information regarding materials and equipment Contractor proposes to furnish shall not relieve Contractor of responsibility for errors therein and shall not be regarded as assumption of risks or liability by City, or any officer or employee thereof, and Contractor shall have no claim under Contract Documents on account of failure or partial failure or inefficiency or insufficiency of any plan or method of Work or material and equipment so accepted. Favorable review shall be considered to mean merely that City has no objection to Contractor using, upon Contractor's own full responsibility, plan or method of Work proposed, or furnishing materials and equipment proposed.
- C. Unless otherwise specified, City's review will not extend to the means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- D. Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been favorably reviewed by the City; otherwise, any such Work is at Contractor's sole risk.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 4100

## REGULATORY REQUIREMENTS

## PART 1 - GENERAL

## 1.01 SUMMARY

- A. Section includes:
1. Regulatory requirements applicable to Contract Documents
  2. Required provisions under Local Agency Disputes Act
  3. Required references under federal law

## 1.02 GENERAL

- A. Compliance with Laws
1. Conform to all applicable codes, laws, ordinances, rules and regulations, which shall have full force and effect as though printed in full in these Specifications. Codes, laws, ordinances, rules, regulations and ordinances (**Regulatory Requirements**) are not furnished to Contractor, because Contractor is assumed to be familiar with these requirements.
  2. Any listing of Regulatory Requirements for hazardous waste abatement Work in the Contract Documents is supplied to Contractor as a courtesy and shall not limit Contractor's responsibility for complying with all applicable Regulatory Requirements having application to the Work. Where conflict among the Regulatory Requirements or with these Specifications occurs, the most stringent requirements shall be used.
  3. Specific reference in the Specifications to codes and regulations or requirements of regulatory agencies shall mean the latest printed edition of each adopted by the regulatory agency in effect at the time of the opening of Bids, except as may be otherwise specifically stated in the Contract Documents.
- B. Precedence
1. Where specified requirements differ from Regulatory Requirements, the more stringent requirements shall take precedence. Where Drawings or Specifications require or describe products or execution of better quality, higher standard or greater size than required by Regulatory Requirements, then Drawings and Specifications shall take precedence so long as such increase is legal. Where no requirements are identified on Drawings or in Specifications, comply with all Regulatory Requirements of governing authorities having jurisdiction.
  2. Should any conditions develop not covered by the Contract Documents wherein the finished Work will not comply with current codes, a Change Order detailing and specifying the required Work shall be submitted to and approved by City before proceeding with the Work.

## 1.03 REGULATORY REQUIREMENTS

- A. Applicable Codes
1. Codes that apply to Contract Documents include all Codes applicable to construction, including, but not limited to, the following:
    - a. California Building Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.

- b. California Electrical Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
  - c. California Plumbing Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for plumbing, sewage disposal and health requirements.
  - d. California Mechanical Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
  - e. California Energy Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
  - f. California Green Building Standard Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
  - g. International Fire Code (2016 Edition or latest applicable code) as amended by applicable local ordinances for all construction work.
  - h. California Administrative Code Titles 15, 19 and 24 (with California amendments), and Americans with Disabilities Act (ADA) accessibility guidelines, whichever is more stringent.
  - i. All State laws and City and County Ordinances, rules of the State or City or County Health Departments, rules of the National Board of Fire Underwriters and National Fire Protection Associations, and local power company regulations for mechanical and electrical work.
- B. Applicable Laws, Statutes, Ordinances, Rules, And Regulations
- 1. During prosecution of Work to be done under Contract Documents, Contractor shall comply with applicable laws, ordinances, rules and regulations, including, but not limited to, the following:
    - a. Federal:
      - 1) Americans With Disabilities Act of 1990
      - 2) 29 CFR, Section 1910.1001, Asbestos
      - 3) 40 CFR, Subpart M, National Emission Standards for Asbestos
      - 4) Executive Order 11246
      - 5) Federal Endangered Species Act
      - 6) Clean Water Act
    - b. State of California:
      - 1) California Code of Regulations, Titles 5, 8, 17, 19, 21, 22, 24 and 25
      - 2) California Public Contract Code
      - 3) California Health and Safety Code
      - 4) California Government Code
      - 5) California Labor Code
      - 6) California Civil Code
      - 7) California Code of Civil Procedure
      - 8) CPUC General Order 95, Rules for Overhead Electric Line Construction
      - 9) CPUC General Order 128, Rules for Construction of Underground Electric Supply and Communications Systems
      - 10) Cal/OSHA
      - 11) OSHA: Hazard Communications Standards
      - 12) California Endangered Species Act
      - 13) Water Code
      - 14) Fish and Game Code
    - c. State of California Agencies:
      - 1) State and Consumer Services Agency
      - 2) Office of the State Fire Marshall
      - 3) Office of Statewide Health Planning and Development
      - 4) Department of Fish and Game
      - 5) All Air Quality Management Districts with jurisdiction
      - 6) All Regional Water Quality Control Boards with jurisdiction
      - 7) Division of the State Architect (if having jurisdiction)
    - d. All Local Agencies with jurisdiction (cities, counties, fire departments)
- C. Change Orders and Claims:

1. The California Public Contract Code, including but not limited to Section 7105(d)(2), and the California Government Code Section 930.2 et seq., apply to all contract procedures for changes, time extensions, change orders (time or compensation) and claims. Federal law (U.S. v. Holpuch 326 U.S. 234) shall supplement California law on the enforceability of these requirements.
2. Any change, waiver, or omission to implement contract change order and claim procedures shall have no legal effect unless expressly permitted in a fully executed change order approved by Contractor and City and approved as to form by their respective legal counsel.

D. Required Provisions On Contract Claim Resolution

1. The California Public Contract Code specifies required provisions on resolving contract claims less than \$375,000, which are set forth below, and constitute a part of this Contract.
2. For the purposes of this section, "Claim" means a separate demand by Contractor of \$375,000 or less for (1) a time extension, (2) payment or money or damages arising from Work done by or on behalf of Contractor arising under the Contract Documents and payment of which is not otherwise expressly provided for or the Claimant is not otherwise entitled to, or (3) an amount the payment of which is disputed by City. In order to qualify as a Claim, the written demand must state that it is a Claim submitted under paragraph 12 of Document 00 7200 (General Conditions) and be submitted in compliance with all requirements of Document 00 7200 (General Conditions), paragraph 12. Separate Claims which total more than \$375,000 do not qualify as a "separate demand of \$375,000 or less," as referenced above, and are not subject to this section.
3. A voucher, invoice, payment application, or other routine or authorized form of request for payment is not a Claim for purposes of this section. If such request is disputed as to liability or amount, then the disputed portion of the submission may be converted to a Claim under this section by submitting a separate claim in compliance with Contract Documents claim submission requirements.
4. Caution. This section does not apply to tort claims and nothing in this section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 and Chapter 2 of Part 3 of Division 3.6 of Title 1 of the California Government Code.
5. Procedure:
  - a. The Claim must be in writing, submitted in compliance with all requirements of Document 00 7200 (General Conditions), paragraph 12, including, but not limited to, the time prescribed by and including the documents necessary to substantiate the Claim, pursuant to Document 00 7200 (General Conditions), paragraph 12.3. Claims must be filed on or before the day of final payment. Nothing in this section is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth in Document 00 7200 (General Conditions), paragraph 12 or elsewhere in the Contract Documents.
  - b. For Claims of fifty thousand dollars (\$50,000) or less, City shall respond in writing within forty-five (45) calendar days of receipt of the Claim, or City may request in writing within thirty (30) calendar days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims City may have against Claimant. If additional information is thereafter required, it shall be requested and provided in accordance with this section upon mutual agreement of City and Claimant. City's written response to the Claim, as further documented, shall be submitted to Claimant within fifteen (15) calendar days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.
  - c. For Claims over Fifty Thousand Dollars (\$50,000) and less than or equal to \$375,000: City shall respond in writing within sixty (60) calendar days of receipt of the Claim, or City may request in writing within thirty (30) calendar days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims City may have against Claimant. If additional information is thereafter required, it shall be requested and provided in accordance with this section, upon mutual agreement of City and Claimant;

City's written response to the Claim, as further documented, shall be submitted to Claimant within thirty (30) calendar days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.

- d. Meet and Confer: If Claimant disputes City's written response, or City fails to respond within the time prescribed above, Claimant shall notify City, in writing, either within fifteen (15) calendar days of receipt of City's response or within fifteen (15) calendar days of City's failure to timely respond, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon demand City will schedule a meet and confer conference within thirty (30) calendar days for settlement of the dispute.
- e. Following the meet and confer conference, if the Claim or any portion remains in dispute, Claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the California Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time Claimant submits its written claim as set forth herein, until the time that Claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

**E. Compliance With Americans With Disabilities Act**

1. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

**F. Compliance With IRCA**

1. Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractors.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 4200

## REFERENCES AND DEFINITIONS

## PART 1 - GENERAL

## 1.01 SUMMARY

## A. Section Includes:

1. Reference standards, abbreviations, symbols, and definitions used in Contract Documents.
2. Full titles are given in this Section for standards cited in other Sections of Specifications.

1.02 REFERENCE TO STANDARDS AND SPECIFICATIONS OF TECHNICAL SOCIETIES;  
REPORTING AND RESOLVING DISCREPANCIES

## A. References

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code, or laws or regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated in the Contract Documents.
2. If during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any such law or regulation applicable to the performance of the Work or of any such standard, specification, manual, or code or of any instruction of any supplier, Contractor shall report it in writing at once to City's Representative and Architect/Engineer, and Contractor shall not proceed with the Work affected thereby until consent to do so is given by City.

## B. Precedence

1. Except as otherwise specifically stated in the Contract Documents or as may be provided by Change Order, CCD, or Supplemental Instruction, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
  - a. The provisions of any such standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
  - b. The provisions of any such laws or regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such law or regulation).
2. No provision of any such standard, specification, manual, code, or instruction shall be effective to change the duties and responsibilities of City, City's Representative, Architect/Engineer or Contractor, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents, nor shall it be effective to assign to City, Architect/Engineer, or any of their consultants, agents, representatives or employees any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

## C. Referenced Grades, Classes, and Types:

1. Where an alternative or optional grade, class, or type of product or execution is included in a reference but is not identified in Drawings or in Specifications, provide the highest, best, and

greatest of the alternatives or options for the intended use and prevailing conditions.

D. Edition Date of References:

1. When an edition or effective date of a reference is not given, it shall be understood to be the current edition or latest revision published as of the date of opening Bids.
2. All amendments, changes, errata and supplements as of the effective date shall be included.

E. **ASTM and ANSI References:** Specifications and Standards of the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI) are identified in the Drawings and Specifications by abbreviation and number only and may not be further identified by title, date, revision, or amendment. It is presumed that Contractor is familiar with and has access to these nationally- and industry-recognized specifications and standards.

### 1.03 DEFINITIONS

A. Meaning of Words and Phrases

Wherever any of the words or phrases defined below, or a pronoun used in place thereof, is used in any part of the Contract Documents, it shall have the meaning here set forth. Where abbreviations and symbols are used, such abbreviations and symbols shall be given their common meaning in the construction industry. In the Contract Documents, the neuter gender includes the feminine and masculine, and the singular number includes the plural.

While City has made an effort to identify all defined terms with initial caps, the following definitions shall apply regardless of case unless the context otherwise requires:

1. Addenda: Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the bidding requirements or the Contract Documents. Addenda shall not include the minutes of the Pre-Bid Conference and/or Site Visit.
2. Agreement (Document 00 5200): Agreement is the basic Contract Document that binds the parties to construction Work. Agreement defines relationships and obligations between City and Contractor and by reference incorporates Conditions of Contract, Drawings, and Specifications and contains Addenda and all Modifications subsequent to execution of Contract Documents.
3. Alternate: Work added to or deducted from the base Bid, if accepted by City.
4. Application for Payment: Written application for monthly or periodic progress or final payment made by Contractor complying with the Contract Documents.
5. Approved Equal: Approved in writing by City as being of equivalent quality, utility and appearance.
6. Architect/Engineer: If used elsewhere in the Contract Documents, "Architect/Engineer" shall mean a person (or that person's firm) holding a valid California State Architect's or Engineer's license representing the City in the administration of the Contract Documents. Architect/Engineer may be an employee of or an independent consultant to City. When Architect/Engineer is referred to within the Contract Documents and not an employee of City, Architect/Engineer shall be construed to include employees of Architect/Engineer and/or employees that Architect/Engineer supervises. When the designated Architect/Engineer is an employee of City, his or her authorized representatives on the Project will be included under the term Architect/Engineer. If Architect/Engineer is an employee of City, Architect/Engineer is the beneficiary of all Contractor obligations to City, including without limitation, all releases and indemnities. Architect/Engineer may also be referred to as Architect or Engineer.
7. Asbestos: Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by OSHA or Cal/OSHA.

8. Bid: The offer or proposal of the Bidder submitted on the prescribed form(s) setting forth the prices for the Work to be performed.
9. Bidder: One who submits a Bid.
10. Bidding Documents: All documents comprising the Project Manual (including all documents and Specification Sections listed in Document 00 0110 [Table of Contents]), including documents supplied for bidding purposes only and Contract Documents.
11. Board: The governing body of the City.
12. Business Day: Any Day other than Saturday, Sunday, and the following days that have been designated as holidays by City. If a holiday falls on a Saturday, the preceding Friday will be the holiday. If a holiday falls on a Sunday, the following Monday will be the holiday.
  - a. New Year's Day, January 1;
  - b. Martin Luther King Jr.'s Birthday, third Monday in January;
  - c. Lincoln's Birthday, February 12;
  - d. Presidents' Day, third Monday in February;
  - e. Malcolm X Day, third Friday in May;
  - f. Memorial Day, last Monday in May;
  - g. Juneteenth, June 19;
  - h. Independence Day, July 4;
  - i. Labor Day, first Monday in September;
  - j. Indigenous People's Day, second Monday in October;
  - k. Veterans' Day, November 11;
  - l. Thanksgiving Day, as designated by the President;
  - m. The Day following Thanksgiving Day;
  - n. Christmas Day, December 25; and
  - o. Each day appointed by the Governor of California and formally recognized by the Governing Board as a day of mourning, thanksgiving, or special observance.
13. By City: Work that will be performed by City or its agents at the City's expense.
14. By Others: Work that is outside scope of Work to be performed by Contractor under this Contract, which will be performed by City, other contractors, or other means.
15. Change Order: A written instrument prepared by City and signed by City and Contractor, stating their agreement upon all of the following:
  - a. a change in the Work;
  - b. the amount of the adjustment in the Contract Sum, if any; and
  - c. the amount of the adjustment in the Contract Time, if any.
16. Change Proposal Request (CPR): A document prepared by Contractor requesting or initiating a request for modifying the Contract Documents and determining costs for changes in contract amount and any requested changes to Contract Time.
17. City: City is defined in Document 00 5200 (Agreement).
18. City-Furnished, Contractor Installed: Items furnished by City at its cost for installation by Contractor at its cost under Contract Documents.
19. City's Representative(s): See Document 00 5200 (Agreement).
20. Code Inspector: A local or state agency responsible for the enforcement of applicable codes and regulations.
21. Concealed: Work not exposed to view in the finished Work, including within or behind various construction elements.
22. Construction Change Directive ("CCD"): A written order prepared and signed by City, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both.

23. Contract Amount: a change order price, line item price, Contract Sum, or other price assigned to a scope of work.
24. Contract Conditions or Conditions of the Contract: Consists of two parts: General Conditions and Supplementary Conditions.
  - a. General Conditions are general clauses that are common to the City Contracts, including Document 00 7200 (General Conditions).
  - b. Supplementary Conditions modify or supplement General Conditions to meet specific requirements for Contract Documents, including Document 00 7201 (Supplementary Conditions).
25. Contract Documents and Contract: Contract Documents and Contract shall consist of the documents identified as the Contract Documents in Document 00 5200 (Agreement), plus all changes, Addenda, and modifications thereto.
26. Contract Modification: Either:
  - a. a written amendment to Contract signed by Contractor and City; or
  - b. a Change Order; or
  - c. a Construction Change Directive; or
  - d. a written directive for a minor change in the Work issued by City.
27. Contract Sum: The sum stated in the Agreement and, including authorized adjustments, the total amount payable by City to Contractor for performance of the Work and the Contract Documents. The Contract Sum is also sometimes referred to as the Contract Price or the Contract Amount.
28. Contract Time: The number or numbers of calendar days or the dates stated in the Agreement to achieve Substantial Completion of the Work or designated Milestones; and/or to achieve Final Completion of the Work so that it is ready for final payment and is accepted.
29. Contractor: The person or entity identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and neutral in gender. The term "Contractor" means the Contractor or its authorized representative.
30. Contractor's Employees: Persons engaged in execution of Work under Contract as direct employees of Contractor, as Subcontractors, or as employees of Subcontractors.
31. Day: One calendar day of 24 hours measured from midnight to the next midnight, unless the word "day" is specifically modified to the contrary.
32. Defective: An adjective which, when modifying the word "Work," refers to Work that is unsatisfactory or unsuited for the use intended, faulty, or deficient, that does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents (including but not limited to approval of Samples and "or equal" items), or has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by City). Unapproved substitutions are defective. City is the judge of whether Work is Defective.
33. Division of State Architect: A division of the State of California providing, design and construction oversight for K-12 schools and community colleges, and developing and maintaining accessibility standards and codes utilized in public and private buildings throughout the State of California.
34. Drawings: The graphic and pictorial portions of Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.
35. Equal: Equal in opinion of City. Burden of proof of equality is responsibility of Contractor.
36. Final Acceptance or Final Completion: City's acceptance of the Work as satisfactorily completed in accordance with Contract Documents. Requirements for Final Acceptance/Final

Completion include, but are not limited to:

- a. Final cleaning is completed.
  - b. All systems having been tested and accepted as having met requirements of Contract Documents.
  - c. All required instructions and training sessions having been given by Contractor.
  - d. All Project Record Documents having been submitted by Contractor, reviewed by City, and accepted by City.
  - e. All punch list Work, as directed by City, having been completed by Contractor.
  - f. Generally all Work, except Contractor maintenance after Final Acceptance/Final Completion, having been completed to satisfaction of City.
37. Force Account: Work directed to be performed without prior agreement as to lump sum or unit price cost thereof, and which is to be billed at cost for labor, materials, equipment, taxes, and other costs, plus a specified percentage for overhead and profit.
  38. Exposed: Work exposed to view in the finished Work, including behind louvers, grilles, registers and various other construction elements.
  39. Furnish: Supply Indicated: Shown or noted on the Drawings.
  40. Indicated: Shown or noted on the Drawings.
  41. Install: Install or apply only, do not furnish.
  42. Latent: Not apparent by reasonable inspection, including but not limited to, the inspections and research required as a condition to bidding under Document 00 7200 (General Conditions).
  43. Law: Unless otherwise limited, all applicable laws including without limitation all federal, state, and local laws, statutes, standards, rules, regulations, ordinances, and judicial and administrative decisions.
  44. Material: This word shall be construed to embrace machinery, manufactured articles, materials of construction (fabricated or otherwise), and any other classes of material to be furnished in connection with Contract, except where a more limited meaning is indicated by context.
  45. Milestone: A principal event specified in Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all Work.
  46. Modification: Same as Contract Modification.
  47. Not in Contract or "NIC": Work that is outside the scope of Work to be performed by Contractor under Contract Documents.
  48. Notice of Completion: Shall have the meaning provided in California Civil Code §3093, and any successor statute.
  49. Off Site: Outside geographical location of the Project.
  50. Owner: Owner is the City of Berkeley, see Document 00 5200 (Agreement).
  51. Partial Utilization: Use by City of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all of the Work.
  52. PCBs: Polychlorinated byphenyls.
  53. Phase: A specified portion of the Work (if any) specifically identified as a Phase in Document 00 5200 (Agreement) or Document 01 1100 (Summary).
  54. Product Data: That information (brochures, catalog sheets, manufacturer's cut sheets, etc.) supplied by vendors having technical and commercial characteristics of the supplied equipment or materials and accompanying commercial terms such as warranties, instructions, and manuals.
  55. Progress Report: A periodic report submitted by Contractor to City with progress payment

invoices accompanying progress schedule. See Document 00 7200 (General Conditions).

56. Project: Total construction of which Work performed under Contract Documents may be whole or part.
57. Project Manager: If used elsewhere in the Contract Documents, "Project Manager" shall mean a person representing the City in the administration of the Contract Documents. Project Manager may be an employee of or an independent consultant to City. When Project Manager is referred to within the Contract Documents and no Project Manager has in fact been designated, then the matter shall be referred to City. The term Project Manager shall be construed to include employees of Project Manager and/or employees that Project Manager supervises. When the designated Project Manager is an employee of City, his or her authorized representatives on the Project will be included under the term Project Manager. If Project Manager is an employee of City Project Manager is the beneficiary of all Contractor obligations to City, including without limitation, all releases and indemnities.
58. Project Manual: Project Manual consists of Bidding Requirements, Agreement, Bonds, Certificates, Contract Conditions, Drawings, and Specifications.
59. Project Record Documents: All Project deliverables required under the Contract Documents, including without limitation, as built drawings; Installation, Operation, and Maintenance Manuals; and Machine Inventory Sheets.
60. Provide: Furnish and install.
61. Request for Information ("RFI"): A document prepared by Contractor requesting information regarding the Project or Contract Documents. The RFI system is also a means for City to submit Contract Document clarifications or supplements to Contractor.
62. Request for Proposals ("RFP"): A document issued by City to Contractor whereby City may initiate changes in the Work or Contract Time as provided in Contract Documents.
63. Request for Substitution ("RFS"): A document prepared by Contractor requesting substitution of materials as permitted and to the extent permitted in Contract Documents.
64. RFI-Reply: A document consisting of supplementary details, instructions, or information issued by City that clarifies or supplements Contract Documents, and with which Contractor shall comply. RFI-Replies do not constitute changes in Contract Sum or Contract Time except as otherwise agreed in writing by City. RFI-Replies will be issued through the RFI administrative system.
65. Samples: Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
66. Shop Drawings: All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
67. Shown: As indicated on Drawings.
68. Site: The particular geographical location of Work performed pursuant to the Contract Documents.
69. Specifications: The written portion of the Contract Documents consisting of requirements for materials, equipment, construction systems, standards, and workmanship for the Work; performance of related services.
70. Specified: As written in Specifications.
71. Subcontractor: A person or entity that has a direct contract with Contractor to perform a portion of the Work at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and neutral in gender and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a

separate contractor or subcontractors of a separate contractor.

72. Substantial Completion: The Work (or a specified part thereof) has progressed to the point where, in the opinion of City as evidenced by a notice or certificate of Substantial Completion, the Work is sufficiently complete, in accordance with Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended, and unperformed or incomplete work elements are minor in nature; or if no such certificate is issued, when the Work (or specified part) is complete and ready for final payment as evidenced by written recommendation of City for final payment. The terms "Substantially Complete" and "Substantially Completed" as applied to all or part of the Work refer to Substantial Completion thereof.
73. Supplemental Instruction: A written directive from City to Contractor ordering alterations or Modifications that do not result in change in Contract Sum or Contract Time, and do not substantially change Drawings or Specifications.
74. Testing and Special Inspection Agency: An independent entity engaged to inspect and/or test the workmanship, materials, or manner of construction of buildings or portions of buildings, to determine if such construction complies with the Contract Documents and applicable codes.
75. Time Impact Evaluation (TIE): A written narrative and a schedule diagram depicting how the changed Work or other impact affects other scheduled activities, prepared by Contractor in conjunction with a Change Proposal Request (CPR) for Change Orders, Time Extensions, and Delays. See Document 01 3230 (Progress Schedules and Submittals), and Document 01 2600 (Modification Procedures).
76. Underground Facilities: All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities that have been installed underground to furnish any of the following services or materials: Electricity, gases, chemicals, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.
77. Unit Price Work: Shall be the portions of the Work for which a unit price is provided in Document 00 5200 (Agreement) or Section 01 1100 (Summary).
78. Work: The entire completed construction, or the various separately identifiable parts thereof, required to be furnished under the Contract Documents within the Contract Time. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents including everything shown in the Drawings and set forth in the Specifications. Wherever the word "work" is used, rather than the word "Work," it shall be understood to have its ordinary and customary meaning.

#### B. Other Defined Terms

The following terms are not necessarily identified with initial caps; however they shall have the meaning set forth below:

1. Wherever words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood that direction, requirements, or permission of City is intended. Words "sufficient," "necessary," "proper," and the like shall mean sufficient, necessary, or proper in judgment of City. Words "approved," "acceptable," "satisfactory," "favorably reviewed," or words of like import, shall mean approved by, or acceptable to, or satisfactory to, or favorably reviewed by City.
2. Wherever the word "may" or "ought" is used, the action to which it refers is discretionary. Wherever the word "shall" or "will" is used, the action to which it refers is mandatory.

## PART 2 - PRODUCTS – NOT USED

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 4500

## TESTING AND INSPECTION

## PART 1 - GENERAL

## 1.01 SUMMARY

- A. Section Includes:
1. Regulatory requirements for testing and inspection.
  2. Contractor's quality control.
  3. Quality of the Work.
  4. Inspections and tests by governing authorities.
  5. Inspections and tests by serving utilities.
  6. Inspections and tests by manufacturer's representatives.
  7. Inspections by Independent Testing and Inspection Agency.

## 1.02 RELATED SECTIONS

- A. Document 00 7200 General Conditions
- B. Section 01 4100 Regulatory Requirements

## 1.03 CONTRACTOR'S QUALITY CONTROL

- A. Contractor's Quality Control: Contractor shall ensure that products, services, workmanship and site conditions comply with requirements of the Drawings and Specifications by coordinating, supervising, testing and inspecting the work and by utilizing only suitably qualified personnel.
- B. Quality Requirements: Work shall be accomplished in accordance with quality requirements of the Drawings and Specifications, including, by reference, all Codes, laws, rules, regulations and standards. When no quality basis is prescribed, the quality shall be in accordance with the best accepted practices of the construction industry for the locale of the Project, for projects of this type.
- C. Quality Control Personnel: Contractor shall employ and assign knowledgeable and skilled personnel as necessary to perform quality control functions to ensure that the Work is provided as required.

## 1.04 QUALITY OF THE WORK

- A. Quality of Products: Unless otherwise indicated or specified, all products shall be new, free of defects and fit for the intended use.
- B. Quality of Installation: All Work shall be produced plumb, level, square and true, or true to indicated angle, and with proper alignment and relationship between the various elements.
- C. Protection of Completed Work: Take all measures necessary to preserve completed Work free from damage, deterioration, soiling and staining, until Acceptance by the City.
- D. Standards and Code Compliance and Manufacturer's Instructions and Recommendations: Unless more stringent requirements are indicated or specified, comply with manufacturer's instructions and recommendations, reference standards and building code research report

requirements in preparing, fabricating erecting, installing, applying, connecting and finishing Work.

- E. Deviations from Standards and Code Compliance and Manufacturer's Instructions and Recommendations: Document and explain all deviations from reference standards and building code research report requirements and manufacturer's product installation instructions and recommendations, including acknowledgement by the manufacturer that such deviations are acceptable and appropriate for the Project.
- F. Verification of Quality: Work shall be subject to verification of quality by City or Architect/Engineer in accordance with provisions of the General Conditions of the Contract.
  - 1. Contractor shall cooperate by making Work available for inspection by City, Architect/Engineer or their designated representatives.
  - 2. Such verification may include mill, plant, shop, or field inspection as required.
  - 3. Provide access to all parts of the Work, including plants where materials or equipment are manufactured or fabricated.
  - 4. Provide all information and assistance as required, including that by and from subcontractors, fabricators, materials suppliers and manufacturers, for verification of quality by City or Architect/Engineer.
  - 5. Contract modifications, if any, resulting from such verification activities shall be governed by applicable provisions in the General Conditions of the Contract.
- G. Observations by Architect/Engineer: Periodic and occasional observations of Work in progress will be made by Architect/Engineer as deemed necessary to review progress of Work and general conformance with design intent.
- H. Limitations on Inspection, Test and Observation: Neither employment of independent testing and inspection agency nor observations by Architect/Engineer shall in way relieve Contractor of obligation to perform Work in full conformance to all requirements of Contract Documents.
- I. Rejection of Work: City reserves the right to reject all Work not in conformance to the requirements of the Drawings and Specifications.
- J. Correction of Non-Conforming Work: Non-conforming Work shall be modified, replaced, repaired or redone by the Contractor at no change in Contract Sum or Contract Time.
- K. Acceptance of Non-Conforming Work: Acceptance of nonconforming Work, without specific written acknowledgement and approval of the City, shall not relieve the Contractor of the obligation to correct such Work.
- L. Contract Adjustment for Non-Conforming Work: Should City determine that it is not feasible or in City's interest to require non-conforming Work to be repaired or replaced, an equitable reduction in Contract Sum shall be made by agreement between City and Contractor. If equitable amount cannot be agreed upon, a Construction Change Directive will be issued and the amount in dispute resolved in accordance with applicable provisions of the General Conditions.

#### **1.05 INSPECTIONS AND TESTS BY GOVERNING AUTHORITIES**

- A. Regulatory Requirements for testing and Inspection: Comply with Uniform Building Code (UBC) requirements and all other requirements of governing authorities having jurisdiction.
- B. Inspections and Tests by Governing Authorities: Contractor shall cause all tests and inspections required by governing authorities having jurisdiction to be made for Work under this Contract.
  - 1. Such authorities include the Division of Occupational Safety and Health (Cal/OSHA), City of Berkeley Public Works Department, Fire Department, and similar agencies.
  - 2. Except as specifically noted, scheduling, conducting and paying for such inspections shall be solely the Contractor's responsibility.

**1.06 INSPECTIONS AND TESTS BY SERVING UTILITIES**

- A. Inspections and Tests by Serving Utilities: Contractor shall cause all tests and inspections required by serving utilities to be made for Work under this Contract. Scheduling conducting and paying for such inspections shall be solely the Contractor's responsibility.

**1.07 INSPECTIONS AND TESTS BY MANUFACTURER'S REPRESENTATIVES**

- A. Inspections and Tests by Manufacturer's Representatives: Contractor shall cause all tests and inspections specified to be conducted by materials or systems manufacturers to be made. Additionally, all tests and inspections required by materials or systems manufacturers as conditions of warranty or certification of Work shall be made, the cost of which shall be included in the Contract Sum.

**1.08 INSPECTIONS BY INDEPENDENT TESTING AND INSPECTION AGENCY**

- A. City will select an independent testing and inspection agency or agencies to conduct tests and inspections as indicated on Drawings, in Specifications and as required by governing authorities having jurisdiction.
- B. Responsibility for payment for tests and inspections shall be as indicated in schedule below. All time and costs for Contractor's service related to such tests and inspections shall be included in Contract Time and Contract Sum.
- C. Contractor shall notify City and, if directed by City, testing and inspection agency, when Work is ready for specified tests and inspections.
- D. Contractor shall pay for all additional charges by testing and inspection agencies and governing authorities having jurisdiction due to the following:
  - 1. Contractor's failure to properly schedule or notify testing and inspection agency or authorities having jurisdiction.
  - 2. Changes in sources, lots or suppliers of products after original tests or inspections.
  - 3. Changes in means methods, techniques, sequences and procedures of construction which necessitate additional testing, inspection and related services.
  - 4. Changes in mix designs for concrete and mortar after review and acceptance of submitted mix design.
- E. Tests and inspections shall include the following:

<u>Section</u>	<u>Inspections and Tests</u>	<u>Paid by</u>
Section 312200- Earthwork	Materials and compaction	Paid by City.
Section 321000- Aggregate Base	Materials and compaction	Paid by City.
Section 321216- Asphalt Concrete	Compaction	Paid by Contractor.
Section 321312- Concrete Reinforcing & Miscellaneous Steel	Reinforcement strength	Paid by City.
Section 321313- Cast-in-Place Concrete	Slump Tests Compressive strength	Paid by City. Paid by City.

- F. Test and Inspection Reports: After each inspection and test, one copy of report shall be promptly

submitted each to Architect/Engineer, City, City's field representative, Contractor and to agency having jurisdiction (if required by Code).

1. Reports shall clearly identify the following:
    - a. Date issued.
    - b. Project name and number.
    - c. Identification of product and Specifications Section in which Work is specified.
    - d. Name of inspector.
    - e. Date and time of sampling or inspection.
    - f. Location in Project where sampling or inspection was conducted.
    - g. Type of inspection or test.
    - h. Date of test.
    - i. Results of tests.
    - j. Comments concerning conformance with Contract Documents and other requirements.
  2. Test reports shall indicate specified or required values and shall include statement whether test results indicate satisfactory performance of products.
  3. Samples taken but not tested shall be reported.
  4. Test reports shall confirm that methods used for sampling and testing conform to specified test procedures.
  5. When requested, testing and inspection agency shall provide interpretations of test results.
  6. Verification reports shall be prepared and submitted, stating that tests and inspections specified or otherwise required for the project, have been completed and that material and workmanship comply with the Contract Drawings and Specifications. Verification reports shall be submitted at intervals not exceeding 6 months, at Substantial Completion of the Project, and at all times when Work of Project is suspended.
- G. Contractor Responsibilities in Inspections and Tests:
1. Notify testing and inspection agencies 24 hours in advance of expected time for operations requiring inspection and testing services.
  2. Deliver to laboratory or designated location, adequate samples of materials proposed to be used which require advance testing, together with proposed mix designs.
  3. Cooperate with testing and inspection agency personnel, City's field representative, Architect/Engineer. Provide access to Work areas and off-site fabrication and assembly locations, including during weekends and after normal work hours.
  4. Provide incidental labor and facilities to provide safe access to Work to be tested and inspected, to obtain and handle samples at the Project site or at source of products to be tested, and to store and cure test samples.
  5. Provide, at least 15 calendar days in advance of first test or inspection of each type, a schedule of tests or inspections indicating types of tests or inspections and their scheduled dates.
  6. Provide 24 hours advance notice to the Project Manager, Architect/Engineer of each test and inspection, as directed.
    - a. When tests or inspections cannot be performed after such notice, reimburse City for Testing Laboratory personnel and travel expenses incurred due to Contractor's negligence.

#### **1.09 ADDITIONAL TESTING AND INSPECTION**

- A. If initial tests or inspections made by the Testing Laboratory reveal that materials do not comply with Contract Documents, or if City has reasonable doubt that materials do not comply with Contract Documents, additional tests and inspections shall be made as directed.
  1. If additional tests and inspections establish that materials comply with Contract Documents, all

costs for such tests and inspections shall be paid by City.

2. If additional tests and inspections establish that materials do not comply with Contract Documents, all costs of such tests and inspections shall be deducted for Contract Sum.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

## SECTION 01 5200

## TEMPORARY FACILITIES

## PART 1 - GENERAL

## 1.01 RELATED DOCUMENTS

- A. General Conditions Document 00 7200
- B. Supplemental General Conditions Document 00 7201

## 1.02 SUMMARY

- A. This section describes the temporary facilities required for the Project site. The Project site shall be maintained by Contractor as set forth in this section unless otherwise added to or superseded by the requirements of Document 00 7200 (General Conditions).

## 1.03 TEMPORARY FACILITIES

- A. Contractor shall obtain permits for, install and maintain in safe condition, whatever scaffolds, hoisting equipment, barricades, walkways, or other temporary structures which may be required to accomplish the work on the Project. Such structures shall be adequate for the intended use and capable of safely accepting all loads that may be imposed upon them. They shall be installed and maintained in accordance with all applicable State and local codes and regulations.
- B. Contractor shall provide and maintain temporary heat from an approved source whenever in the course of the Work it may become necessary for curing and drying of materials, or to warm spaces as may be required for the installation of materials or finishes.
- C. Contractor shall provide and maintain any and all facilities that may be required for dewatering in order that work may proceed on the Project. If it is necessary for dewatering to occur continually, Contractor shall have on hand whatever spare parts or equipment that may be required to prevent interruption of dewatering.
- D. Contractor shall provide and maintain all utility services necessary to perform the work under this Contract.
- E. Materials, tools, accessories, etc., shall be stored only where directed by City. Storage area shall be kept neat and clean. Security of stored items shall be Contractor's responsibility.
- F. Flammable materials stored on site, shall be stored in a safe and secure manner per the manufacture's direction. Extra precautions, including clear identification, shall be the responsibility of Contractor.
- G. Contractor shall maintain an office at the Project site that will be his headquarters for the Project. Any communications delivered to this office shall be considered as delivered to Contractor. Location and size of office shall be such that it will adequately serve the needs of Contractor's superintendent and assistants in the performance of their duties.
- H. Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or for completion of the Project, mutually agreed upon by Contractor and City.
- I. Contractor shall safe-off building prior to demolition.

**1.04 SIGNS**

- A. No signs may be displayed on or about the City's property (except those required by law) without the City's specific approval; the size, content, and location to be as specified by the City.

**1.05 USE OF ROADWAYS AND WALKWAYS**

- A. Contractor shall never block or interfere with use of any existing roadway, walkway or other facility for vehicular or pedestrian traffic, from any party entitled to use it. Wherever and whenever such interference becomes necessary for the proper and convenient performance of the Work, and no satisfactory detour route exists, Contractor shall, before beginning the interference, notify City and post signs at least 72 hours in advance of such interference, and provide a satisfactory detour, including temporary bridge if necessary, or other proper facility for traffic to pass around or over the interference. Contractor shall maintain the detour in a safe and satisfactory condition as long as the interference continues, all without extra payment unless otherwise expressly stipulated in the Specifications.
- B. Contractor shall at all times comply with any and all requirements applying to the work under the transportation, circulation and parking mitigation measures, truck and construction access plan.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 5526****TRAFFIC CONTROL**

Contractor shall provide traffic control throughout the project as needed for the various traffic situations and street configurations in full conformance with the latest "California Manual on Uniform Traffic Control Devices and the Federal Highway Administration (FHWA) Manual of Uniform Traffic Control Devices (MUTCD) latest edition, as amended for use in California" herein after referred to as Traffic Control Manual. The Traffic Control Manual may be obtained online at <https://dot.ca.gov/programs/safety-programs/camutcd/camutcd-files>

As required, the Contractor shall submit a Traffic Control Plan to the City of Berkeley's Transportation Division or the California Department of Transportation (Caltrans).

Construction area signs and temporary traffic control devices shall be furnished, installed, maintained and removed by the Contractor. Traffic signage, e.g., warning signs and detour signs, may be required for this project. Contractor shall be responsible for placing all barricades for perimeter street closures as required. Per Section 501.10 – Traffic Control of the General Provisions, at main entry and exit points of each work location, the Contractor shall provide a 30" x 30" sign advising the public of the anticipated period of time that traffic delays may be anticipated. This sign will also include name and telephone number of the Contractor along with starting and completion dates of the contract. Sign will be erected 7 calendar days in advance of any work.

Construction work requiring traffic control on San Pablo Avenue (State Route 123) or Ashby Avenue (State Route 13) will require an encroachment permit from Caltrans. Contractor is solely responsible for obtaining and abiding by any necessary encroachment permits. The permit fees and other associated costs to obtain the required permits from the State of California shall be included in the cost bid for this item. Contractor shall be responsible for providing traffic control plan for encroachment permit to and obtaining approval of said traffic control plan from State of California. Contractor shall be responsible for all notification of work to, application for and obtaining work authorization number from Caltrans. Any damages arising from work related to encroachment permit shall be the responsibility of the Contractor.

The Contractor shall be responsible for posting "No Parking" signs a minimum of four calendar days in advance of concrete work, paving operations, failed area, and planning work so as to comply with the City's construction notification requirement of 4 days. Cones shall not be used as barricades. "No Parking" signs may be obtained from the City at no cost to the Contractor. The "No Parking" signs shall be updated as necessary. The Contractor shall check and maintain (e.g., re-install missing signs, reposition displaced barricades, etc.) postings on a regular basis prior to start of work.

If traffic is to be detoured over a centerline or detoured in advance of the work, detour plans must be part of the submitted Traffic Control plans and approved by the City prior to starting work. Police, Fire and Public Works Department shall be notified by the contractor at least four calendar days in advance of any work which will interfere with the normal flow of vehicular or pedestrian traffic. Intersection closure may only occur if the two adjacent intersections remain open, unless otherwise approved by the City. The Contractor shall coordinate his traffic control/diversion plan with the City, a minimum of 3 weeks prior to starting work, to assure that traffic is diverted in a safe and convenient manner.

**Truck routes shall be approved by the City prior to start of work.**

Truck traffic is not allowed on Marin Avenue within the City of Albany. Personal vehicles of the Contractor's employees shall not be parked within the area of work.

A minimum of one (paved) traffic lane, not less than 12 ft. wide, shall remain open for use by public traffic during construction operations. When construction operations are not actively in progress, not less than two such lanes shall be open to public traffic. The Contractor may be allowed to close residential streets if approved in writing in advance by the City. No work that interferes with public traffic shall be performed between 6:00 p.m. and 7:00 a.m.

Start of work shall be no earlier than 7:00 a.m. No work process, including starting, warm up, and delivery of equipment, shall be done outside of work hours. The use of vehicle horns to alert residents to move their vehicles out of the construction zone is not permitted. The Contractor should attempt to locate vehicle owners by knocking on doors.

The full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays and designated legal holidays, and when construction operations are not actively in progress, unless specified otherwise.

Minor deviations from the requirements of this section concerning hours of work may be permitted upon the written request of the Contractor, if in the opinion of the City, public traffic will be better served and the work expedited. Such deviations shall not be adopted until the City provides written approval.

The traffic control system shall consist of closing traffic lanes in accordance with the Traffic Control Manual. Signs and other devices for the traffic control system shall conform to the Traffic Control Manual.

If any component in the traffic control system is damaged, displaced or ceases to operate or function as specified, from any cause during the progress of the work, the Contractor shall immediately repair said component to its original condition or replace said component and shall restore the component to its original location.

Lane closures may be made for work periods only. At the end of each work period, all components of the traffic control system shall be removed from the traveled way, shoulder and auxiliary lanes. If the Contractor so elects, said components may be stored at selected central locations approved by the City within the limits of the public right-of-way.

Sufficient barricades and flashing lights shall also be placed to supplement all traffic signs used to divert and control traffic. Signs and barricades shall be checked periodically every day and replaced or repaired as necessary. Any hazardous conditions shall be immediately eliminated.

The Contractor, at the end of each day, shall provide ADA compliant pedestrian and vehicle crossings at all street intersections. If the project is left open overnight, it shall be graded in such a way that pedestrians and vehicles can safely pass through the project. Temporary concrete, asphalt, or wood ramps shall be installed and maintained at all locations where existing ramps have been temporarily removed.

Cleanliness is extremely important. Dust producing conditions shall be eliminated as soon as they are created.

If Contractor violates any of these provisions, a fine of \$1,000 will be assessed for the first violation, \$5,000 for the second and \$10,000 for the third and further subsequent violations.

### ACCESS AND EGRESS

The Contractor shall endeavor to cooperate with all business owners and residents occupying properties fronting on the streets in the matter of access and egress. **Contractor shall maintain a clear and accessible pedestrian corridor.**

Where a business property has more than two vehicular paths of access, one path, 10 feet in width, shall remain open during all business hours, unless accepted by the City.

## LANE CLOSURES

No lane closures shall be permitted on the following streets Monday through Friday between 7:00 A.M. – 9:00 A.M. and 4:00 P.M. – 6:00 P.M., and Saturdays between 10:00 A.M. – 2:00 P.M., unless approved in advance by the City, if it can be explained why such closure cannot reasonably be avoided. On Saturdays when UC football games are scheduled all construction-related lane closures along these corridors must be reopened at least 4 hours before the start of the game and remain open for 2 hours after the conclusion of the game.

### Major Streets:

- University Avenue
- San Pablo Avenue
- Shattuck Avenue
- Telegraph Avenue
- Sacramento Street
- Martin Luther King Jr. Way
- Ashby Avenue
- College Avenue
- Gilman Avenue
- Adeline Street

Notwithstanding the above, the City reserves the right to review and comment on each individual traffic control plan based on its own merits.

Note: Routine maintenance, inconvenience to construction method or schedule, or adverse impacts on cost of work will generally not be accepted as grounds for exceptions.

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 5700****TEMPORARY CONTROLS****PART 1 - GENERAL****1.01 RELATED DOCUMENTS**

- A. General Conditions Document 00 7200
- B. Supplemental General Conditions Document 00 7201

**1.02 SUMMARY**

- A. This section describes the temporary controls required for the Project site. The Project site shall be maintained by Contractor as set forth in this section unless otherwise added to or superseded by the requirements of Document 00 7200 (General Conditions).

**1.03 TEMPORARY CONTROLS**

- A. Contractor shall obtain permits for, install and maintain in safe condition, whatever scaffolds, equipment, shoring, barricades, walkways, or other temporary structures which may be required to accomplish the Work. Such items shall be adequate for the intended use and shall be installed and maintained in accordance with all applicable State and local codes and regulations.
- B. The Contractor shall perform a pre-construction audio/video tape survey and provide supplemental photographic documentation to adequately document the condition of existing improvements. It is the responsibility of the Contractor to adequately document the condition of existing improvements and the Contractor may be held liable for any damage or condition whose pre-existence he/she is unable to document. No additional compensation for such tape survey and still photographs will be allowed.
- C. Upon notification of the City, the Contractor shall correct any deficiencies of the temporary controls within 72 hours. The City may request City crews or contract with another contractor to perform the necessary work and repairs if the deficiencies have not been corrected after the 72-hour notification. The Contractor shall pay the cost of the work performed by the City crews or other contractor plus an additional seventy percent (70%) surcharge by deduction from payment due on the contract.
- D. The Contractor shall begin cleanup operation at least one hour before the end of each day's work, clean all paved portions of the project and paved streets leading from the project that have dust-producing materials or debris deposited upon them. The work areas shall be swept clean at the end of each day's work and at other times when directed by the City.

**1.04 DUST AND DEBRIS CONTROLS**

- A. The Contractor shall be responsible for controlling dust in the air and rocks, debris, mud or dirt which are scattered as a result of his operations on the job. The Contractor shall be responsible for cleaning all mud, rock, dust, dirt, and debris-producing materials that originate in the project area and are deposited on other public or private property by truck tires, spillages, or by other means. The Contractor shall have suitable and adequate street cleaning equipment on the project site at all times.
- B. The Contractor shall endeavor, whenever possible, to restrict the use of water to control dust for his convenience in order to conserve water during drought situations or

mandated rationing required by the Water Utility Company. Whenever flushing of streets or any other work is necessary, the Contractor shall provide filter materials at the catch basin to retain any debris and dirt flowing into the City's drainage system.

- C. The cost of the above work, including the providing of barricades, water and other materials, labor, and equipment shall be at the sole cost and expense of the Contractor.
- D. The City may determine that an emergency exists when dust, rocks, debris, mud, or dirt are scattered in the public right of way or in the private properties as a result of Contractor's activities and/or deterioration of such conditions due to rain. The emergency conditions may also be declared when traffic or the Contractor's equipment travelling through a job causes dust to fly or rocks, debris, mud, or dirt to be scattered. Similar emergency conditions may be determined by the City's Representative if the storage of materials, tools, or any other equipment related to the project, in the public rights of way, is causing any obstruction or blocks access to the neighboring properties and/or dangerously placed without proper barricades and lights and/or backfill stockpiles or debris washing away into the street gutter and catch basins.

#### **1.05 NOISE CONTROL**

- A. Equipment which operates with noise levels in excess of 85 decibels measured on the A-weighted scale defined in ANSI S-1.4 at a distance of 100 feet from the equipment is prohibited.
- B. All equipment and impact tools shall have mufflers to comply with specified noise control.
- C. Use of unusually noisy equipment, such as jackhammers and roto-hammers is prohibited.
- D. Exterior construction work is limited to the hours of 8 AM to 5 PM.
- E. Cooperate with City if an ongoing construction activity becomes objectionable by its longevity, or by overlapping into an activity started later by the City. It is understood and agreed that both parties shall cooperate so that neither will be unduly inconvenienced by this requirement.
- F. Comply by requirements specified in the various sections.

#### **1.06 CLEAN UP**

- A. The Contractor shall not allow the site of the work to become littered with trash, rubbish, and waste material but shall maintain the same in a neat and orderly condition throughout the construction period. Cleanup, debris and dust control shall be a daily maintenance requirement. The City shall have the right to determine what is or is not trash, rubbish or waste material and the place and manner of disposal.
- B. The Contractor shall maintain a neat appearance to the work. Contractor shall promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids and cleaning solutions from surfaces to prevent marring or other damage.
- C. Broken concrete debris, and unsuitable excavated native soil during construction shall be disposed of concurrently with its removal. If stockpiling is necessary all debris shall be placed in trash bins daily and shall be removed or disposed of weekly. Any waste shall not be buried on the site or disposed of into storm drains, sanitary sewers, streams, or waterways.
- D. Forms or falsework that are to be re-used shall be stacked neatly concurrently with their removal. Forms and falsework that are not to be re-used shall be disposed of concurrently with their removal.
- E. Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as included in prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.
- F. Sidewalks, street area, parking strips, and driveway approaches must be kept reasonably

clean at all times during construction and be completely and carefully cleaned after the work has progressed beyond the immediate vicinity to the satisfaction of the City's Representative. Reasonable cleanup is defined as no dust, rock, or mud on any portion of the public right-of-way or the private properties as a result of the Contractor's work.

#### **1.07 EMERGENCY CLEAN UP WORK**

- A. In any case in which the Contractor fails to satisfactorily complete the cleanup work described in this section, the City may determine that an emergency exists. In the event an emergency is determined by the City, the Contractor will be notified by the City to correct the violation immediately. The Contractor shall immediately make available manual labor or mechanical equipment capable of handling the cleaning process. During such an emergency, City forces may be called upon to complete the cleanup work, or the City may contract for the cleanup work. All construction work shall be shut down during this cleanup work by the City/contract forces. The City may shut down further construction work until the violations are corrected to the satisfaction of the City. The cost of the work performed by City/Contract forces plus an additional 70% surcharge shall be paid by the Contractor by deduction from payment due him on the contract. No compensation shall be given to the Contractor for stoppage of work.
- B. Such action by the City, however, shall not relieve the Contractor of his responsibility for any damages which may occur before, during or after such action has been taken by the City, and shall place no liability upon the City.

#### **1.08 FINAL CLEAN UP**

- A. Upon completion of the work, and before acceptance and final payment, the Contractor shall clean the project areas and remove all surplus and discarded materials, falsework, rubbish and temporary structures and restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the work, and shall leave the improvement in a neat and presentable condition throughout the entire length of the improvement under contract to the satisfaction of the City. If the Conditions as noted above are not corrected immediately, the City may declare an emergency and take necessary action in accordance with the Emergency Cleanup Work section of this specification.

#### **1.09 CLEAN UP AND SAFETY**

- A. If the Contractor stockpiles granular material in the gutter, he must provide a minimum 4" pipe below the stockpile in the gutter to accommodate typical gutter flow. Any lumber or stockpiles on the site, not ready for immediate use, shall be free of nails or torn edges that may cause injury. Any materials stockpiled in the street and any open excavation shall have barricades equipped with operative automatic flashers placed at each end. The Contractor shall maintain a neat appearance at all times. All material removed shall be disposed of off-site in a legal manner.
- B. The Contractor must take special precautions to protect the public and City employees from bodily and property damage resulting from the work. Contractor must exercise all necessary precautions to ensure a safe execution of the work.

#### **1.10 CREEK PROTECTION**

- A. The Contractor shall be responsible for and conduct all aspects of the work within the requirements of BMC Chapter 17.08 – PRESERVATION AND RESTORATION OF NATURAL WATERCOURSES (Creek Ordinance), and any other creek protection requirements by other agencies.
- B. Portions of Work involving a creek channel may not be permitted between October 15 through April 15 or other dates as may be stipulated in applicable permits.

- C. Any work between creek banks shall be conducted to not create conditions, which will allow erosion, and shall be fully restored to at least the same erosion resistant condition as before the Work.
- D. Complying with the requirements of creek protection shall include but not be limited to scheduling the Work around any time periods prohibiting work within creek limits, installing erosion control measures and employing appropriate BMPs for controlling erosion, monitoring, updating and modifying BMPs to meet the requirements for changing site conditions to comply with erosion control and creek protection, replanting creek banks to reestablish erosion resistance and bank stability.

#### 1.11 PROJECT SITE MAINTENANCE

- A. Water Pollution Control. The intent of these requirements is to enforce federal, state, and other local agencies' regulations that prohibit storm water pollution at construction sites. Storm drains discharge directly to creeks and the Bay without treatment, and discharge of pollutants (i.e., any substance, material, or waste other than uncontaminated storm water) into the storm drain system is strictly prohibited.
- B. The term "storm drain system" shall include storm water conduits, storm drain inlets and other storm drain structures, street gutters, channels, watercourses, creeks, lakes, and the San Francisco Bay.
- C. For the purpose of eliminating storm water pollution, the Contractor shall implement effective control measures at construction sites. There are several publications that provide guidance on selecting and implementing effective control measures known as Best Management Practices (BMPs). BMPs include schedules of activities, prohibition of specific practices, general good housekeeping practices, operational practices, pollution prevention practices, maintenance procedures and other management procedures to prevent the discharge of pollutants directly or indirectly to the storm drain system. BMPs also include the construction of some facilities that may be required to prevent, control, and abate storm water pollution. The reference publications are as follows:
  - 1. California Storm Water Best Management Practice Handbook - Industrial/Commercial
  - 2. California Storm Water Best Management Practice Handbook - Construction ActivityThese handbooks may be purchased from Blue Print Service (BPS), 1700 Jefferson St, Oakland, CA 94612.
  - 3. Manual of Standards for Erosion and Sediment Control Measures by the Association of Bay Area Governments (ABAG).
  - 4. Heavy Equipment Operation, Fresh Concrete & Mortar Application, Painting & Application of Solvents & Adhesives, Roadwork & Paving Activities, General Construction & Site Supervision, Parking Lots and Finish the Pour Right

These brochures are available at the Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704.

#### 1.12 STORMWATER POLLUTION CONTROL

- A. Stormwater Pollution Control. The intent of these requirements is to comply with federal, state, and other local agencies' regulations that prohibit non-stormwater discharges to storm drain sewer systems, creeks and San Francisco Bay. Storm drain sewers discharge directly to creeks and the Bay without treatment, and discharge of pollutants (any substance, material, or waste other than rainfall derived stormwater) into the storm drain sewer system is strictly prohibited. Further, the Contractor is informed that Federally Endangered species have been identified in creeks within the City Limits. The storm drain sewer system, pollutants, and other relevant information are further defined in

Berkeley Municipal Code (BMC) Chapter 17.20 DISCHARGE OF NON-STORMWATER INTO CITY'S STORM DRAIN SYSTEM – REDUCTION OF STORMWATER POLLUTION, and the City's stormwater NPDES (National Pollutant Discharge Elimination System) Permit No. CAS612008. These documents are available upon request.

- B. Best Management Practices (BMP) and Source Control. The contractor shall use appropriate BMPs and source control techniques on the site(s) at all times, regardless of time of year or rainfall conditions, in order to prohibit the discharge of non-stormwater discharges into the storm drain sewer system, creeks, and Bay. BMPs shall be in conformance with the California Stormwater Quality Association's "Stormwater Best Management Practice Handbook", current edition.
- C. Water Pollution Control Plan (WPCP) and Coordinator. The Contractor shall prepare, submit for favorable review by the City, and implement a WPCP which shall contain at a minimum the items included in this section.
1. The Contractor shall designate an individual (to be approved by the City) available at all times of sufficient authority to halt work and implement BMPs and source control measures for the Contractor and all sub-contractors, suppliers, and other personnel that may be at the construction site(s), to prevent non-stormwater discharges from the construction site(s). This individual shall be the contact person for all matters of the project regarding non-stormwater discharges.
  2. The WPCP shall show the locations of all storm drains, storm drain pipes, creeks, creek culverts, points of entry (catch basins, inlets, outlets), and other features through which stormwater flows.
  3. The WPCP shall identify each point of entry and show how each entry point will be protected. The WPCP shall include a protocol for allowing drainage to flow properly during rainfall events WHILE STILL PREVENTING non-stormwater discharges from entering the storm drains, creeks, and Bay.
  4. The WPCP shall include descriptions and sketches of all BMPs, show locations and describe protocols for implementing and maintaining the following BMPs for but not limited to material storage, dewatering operations, bypass pumping, saw-cutting operations, pavement operations, concrete operations, grading and excavation operations, spill prevention and control, vehicle and equipment cleaning, vehicle and equipment operation and maintenance, litter control, dust control, pavement cleaning, and construction waste management.
  5. All employees, subcontractors, suppliers, and any others involved with the construction site(s) shall be trained in implementing, the importance of, and purpose of the WPCP.
  6. The WPCP shall be updated to meet changing stages of the construction site(s). Work shall not begin without the City completing its review and finding no exceptions taken on the WPCP and finding at City's sole discretion that the WPCP meets the intent and goals of the project.
  7. In addition, the Contractor shall observe the following guidelines:
    - a. Paving during wet weather:
      - i. No paving while it is raining.
      - ii. No paving of the top lift of asphalt concrete (AC) on any day that experiences ¼" of rain in a twenty-four period.
      - iii. No paving of bottom lift if previous seventy-two (72) hour period experienced more than ½" of rain, unless directed by the City Engineer or his designee.
    - b. Store materials as required by BMPs.

- c. Cover inlets and manholes when applying asphalt, seal coat, tack coat, slurry seal, fog seal, etc., and while sawcutting, grooving, and grinding, etc.
  - d. Place drip pans or absorbent materials under equipment when not in use.
  - e. During wet weather, store paving equipment indoors or cover with tarp or other waterproof covering.
  - f. Sweep site daily to prevent sand, gravel or excess asphalt from entering or being transported by rain into the storm drain system.
  - g. Keep ample supplies of drip pans or absorbent materials on-site.
  - h. If paving involves Portland cement concrete:
    - i. Do not wash out concrete trucks into storm drains, open ditches, streets, streams, etc. The Contractor shall prevent the discharge of pollutants from concrete operations by using measures to prevent run-on and run-off pollution, properly disposing of wastes, and by implementing the following BMP's:
      - a. Store all materials in waterproof containers or under cover away from drain inlets or drainage areas.
      - b. Avoid mixing excess amounts of Portland cement materials. Dispose of any excess materials properly.
      - c. Whenever possible, perform washout of concrete trucks off-site where discharge is controlled and not permitted to discharge to the storm drain system.
    - ii. For on-site washout:
      - a. Locate washout area at least fifty (50) feet from storm drains, open ditches or other water bodies, preferably in a dirt area.
      - b. Confine run-off from this area by constructing a temporary pit or bermed area large enough for the liquid and solid waste.
    - iii. Wash out concrete wastes into the temporary pit where the concrete can set, be broken up and then disposed of properly. If the volume of water is greater than what will allow concrete to set, allow the wash water to infiltrate and/or evaporate, if possible. Remove or vacuum the remaining silt and debris from the ponding or bermed area and dispose of it properly.
    - iv. Dispose of waste water from washing of exposed aggregate to dirt area. The dirt area shall be adequate to contain all the waste water and once the waste water has infiltrated, any remaining residue must be removed.
    - v. Collect and return sweepings from exposed aggregate concrete to a stockpile or dispose of the waste in trash container.
- D. Training. Contractor is responsible for ensuring all personnel, laborers, sub-contractors, suppliers, and any other personnel that are involved with the Work are trained in the importance of preventing non-stormwater discharges. Each worker shall be trained or certified as being trained before being allowed to work. Before any work begins, the Contractor shall submit and certify under penalty of perjury a list of all workers who have been trained on the importance of pollution prevention, BMP and source control operation and maintenance, and recognize the authority of the City to stop the work in the event of a non-stormwater discharge. The training shall include as a minimum, review of the BMP and WPCP, and all BMPs (including BMP operation and maintenance) that are planned for the Work.
- E. Enforcement. The City has the authority through this contract and appropriate sections of the BMC to enforce any portions of this section. City enforcement may include but is not limited to: citations, orders to abate, bills for City cleanup costs and administration, civil suits, and criminal charges and enforcement. Enforcement action by the City does not void or suspend any enforcement actions by other agencies, and actions by the City and other agencies shall be cumulative.
- F. Submittals and Contract Time. Contractor is cautioned and advised to have appropriately trained staff with any applicable certifications prepare all submittals for Storm Water

Pollution Controls including the WPCP, and have appropriately trained staff available to meet with City staff to review the submittals. It is considered reasonable that the Contractor shall make a complete and acceptable submittal at least by the second submission. The City reserves the right to deduct monies from payments due Contractor to cover additional costs of City's and Architect/Engineer's review beyond the second submission. Illegible submittals will be rejected and returned to the Contractor.

- G. Payment. There shall be no separate pay item for complying with the provisions of this section, unless a separate pay item is provided in the bid schedule.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 7329****CUTTING AND PATCHING****PART 1 - GENERAL****1.01 SUMMARY**

- A. Contractor shall be responsible for all cutting, fitting, and patching required to complete the work and to:
  - 1. Make its several parts fit together properly,
  - 2. Uncover portions of the work to provide for installation of ill-timed work,
  - 3. Remove and replace defective work,
  - 4. Remove and replace work not conforming to requirements of Contract Documents,
  - 5. Provide routine penetrations of nonstructural surfaces for installation of electrical conduit, plumbing, and ductwork,
  - 6. Remove Samples of installed work as specified for testing.

**1.02 SUBMITTALS**

- A. Submit a written request to the Architect/Engineer two weeks in advance of executing any cutting or alteration that affects the following and is not specifically indicated on the Drawings as part of the Scope of Work:
  - 1. Work of the City or any separate contractor,
  - 2. The structural value or integrity of any element of the completed building,
  - 3. The integrity or effectiveness of weather-exposed or moisture-resistant elements or systems,
  - 4. The efficiency, operational life, maintenance, and safety of operational elements,
  - 5. The visual qualities of sight-exposed elements.
- B. The request shall include:
  - 1. The necessity for cutting or alteration,
  - 2. The effect on the work of the City or any separate contractor or on the structural or weatherproof integrity of the building,
  - 3. Description of the Proposed Work:
    - a. The scope of cutting, patching, alteration, or excavation,
    - b. The trades who will execute the work,
    - c. The products proposed to be used,
    - d. The extent of refinishing to be done.
  - 4. Alternatives to cutting and patching,
  - 5. Cost proposal, when applicable,
  - 6. Written permission of any separate contractor whose work will be affected.
- C. Should conditions of the work or the schedule indicate a change of products from the original installation, submit a request for substitution per Section 00 6325 Substitution Request Form.

**PART 2 - PRODUCTS****2.01 MATERIALS**

- A. Comply with specifications and standards for each specific product involved.

**PART 3 - EXECUTION****3.01 EXAMINATION**

- A. Examine existing conditions of the Project, including elements subject to damage or to movement during cutting and patching.
- B. After uncovering work, examine the conditions affecting the installation of products or performance of the Work.
- C. Report unsatisfactory or questionable conditions to the Project Manager in writing. Do not proceed with the work until the Project Manager has provided further instructions.

**3.02 PREPARATION**

- A. Provide adequate temporary support as necessary to assure the structural value or integrity of the affected portion of the work.
- B. Provide devices and methods to protect other portions of the Project from damage.
- C. Provide protection from the elements for that portion of the Project that may be exposed by cutting and patching work.

**3.03 PERFORMANCE**

- A. Execute cutting and demolition by methods that will prevent damage to other work and will provide proper surfaces to receive installation of repairs.
- B. Execute fitting and adjustment of products to provide a finished installation to comply with specified products, functions, tolerances, and finishes.
- C. All plumbing, mechanical, and electrical system elements shall be concealed, unless indicated otherwise.
- D. Restore work which has been cut or removed; install new products to provide completed work in accordance with requirements of Contract Documents.
- E. Fit work airtight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.
- F. Refinish entire surfaces as necessary to provide an even finish to match adjacent finishes.
  - 1. For continuous surfaces, refinish to nearest intersection.
  - 2. For an assembly, refinish the entire unit.

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 7413****PROJECT CLEANING****PART 1 - GENERAL****1.01 SUMMARY**

- A. Maintain Project Site, surrounding areas and public properties free from accumulations of waste, debris, and rubbish, caused by operations.
- B. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery and surplus materials, and clean all sight-exposed surfaces; leave Project Site clean and ready for occupancy.

**1.02 GENERAL**

- A. Conduct cleaning and disposal operation in accord with legal requirements.
  - 1. Do not burn or bury rubbish and waste materials on Project Site.
  - 2. Do not dispose of volatile wastes in storm or sanitary drains.
- B. Hazards control:
  - 1. Store volatile wastes in covered metal containers, and remove from premises daily.
  - 2. Prevent accumulation of wastes which create hazardous conditions.
  - 3. Provide adequate ventilation during use of volatile or noxious substances.

Note: Care shall be taken that discharge of volatile or noxious exhaust shall be shielded from air intakes of hospital mechanical systems.

**1.03 MATERIALS**

- A. Use only cleaning materials recommended by manufacturer of surface to be cleaned.
- B. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.

**1.04 DUST CONTROL**

- A. Clean interior spaces prior to start of finish painting, and continue cleaning as required until painting is completed.

**1.05 DURING CONSTRUCTION**

- A. Execute cleaning daily to ensure Project Site, City's premises, adjacent and public properties are maintained free from accumulations of waste materials and rubbish.
- B. Wet down dry materials and rubbish to control dust.
- C. At reasonable intervals during progress of Work, clean Project Site and public properties, and dispose of waste materials, debris and rubbish.
- D. Provide on Project Site dump containers for collection of waste materials, debris and rubbish. Hospital waste containers shall not be used for construction waste.
- E. Remove waste materials, debris and rubbish from City's premises and legally dispose of off City's property.
- F. Vacuum clean interior areas when ready to receive finish painting, and continue vacuum cleaning on an as-needed basis until building is ready for substantial completion or

occupancy.

- G. Handle materials in a controlled manner with as few handlings as possible. Do not drop or throw materials.
- H. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.

#### **1.06 FINAL CLEANING**

- A. Employ experienced workers, or professional cleaners for final cleaning.
- B. In preparation for Substantial Completion or occupancy, conduct final inspection of sight-exposed interior and exterior surfaces, and of accessible concealed spaces.
- C. Remove grease, dust, dirt, stains, labels, fingerprints, and other foreign materials from sight-exposed finished surfaces; polish surfaces so designated to shine finish.
- D. Repair, patch and touch up marred surfaces to specified finish, and to match adjacent surfaces.
- E. Broom clean paved surfaces.
- F. Keep Project clean until it is occupied by the City.
- G. Clean equipment and fixtures to a sanitary condition.
- H. Clean or replace, if required, filters of operating equipment.
- I. Clean Debris from roofs, gutters, downspouts and drainage systems.

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 7419****CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL****PART 1 - GENERAL****1.01 RELATED DOCUMENTS**

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

**1.02 SUMMARY**

- A. This Section includes administrative and procedural requirements for the following:
  - 1. Salvaging and recycling nonhazardous demolition and construction waste.
  - 2. Disposing of nonhazardous demolition and construction waste.
- B. Related Sections include the following:
  - 1. Division 01 Section "Temporary Facilities and Controls" for environmental-protection measures during construction.

**1.03 DEFINITIONS**

- A. Construction Waste: Building and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.
- B. Demolition Waste: Building and site improvement materials resulting from demolition or selective demolition operations.
- C. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.
- D. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.
- E. Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.
- F. Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.

**1.04 PERFORMANCE REQUIREMENTS**

- A. General: Develop waste management plan that results in end-of-Project rates for a minimum salvage/recycling percent by weight of total waste generated by the Work, as required by the Berkeley Municipal Code 19.37 Berkeley Green Code.
- B. Salvage/Recycle Goals: Owner's goal is to salvage and recycle as much nonhazardous demolition and construction waste as possible.
  - 1. Demolition Waste:
    - a. Asphaltic concrete paving.
    - b. Concrete.
    - c. Concrete reinforcing steel.
    - d. Brick.
    - e. Concrete masonry units.

- f. Wood studs.
  - g. Wood joists.
  - h. Plywood and oriented strand board.
  - i. Wood paneling.
  - j. Wood trim.
  - k. Structural and miscellaneous steel.
  - l. Rough hardware.
  - m. Roofing.
  - n. Insulation.
  - o. Doors and frames.
  - p. Door hardware.
  - q. Windows.
  - r. Glazing.
  - s. Metal studs.
  - t. Gypsum board.
  - u. Acoustical tile and panels.
  - v. Carpet.
  - w. Carpet pad.
  - x. Demountable partitions.
  - y. Equipment.
  - z. Cabinets.
  - aa. Plumbing fixtures.
  - bb. Piping.
  - cc. Supports and hangers.
  - dd. Valves.
  - ee. Sprinklers.
  - ff. Mechanical equipment.
  - gg. Refrigerants.
  - hh. Electrical conduit.
  - ii. Copper wiring.
  - jj. Lighting fixtures.
  - kk. Lamps.
  - ll. Ballasts.
  - mm. Electrical devices.
  - nn. Switchgear and panelboards.
  - oo. Transformers.
2. Construction Waste:
- a. Site-clearing waste.
  - b. Masonry and CMU.
  - c. Lumber.
  - d. Wood sheet materials.
  - e. Wood trim.
  - f. Metals.
  - g. Roofing.
  - h. Insulation.
  - i. Carpet and pad.
  - j. Gypsum board.
  - k. Piping.
  - l. Electrical conduit.
  - m. Packaging: Regardless of salvage/recycle goal indicated above, salvage or recycle 100 percent of the following uncontaminated packaging materials:
    - 1. Paper.
    - 2. Cardboard.
    - 3. Boxes.
    - 4. Plastic sheet and film.

5. Polystyrene packaging.
6. Wood crates.
7. Plastic pails.

#### **1.05 SUBMITTALS**

- A. Waste Management Plan: Submit plan within **7** days of date established for the Notice to Proceed. The City uses Green Halo Tracking. Contractor shall be responsible for tracking construction waste through Green Halo at [www.berkeley.wastetracking.com](http://www.berkeley.wastetracking.com) .
- B. See Evaluations for example of Waste Reduction Progress Reports in paragraph below.
- C. Waste Reduction Progress Reports: Concurrent with each Application for Payment, submit a copy of Green Halo reporting. Include the following information:
  1. Material category.
  2. Generation point of waste.
  3. Total quantity of waste in tons
  4. Quantity of waste salvaged, both estimated and actual in tons
  5. Quantity of waste recycled, both estimated and actual in tons
  6. Total quantity of waste recovered (salvaged plus recycled) in tons
  7. Total quantity of waste recovered (salvaged plus recycled) as a percentage of total waste.
- D. Waste Reduction Calculations: Before request for Substantial Completion, submit **3** copies of calculated end-of-Project rates for salvage, recycling, and disposal as a percentage of total waste generated by the Work.
- E. Records of Donations: Indicate receipt and acceptance of salvageable waste donated to individuals and organizations. Indicate whether organization is tax exempt.
- F. Records of Sales: Indicate receipt and acceptance of salvageable waste sold to individuals and organizations. Indicate whether organization is tax exempt.
- G. Recycling and Processing Facility Records: Indicate receipt and acceptance of recyclable waste by recycling and processing facilities licensed to accept them. Include manifests, weight tickets, receipts, and invoices.
- H. Landfill and Incinerator Disposal Records: Indicate receipt and acceptance of waste by landfills and incinerator facilities licensed to accept them. Include manifests, weight tickets, receipts, and invoices.

#### **1.06 QUALITY ASSURANCE**

- A. Waste Management Coordinator Qualifications: Green Building Professional. Waste management coordinator may also serve as Green Building coordinator.
- B. Regulatory Requirements: Comply with hauling and disposal regulations of authorities having jurisdiction.

#### **1.07 WASTE MANAGEMENT PLAN**

- A. General: Develop plan consisting of waste identification, waste reduction work plan, and cost/revenue analysis. Indicate quantities by weight or volume, but use same units of measure throughout waste management plan.
- B. Waste Identification: Indicate anticipated types and quantities of demolition, site-clearing, and construction waste generated by the Work. Include estimated quantities and assumptions for estimates.
- C. Waste Reduction Work Plan: List each type of waste and whether it will be salvaged,

recycled, or disposed of in landfill or incinerator. Include points of waste generation, total quantity of each type of waste, quantity for each means of recovery, and handling and transportation procedures.

1. Salvaged Materials for Reuse: For materials that will be salvaged and reused in this Project, describe methods for preparing salvaged materials before incorporation into the Work.
2. Salvaged Materials for Sale: For materials that will be sold to individuals and organizations, include list of their names, addresses, and telephone numbers.
3. Salvaged Materials for Donation: For materials that will be donated to individuals and organizations, include list of their names, addresses, and telephone numbers.
4. Recycled Materials: Include list of local receivers and processors and type of recycled materials each will accept. Include names, addresses, and telephone numbers.
5. Disposed Materials: Indicate how and where materials will be disposed of. Include name, address, and telephone number of each landfill and incinerator facility.
6. Handling and Transportation Procedures: Include method that will be used for separating recyclable waste including sizes of containers, container labeling, and designated location on Project site where materials separation will be located.

## **PART 2 - PRODUCTS – NOT USED**

## **PART 3 - EXECUTION**

### **3.01 PLAN IMPLEMENTATION**

- A. General: Implement waste management plan as approved by Construction Manager. Provide handling, containers, storage, signage, transportation, and other items as required to implement waste management plan during the entire duration of the Contract.
  1. Comply with Division 01 Section "Temporary Facilities and Controls" for operation, termination, and removal requirements.
- B. Waste Management Coordinator: Engage a waste management coordinator to be responsible for implementing, monitoring, and reporting status of waste management work plan.
- C. Training: Train workers, subcontractors, and suppliers on proper waste management procedures, as appropriate for the Work occurring at Project site.
  1. Distribute waste management plan to all relevant sub-contractor within 3 days of submittal return.
  2. Distribute waste management plan to entities when they first begin work on-site. Review plan procedures and locations established for salvage, recycling, and disposal.
- D. Site Access and Temporary Controls: Conduct waste management operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.
  1. Designate and label specific areas on Project site necessary for separating materials that are to be salvaged, recycled, reused, donated, and sold.
  2. Comply with Division 01 Section "Temporary Facilities and Temporary Controls" for controlling dust and dirt, environmental protection, and noise control.

### **3.02 SALVAGING DEMOLITION WASTE**

- A. Salvaged Items for Reuse in the Work:
  - 1. Clean salvaged items.
  - 2. Pack or crate items after cleaning. Identify contents of containers.
  - 3. Store items in a secure area until installation.
  - 4. Protect items from damage during transport and storage.
  - 5. Install salvaged items to comply with installation requirements for new materials and equipment. Provide connections, supports, and miscellaneous materials necessary to make items functional for use indicated.
- B. Salvaged Items for Owner's Use:
  - 1. Clean salvaged items.
  - 2. Pack or crate items after cleaning. Identify contents of containers.
  - 3. Store items in a secure area until delivery to Owner.
  - 4. Transport items to Owner's storage area.
  - 5. Protect items from damage during transport and storage.
- C. Doors and Hardware: Brace open end of door frames. Except for removing door closers, leave door hardware attached to doors.

### **3.03 RECYCLING DEMOLITION AND CONSTRUCTION WASTE, GENERAL**

- A. General: Recycle paper and beverage containers used by on-site workers.
- B. Recycling Receivers and Processors: List below is provided for information only; available recycling receivers and processors include, but are not limited to, the following
  - The City of Berkeley Transfer Station
  - 1201 Second Streets, Berkeley, CA
- C. Procedures: Separate recyclable waste from other waste materials, trash, and debris. Separate recyclable waste by type at Project site to the maximum extent practical.
  - 1. Provide appropriately marked containers or bins for controlling recyclable waste until they are removed from Project site. Include list of acceptable and unacceptable materials at each container and bin.
    - a. Inspect containers and bins for contamination and remove contaminated materials if found.
  - 2. Stockpile processed materials on-site without intermixing with other materials. Place, grade, and shape stockpiles to drain surface water. Cover to prevent windblown dust.
  - 3. Stockpile materials away from construction area. Do not store within drip line of remaining trees.
  - 4. Store components off the ground and protect from the weather.
  - 5. Remove recyclable waste off Owner's property and transport to recycling receiver or processor.

### **3.04 RECYCLING DEMOLITION WASTE**

- A. Asphaltic Concrete Paving: Break up and transport paving to asphalt-recycling facility.
- B. Concrete: Remove reinforcement and other metals from concrete and sort with other metals.

- C. Masonry: Remove metal reinforcement, anchors, and ties from masonry and sort with other metals.
  - 1. Clean and stack undamaged, whole masonry units on wood pallets.
- D. Wood Materials: Sort and stack members according to size, type, and length. Separate lumber, engineered wood products, panel products, and treated wood materials.
  - 1. Treated Wood Waste: Treated wood waste is required to be managed, stored, transported, and disposed of as hazardous waste per California State regulations. Treated wood waste is required to be transported and disposed of at a Class I hazardous waste landfill by a Hazardous Waste contractor.
- E. Metals: Separate metals by type.
  - 1. Structural Steel: Stack members according to size, type of member, and length.
  - 2. Remove and dispose of bolts, nuts, washers, and other rough hardware.
- F. Gypsum Board: Stack large clean pieces on wood pallets and store in a dry location. Remove edge trim and sort with other metals. Remove and dispose of fasteners.
- G. Equipment: Drain tanks, piping, and fixtures. Seal openings with caps or plugs. Protect equipment from exposure to weather.
- H. Plumbing Fixtures: Separate by type and size.
- I. Piping: Reduce piping to straight lengths and store by type and size. Separate supports, hangers, valves, sprinklers, and other components by type and size.
- J. Lighting Fixtures: Separate lamps by type and protect from breakage.
- K. Electrical Devices: Separate switches, receptacles, switchgear, transformers, meters, panelboards, circuit breakers, and other devices by type.
- L. Conduit: Reduce conduit to straight lengths and store by type and size.

### **3.05 RECYCLING CONSTRUCTION WASTE**

- A. Packaging:
  - 1. Cardboard and Boxes: Break down packaging into flat sheets. Bundle and store in a dry location.
  - 2. Polystyrene Packaging: Separate and bag materials.
  - 3. Pallets: As much as possible, require deliveries using pallets to remove pallets from Project site. For pallets that remain on-site, break down pallets into component wood pieces and comply with requirements for recycling wood.
  - 4. Crates: Break down crates into component wood pieces and comply with requirements for recycling wood.
- B. Site-Clearing Wastes: Chip brush, branches, and trees.
- C. Wood Materials:
  - 1. Clean Cut-Offs of Lumber: Grind or chip into small pieces.
  - 2. Clean Sawdust: Bag sawdust that does not contain painted or treated wood.
  - 3. Treated Wood Waste: Treated wood waste is required to be managed, stored, transported, and disposed of as hazardous waste per California State regulations. Treated wood waste is required to be transported and disposed of at a Class I hazardous waste landfill by a Hazardous Waste contractor.
- D. Gypsum Board: Stack large clean pieces on wood pallets and store in a dry location.

1. Clean Gypsum Board: Grind scraps of clean gypsum board using small mobile chipper or hammer mill. Screen out paper after grinding.

**3.06 DISPOSAL OF WASTE**

- A. General: Except for items or materials to be salvaged, recycled, or otherwise reused, remove waste materials from Project site and legally dispose of them in a landfill or incinerator acceptable to authorities having jurisdiction.
  1. Except as otherwise specified, do not allow waste materials that are to be disposed of accumulate on-site.
  2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
- B. Burning: Do not burn waste materials.
- C. Disposal: Transport waste materials off Owner's property and legally dispose of them.

**END OF SECTION**

## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 7700****CONTRACT CLOSEOUT****PART 1 - GENERAL****1.01 SUMMARY**

A. Section describes requirements and procedures for:

1. Project cleaning.
2. Testing of equipment and systems
3. Substantial Completion
4. Final Completion
5. Close Out
6. Warranties

**1.02 SUBSTANTIAL COMPLETION**

A. Removal of Temporary Construction Facilities and Project Cleaning.

1. Prior to Substantial Completion inspection: remove temporary materials, equipment, services, and construction; clean all areas affected by the Work; clean and repair damage caused by installation or use of temporary facilities; restore permanent facilities used during construction to specified condition.

B. Equipment and Systems.

1. Prior to Substantial Completion, Contractor shall start up, run for periods prescribed by City, operate, adjust and balance all manufactured equipment and Project systems, including but not limited to, mechanical, electrical, safety, fire, and controls.
2. Demonstrate that such equipment and systems conform to contract standards and manufacturer's guarantees. Where applicable, use testing protocols specified, and if the contract is silent, then consistent with manufacturer's recommendations and industry standards.

C. Procedure for Substantial Completion

1. When Contractor considers Work or designated portion of the Work as Substantially Complete, submit written notice to City, with list of items remaining to be completed or corrected and explanation of why such items do not prevent City's beneficial use and occupancy of the Work for its intended purposes. Within reasonable time, City will inspect to determine status of completion.
2. Should City determine that Work is not Substantially Complete, City will promptly notify Contractor in writing, listing all defects and omissions. Contractor shall remedy deficiencies and send a second written notice of Substantial Completion. City will reinspect the Work. If deficiencies previously noted are not corrected on reinspection, then pay the cost of the reinspection.
3. When City concurs that Work is Substantially Complete, City will issue a written notice or certificate of Substantial Completion, accompanied by Contractor's list of items to be completed or corrected as verified by City.
4. Manufactured units, equipment and systems that require startup must have been

started up and before a notice or certificate of Substantial Completion will be issued.

5. A punch list examination will be performed upon Substantial Completion. One follow-up review of punch list items for each discipline will be provided. If further Site visits are required to review punch list items due to incompleteness of the Work by Contractor, Contractor will reimburse City for costs associated with these visits.

### **1.03 FINAL COMPLETION**

#### **A. Requirements**

1. Final Completion occurs when Work meets requirements for City's Final Acceptance.

#### **B. Procedure**

1. When Contractor considers Work is Finally Complete, submit written certification that:
  - a. Contractor has inspected Work for compliance with Contract Documents, and all requirements for Final Acceptance have been met.
  - b. Except for Contractor maintenance after Final Acceptance, Work has been completed in accordance with Contract Documents and deficiencies listed with Certificate of Substantial Completion have been corrected. Equipment and systems have been tested in the presence of City, and are operative.
  - c. Project Record Documents are completed and turned over to City, and Work is complete and ready for final inspection.
2. In addition to submittals required by Contract Documents, provide submittals required by governing authorities and submit final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
3. Should City determine that Work is incomplete or Defective, City promptly will so notify Contractor, in writing, listing the incomplete or Defective items. Contractor shall promptly remedy the deficiencies and notify the City when it is ready for reinspection.

#### **C. Final Adjustments of Accounts:**

1. Submit a final statement of accounting to City, showing all adjustments to the Contract Sum and complete and execute Document 00 6530 (Agreement and Release of Claims).
2. If so required, City shall prepare a final Change Order for submittal to Contractor, showing adjustments to the Contract Sum that were not previously made into a Contract Modification.

#### **D. Warranties**

1. Execute Contractor's Submittals and assemble warranty documents, and Installation, Operation, and Maintenance Manuals, executed or supplied by Subcontractors, suppliers, and manufacturers. Provide table of contents and assemble in 8½ inches by 11 inches three-ring binder with durable plastic cover, appropriately separated and organized. Assemble in Specification Section order.
2. Submit material prior to final Application for Payment. For equipment put into use with City's permission during construction, submit within 14 calendar days after first operation. For items of Work delayed materially beyond Date of Substantial Completion, provide updated Submittal within 14 calendar days after acceptance, listing date of acceptance as start of warranty period.
3. Warranty Forms: Submit drafts to Owner for approval prior to execution. Forms shall not detract from or confuse requirements or interpretations of Contract Documents. Warranty shall be countersigned by manufacturers. Where specified, warranty shall be countersigned by Subcontractors and installers.

4. Rejection of Warranties: Owner reserves right to reject unsolicited and coincidental product warranties that detract from or confuse requirements or interpretations of Contract Documents.
  5. Term of Warranties: For materials, equipment, systems, and workmanship, warranty period shall be one year minimum from date of Final Completion of entire Work except where:
    - a. Detailed Specifications for certain materials, equipment or systems require longer warranty periods.
    - b. Materials, equipment or systems are put into beneficial use of City prior to Final Completion as agreed to in writing by City.
- E. Warranty of Title:
1. No material, supplies, or equipment for Work under Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver premises, together with improvements and appurtenances constructed or placed thereon by Contractor, to City free from any claim, liens, security interest, or charges, and further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any Work covered by Contract shall have right to lien upon premises or improvement or appurtenances thereon. Nothing contained in this paragraph, however, shall defeat or impair right of persons furnishing materials or labor under bond given by Contractor for their protection or any rights under law permitting persons to look to funds due Contractor in hands of City.
- F. Turn-In. Contract Documents will not be closed out and final payment will not be made until all keys issued to Contractor during prosecution of Work and letters from property owners, pursuant to Contract Documents, are turned in to City.
- G. Release of Claims. Contract Documents will not be closed out and final payment will not be due or made until Document 00 6530 (Agreement and Release of Claims) is completed and executed by Contractor and City.
- H. Fire Inspection Coordination. Coordinate fire inspection and secure sufficient notice to City to permit convenient scheduling (if applicable).
- I. Building Inspection Coordination. Coordinate with City a final inspection for the purpose of obtaining an occupancy certificate (if applicable).

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION – NOT USED**

**END OF SECTION**

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## DIVISION 1 GENERAL REQUIREMENTS

**SECTION 01 7800****CLOSEOUT SUBMITTALS****PART 1 - GENERAL****1.01 SUMMARY**

- A. This section specifies administrative and procedural requirements for Project Record Documents.
- B. Project Record Documents required include:
  - 1. Marked-up copies of Contract Drawings
  - 2. Marked-up copies of Shop Drawings
  - 3. Newly prepared Drawings
  - 4. Marked-up copies of Specifications, Addenda and Change Orders
  - 5. Marked-up Project Data submittals
  - 6. Record Samples
  - 7. Field records for variable and concealed conditions
  - 8. Record information on Work that is recorded only schematically
- C. Specific Project Record Documents requirements that expand requirements of this Section are included in the individual Sections of Divisions 1 through 33.
- D. General Project closeout requirements are included in Section 01 7700, "Contract Closeout."
- E. Maintenance of Documents and Samples:
  - 1. Store Project Record Documents and samples in the field office apart from Contract Documents used for construction.
  - 2. Do not permit Project Record Documents to be used for construction purposes.
  - 3. Maintain Project Record Documents in good order, and in a clean, dry, legible condition.
  - 4. Make documents and samples available at all times for inspection by Architect and Project Manager.
- F. City will provide one set of sepias and one blueline set of the construction drawings and one project manual for the Contractor's use and copying during construction.

**1.02 PROJECT RECORD DRAWINGS**

- A. Mark-up Procedure: During the construction period, maintain a set of blueline or blackline prints of Contract Drawings and Shop Drawings for Project Record Document purposes. Label each document (on first sheet or page) "PROJECT RECORD" in 2 in. high printed letters. Keep record documents current. Note: A reference by number to a Change Order, RFI, RFQ, Field Order or other such document is not acceptable as sufficient record information on any record document. Do not permanently conceal any Work until required information has been recorded.
  - 1. Mark these Drawings to indicate the actual installation where the installation varies appreciably from the installation shown originally. Give particular attention to

information on concealed elements which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

- a. Dimensional changes to the Drawings
  - b. Revisions to details shown on the Drawings
  - c. Depths of various elements of foundation in relation to main floor level or survey datum.
  - d. Horizontal and vertical location of underground utilities and appurtenances referenced to permanent surface improvements.
  - e. Location of internal utilities and appurtenances concealed in construction referenced to visible and accessible features of structure.
  - f. Establish locations of underground work, points of connection with existing utilities, changes in direction, valves, manholes, catch basins, capped stubouts, invert elevations, and similar items.
  - g. Provide actual numbering of each electrical circuit.
  - h. Field changes of dimension and detail.
  - i. Revisions to routing of piping and conduits
  - j. Revisions to electrical circuitry
  - k. Actual equipment locations
  - l. Duct size and routing
  - m. Changes made by Change Order
  - n. Details not on original Contract Drawings
2. Mark completely and accurately Project Record Drawing prints of Contract Drawings or Shop Drawings, whichever is the most capable of showing actual physical conditions. Where Shop Drawings are marked, show cross-reference on Contract Drawings location.
  3. Mark Project Record Drawing sets with red erasable colored pencil; use other colors to distinguish between changes for different categories of the Work at the same location.
  4. Mark important additional information which was either shown schematically or omitted from original Drawings.
  5. Note construction change directive numbers; alternate numbers; Change Order numbers and similar identification.
  6. Responsibility for Mark-up: Where feasible, the individual or entity who obtained Project Record Drawing data, whether the individual or entity is the installer, subcontractor, or similar entity, is required to prepare the mark-up on Project Record Drawings.
    - a. Accurately record information in an understandable and legible drawing technique.
    - b. Record data as soon as possible after it has been obtained. In the case of concealed installations, record and check the mark-up prior to concealment.
- B. Preparation of Transparencies: Immediately prior to inspection for Certification of Substantial Completion, review completed marked-up Project Record Drawings with the Project Manager]. When authorized, prepare a full set of correct transparencies of Contract Drawings and Shop Drawings.
1. Incorporate changes and additional information previously marked on print sets. Erase, redraw, and add details and notations where applicable. Identify and date each Drawing; include the printed designation "PROJECT RECORD DRAWINGS" in a prominent location on each Drawing.
  2. Refer instances of uncertainty to the Project Manager for resolution.
  3. Review of Transparencies: Before copying and distributing, submit corrected

transparencies and the original marked-up prints to the Project Manager and Architect/Engineer for review.

- a. Transparencies and the original marked-up prints will be returned to the Contractor for organizing into sets, printing, binding, and final submittal.
4. Copies and Distribution: After completing the preparation of transparency Project Record Drawings, print three blue-line or black-line prints of each Drawing, whether or not changes and additional information were recorded. Organize the copies into manageable sets. Bind each set with durable paper cover sheets, with appropriate identification, including titles, dates and other information on cover sheets.
  - a. Organize and bind original marked-up set of prints that were maintained during the construction period in the same manner.
  - b. Organize Project Record Drawings transparencies into sets matching the print sets. Place these sets in durable tube-type drawing containers with end caps. Mark the end cap of each container with suitable identification.
- C. Distribution of Marked up Drawings and Transparencies
  1. Submit the marked-up Project Record Drawings set, pdfs, transparencies, and five copy sets to the Project Manager for City's records.
- D. Shop Drawings and Samples: Maintain as record documents; legibly annotate Shop Drawings and Samples to record changes made after review.
- E. In addition to requirements of this Section, comply with supplemental requirements of Divisions 21 and 28 and Division 33.
  1. Divisions 21 through 28 and Division 33 of the specifications require the preparation of large scale, detailed Layout Drawings of the work of those divisions. These Layout Drawings are not shop drawings as defined by the General Conditions, but together with shop drawing or Layout Drawings of all other affected sections are used check, coordinate and integrate the work of the various sections
  2. Include these Layout Drawings as part of the As Built Documents.
- F. Delete Architect/Engineer title block and seal from documents.
- G. As-Built Documents are subject to review and acceptance by the City and Architect/Engineer.
- H. Submit documents to Project Manager with final Application for payment.

### **1.03 PROJECT RECORD SPECIFICATIONS**

- A. During the construction period, maintain one copy of the Project Specifications, including addenda and modifications issued, for Project Record Document purposes.
  1. Mark the Project Record Specifications to indicate the actual installation where the installation varies substantially from that indicated in Specifications and Modifications issued. Note related Project Record Drawing information, where applicable. Give particular attention to substitutions, selection of product options, change order work, and information on concealed installation that would be difficult to identify or measure and record later.
    - a. In each Specification Section where products, materials or units of equipment are specified or scheduled, mark the copy with the proprietary name and model number of the product furnished.
    - b. Record the name of the manufacturer, catalog number, supplier and installer, and other information necessary to provide a record of selections made and to document coordination with Project Record Product Data submittals and maintenance manuals.

- c. Note related Project Record Product Data, where applicable, for each principal product specified, indicate whether Project Record Product Data has been submitted in maintenance manual instead of submitted as Project Record Product Data.
2. Upon completion of mark-up, submit Project Record Specifications to the Project Manager for City's records.

#### **1.04 PROJECT RECORD PRODUCT DATA**

- A. During the construction period, maintain one copy of each Project Record Product Data submittal for Project Record Document purposes.
  1. Mark Project Record Product Data to indicate the actual product installation where the installation varies substantially from that indicated in Project Record Product Data submitted. Include significant changes in the product delivered to the site, and changes in manufacturer's instructions and recommendations for installation.
  2. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  3. Note related Change Orders and mark-up of Project Record Drawings, where applicable.
  4. Upon completion of mark-up, submit a complete set of Project Record Product Data to the Project Manager for City's records.
  5. Where Project Record Product Data is required as part of maintenance manuals, submit marked-up Project Record Product Data as an insert in the manual, instead of submittal as Project Record Product Data.
  6. Each prime Contractor is responsible for mark-up and submittal of record Project Record Product Data for its own Work.
- B. Material, Equipment and Finish Data
  1. Provide data for primary materials, equipment and finishes as required under each specification section.
  2. Submit two sets prior to final inspection, bound in 8-1/2 inches by 11 inches three-ring binders with durable plastic covers; provide typewritten table of contents for each volume.
  3. Arrange by Specification division and give names, addresses, and telephone numbers of subcontractors and suppliers. List:
    - a. Trade names.
    - b. Model or type numbers.
    - c. Assembly diagrams.
    - d. Operating instructions.
    - e. Cleaning instructions.
    - f. Maintenance instructions.
    - g. Recommended spare parts.
    - h. Product data.

#### **1.05 MISCELLANEOUS PROJECT RECORD SUBMITTALS**

- A. Refer to other Specification Sections for miscellaneous record keeping requirements and submittals in connection with various construction activities. Immediately prior to Substantial Completion, complete miscellaneous records and place in good order, properly identified and bound or filed, ready for use and reference. Submit to the Project Manager for City's records. Categories of requirements resulting in miscellaneous records include, but are not limited to the following:

1. Field records on excavations and foundations
2. Field records on underground construction and similar work
3. Survey showing locations and elevations of underground lines
4. Invert elevations of drainage piping
5. Surveys establishing building lines and levels
6. Authorized measurements utilizing unit prices or allowances
7. Records of plant treatment
8. Ambient and substrate condition tests
9. Certifications received in lieu of labels on bulk products
10. Batch mixing and bulk delivery records
11. Testing and qualification of tradespersons
12. Documented qualification of installation firms
13. Load and performance testing
14. Inspections and certifications by governing authorities
15. Leakage and water-penetration tests
16. Fire resistance and flame spread test results
17. Final inspection and correction procedures

**PART 2 - PRODUCTS – NOT USED**

**PART 3 - EXECUTION**

**3.01 RECORDING**

- A. Post changes and modifications to the Documents as they occur. Do not wait until the end of the Project. City may review Project Record Documents prior to each progress payment to see that the required information is being properly and faithfully recorded to assure compliance with this requirement. If Contractor has not complied with this requirement, the progress payment will be withheld until the Record Documents have been brought up to date.

**3.02 SUBMITTAL**

- A. At completion of Project, deliver Record Documents to Project Manager.
- B. Accompany submittal with transmittal letter containing:
  1. Date
  2. Project title and number
  3. Contractor's name and address
  4. Number and title of each record documents
  5. Certification that each document as submitted is complete and accurate, and signature of Contractor, or his authorized representative.

**END OF SECTION**

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