

**CITY OF ROHNERT PARK**  
**CONTRACT DOCUMENTS, SPECIAL PROVISIONS AND**  
**STANDARD SPECIFICATIONS**

**FOR**

**LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT**  
**(Rohnert Park Cotati Regional Library)**

**PROJECT NO. 2024-11**

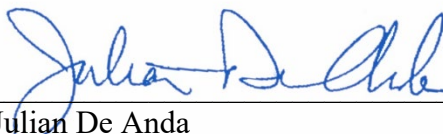
**BID DUE DATE: April 15, 2026 at 2:00PM**  
**MANDATORY PRE-BID MEETING DATE: March 17, 2026 at 9:00AM**  
**REQUEST FOR INFORMATION DUE BY: April 6, 2026 at 2:00PM**



Prepared by  
City of Rohnert Park-  
Public Works  
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Rohnert Park, CA 94928  
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**CITY COUNCIL**  
Mayor – Emily Sanborn  
Vice-Mayor – Jackie Elward  
Council Member – Susan Hollingsworth Adams  
Council Member – Gerard Giudice  
Council Member – Samantha Rodriguez  
City Manager – Marcela Piedra  
City Engineer – Julian De Anda

Approved: \_\_\_\_\_

  
Julian De Anda

City Engineer

3/3/26

Date

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Refer to Attachment

# **PART 1 - BID DOCUMENTS**

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## INVITATION FOR SEALED BIDS

### **LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT** PROJECT NO. 2024-11

Notice is hereby given that on Wednesday, April 15, 2026, at 2:00PM at 130 Avram Avenue, Rohnert Park, California, the City of Rohnert Park will receive and open sealed bids for the **LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT** No. 2024-11. Sealed bids shall be dropped off in the secured box to the right of the main doors in front of City Hall **before 2:00PM** on Wednesday, April 15, 2026.

The work will take place at the Rohnert Park Cotati Regional Library located at 6250 Lynne Conde Way in Rohnert Park. The work is generally described as: demolish existing interior lights, lighting controls, fire alarm control panel, initiating and signaling devices, Variable Air Volume (VAVs) systems, coil units, 1-packaged HVAC rooftop unit and exhaust fans. Provide and install new electrical equipment, fire alarm control panel, and initiating and signaling devices. Provide and install new VAVs, coil units, a new packaged HVAC roof top unit, new relocated exhaust fans and extended exterior ducting. Provide and install new lighting and controls for all removed/demolished and built-in furniture light fixtures.

The Contractor must have a valid California contractor's license, a Class B, General Building Contractor License is required. The Engineer's estimate for this Project **\$1,550,000**. This project was supported in whole or in part by funding provided by the State of California, administered by the California State Library. The Contractor must begin work within fifteen (15) calendar days after official notice by the City Engineer to proceed with the work and must diligently prosecute the same to completion within 199 calendar days of that Notice.

There is lead time built into the project schedule for providing submittals and procuring materials for the HVAC system, fire alarm, VAV system, and lighting. Materials staging may take place starting August 10, 2026, in the Flores Room of the library, for materials other than the HVAC system. The library will be open for business during that time. The library will be closed September 1, 2026 – December 31, 2026 so that construction may take place.

Under California Labor Code Section 1770, *et seq.*, copies of the determination of the Director of the Department of Industrial Relations of the general prevailing rate of per diem wages for each craft, classification and type of workman needed to execute the work are on file in and available to any interested person on request at the Department of Public Works, or on the Internet at <http://www.dir.ca.gov/dlsr/PWD/index.htm>, and are incorporated herein. (Labor Code Sec. 1773.2.) Prevailing wage determinations must also be posted at each job site.

Labor Code Section 1725.5 provides that no contractor or subcontractor may be listed on a bid proposal for a public works project nor awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement). The prime contractor must also post jobsite notices prescribed by regulation.

Per California Civil Code Section 9550, a payment bond in the amount of one hundred percent (100%) of the bid total will be required from the successful bidder for bids exceeding twenty-five thousand dollars (\$25,000). A performance bond will also be required for bids exceeding twenty-five thousand dollars (\$25,000). The bond(s) must be provided within ten (10) calendar days from notice of award and prior to

the performance of any work.

For any moneys earned by the Contractor and withheld by the City of Rohnert Park to ensure the performance of the contract, the Contractor may, at its request and sole expense, substitute certain securities equivalent to the amount withheld in the form and manner and subject to the terms and conditions provided in the California Public Contracts Code Section 22300.

This notice incorporates by reference the terms, conditions and requirements of the specifications approved by the City, any and all changes or amendments to the specifications, and special instructions or special notice issued or given to prospective bidders.

The City of Rohnert Park makes no representation or warranty of the condition of the jobsite. All prospective bidders are requested to carefully review the plans and specifications and to examine and conduct tests or otherwise satisfy themselves as to the conditions at the Project site, subject to coordination with the office of the Rohnert Park City Engineer.

Except as otherwise indicated in the Instructions to Bidders, bids will be publicly opened, examined and declared on said day and hour and referred to and considered by the City Council at a future City Council meeting. Each bid must be submitted on the bid forms furnished by the City and each bid must include all the items shown on these forms. Substitute forms may be used if specified in this Notice.

A pre-bid conference will be held at 9:00AM on March 17, 2026 at the Rohnert Park Cotati Regional Library located at 6250 Lynne Conde Way, Rohnert Park. **Attendance at the pre-bid conference is mandatory for all prime contractors submitting a bid.** For those who have attended the pre-bid conference, additional site visits can be scheduled if the City is notified twenty-four (24) hours in advance.

The City reserves the right, in its sole discretion, to reject any or all bids, to re-bid, or to waive inconsequential defects in bidding not involving time, price or quality of the work. The City may reject any and all bids and waive any minor irregularity in the bids.

A digital copy of the drawings and specifications can be obtained on the Bids page of the City of Rohnert Park website ([www.rpcity.org/Bids](http://www.rpcity.org/Bids)). A hard copy of the drawings and specifications may be obtained from Draftech for a non-refundable fee. Draftech Blueprinting is located at 1544 Terrace Way, Santa Rosa, CA 95404, phone number 707-578-9442.

**To ensure receipts of addendums, any party interested in the Project shall place their information with the Department of Public Works at 707-588-3300 or [PWProjects@rpcity.org](mailto:PWProjects@rpcity.org). Submit requests for information (RFIs) on 04/06/25 by 2PM, to the Department of Public Works at [PWProjects@rpcity.org](mailto:PWProjects@rpcity.org) AND Project Manager, Michelle Fajardo, at [mfajardo@rpcity.org](mailto:mfajardo@rpcity.org).**

Any member of the public who needs accommodations should contact the ADA Coordinator at [adacoordinator@rpcity.org](mailto:adacoordinator@rpcity.org) or 707-588-2224. For more information visit [https://www.rpcity.org/city\\_hall/departments/human\\_resources/a\\_d\\_a\\_and\\_accessibility\\_resources](https://www.rpcity.org/city_hall/departments/human_resources/a_d_a_and_accessibility_resources).

Posted Date: March 6, 2026

/s/ SYLVIA LOPEZ CUEVAS

Published Date: March 6, 2026 and March 13, 2026

City Clerk of the City of Rohnert Park

## INSTRUCTIONS TO BIDDERS

The bidder must file its bid with the City Engineer of the City of Rohnert Park, California, using the copy of the Bidder's Proposal and Schedule of Bid Prices furnished with the specifications. These documents must be placed in a sealed envelope marked:

### **LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT**

PROJECT NO. 2024-11

and addressed to the City Engineer of the City of Rohnert Park, California. Said sealed bids shall be dropped off in the secured box to the right of the main doors in front of City Hall located at 130 Avram Avenue, Rohnert Park, California **before 2:00PM** on April 15, 2026. The bidder must not file the book of Special Provisions or the Contract Drawings with their bid.

The bidders' attention is directed to the schedule of bid prices that requires this Project be bid as **lump sum** contract.

**Bid Forms.** Each proposal and all bid submittals must conform and be responsive to the Invitation and the Plans, Specifications and Contract documents.

The wording of the proposal and bid submittals must not be changed. Any additions, conditions, limitations, or provisions inserted by the bidder will render the proposal irregular and may cause its rejection. Erasures or interlineations in the proposal or other submittals must be explained or noted over the signature of the bidder.

In case of discrepancy between a unit price and the total price set forth for the unit price item, the unit price shall prevail. Discrepancies between the indicated sum of any column of numerals and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures, or words and numerals, will be resolved in favor of the words.

**Prices.** All proposals must give the prices proposed, both in writing and in figures in the respective spaces provided, and must be signed by the bidder, who must fill out all blanks in the proposal form as therein required.

**Rejection of Bids.** Proposals may be rejected if they show any alterations of form, additions not called for, conditional proposals, incomplete proposals, erasures, or irregularities of any kind, excepting that erasures or delineations in the proposal will be accepted as provided under "Bid Forms" above.

When proposals are signed by an agent, other than the officer or officers of a corporation authorized to sign Contracts on its behalf or a member of a co-partnership, a Power of Attorney must be on file with the City prior to opening proposals or must be submitted with the proposal; otherwise, the proposal may be rejected as irregular and unauthorized.

**Bid Security.** All proposals must be presented under sealed cover and accompanied by one of the following forms of bidder's security: Cashier's check, certified check, or a bidder's bond in the form provided herein, executed by an admitted surety insurer authorized to transact business in this State, made payable to the City. The submitted bidder's bond must be the City's bid bond. The security must be in an amount equal to at least ten percent (10%) of the proposal amount. A proposal will not be considered unless one of the forms of bidder's security is enclosed with it. A bidder's bond will not be accepted unless it has been properly filled out and executed by both the surety and the bidder.

**Withdrawal of Bid.** Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of proposals only by a written request for withdrawal of the bid filed with the City Engineer. The request must be executed by the bidder or its duly authorized representative. The withdrawal of a bid does

not prejudice the right of the bidder to file a new bid. No bid may be withdrawn after the time fixed in the public notice for the opening of bids.

**Means of Submittal.** Proposals submitted by facsimile and proposals failing to reach the office of the City prior to the date and time set for receipt of same will not be considered.

**Opening.** Bids will be opened and read at the time and place indicated in the Invitation for Sealed Bids. Bidders and the public are invited to be present.

**Multiple Proposals.** More than one proposal from an individual, a firm, partnership, corporation or an association under the same or different names, will not be considered. Reasonable grounds for believing that any bidder is interested in more than one proposal for the work contemplated will cause the rejection of all proposals in which such bidder is interested. If there is reason for believing that collusion exists among the bidders, none of the participants in such collusion will be considered in this or future proposals. Proposals in which the prices obviously are unbalanced may be rejected.

**License Requirement.** No proposal will be accepted from a Contractor who is not licensed in accordance with law under the provisions of Division III, Chapter 9, of the Business and Professions Code of the State of California, or from a Contractor that has been deemed irresponsible or unresponsive by the City Council.

**Subcontractors.** Subcontractors listed by the bidder in accordance with the Special Provisions included herein must be properly licensed under the laws of the State of California for the type of work which they are to perform.

All bidders are hereby notified that they will be required to comply strictly with the provisions of Sections 4100 to 4113, inclusive, of the Public Contract Code of the State of California.

**Each bidder must file with its proposal the name and location of the place of business, contractor's license number and Department of Industrial Relations registration number of each Subcontractor who will perform a portion of the Contract work in an amount in excess of one-half of one percent (0.5%), or in the case of bids for the construction of streets or highways, including bridges, in excess of one-half of one percent (0.5%) of the total bid or ten thousand dollars (\$10,000). In each such instance, the nature and extent of the work to be sublet must be described.**

The General Contractor to whom the Contract is awarded will not be permitted, without the written consent of the City, to substitute any person as Subcontractor in place of the Subcontractor designated in the original proposal, or to permit any Subcontract to be assigned or transferred, or to allow it to be performed by anyone other than the original Subcontractor. The City may consent to the substitution of another person as Subcontractor if the original Subcontractor, after having reasonable opportunity to do so, fails or refuses to execute the written Contract presented to it by the General Contractor, when said written Contract is based upon the conditions of the general Contract and complies with the Subcontractor's written proposal.

The failure of the Contractor to specify a Subcontractor for any portion of the Contract work in excess of one-half of one percent (0.5%) of the total Contract price must be deemed to indicate that the Contractor intends to perform such portion itself. The subletting or Subcontracting of work for which no Subcontractor was designated in the original proposal and which is in excess of one-half of one percent (0.5%) of the total Contract price will be allowed only with the written consent of the City and then only in cases of public emergency or necessity as determined by the City. Under such circumstances, the City is required to establish the facts constituting the emergency or necessity and to reduce its findings to a written public record.

Violations of the provisions of these specified sections of the Code must be deemed to be a violation of the Contract, and the City, because of any such violations, may cancel the Contract. The Contractor, after any such violations, will be penalized up to twenty percent (20%) of the amount of the Subcontract involved.

**Material.** The bidder may be required to furnish, as part of the submittal process, a complete statement of the origin, composition, and manufacture of any or all materials to be used in the construction of the work, together with samples. Such samples may be subjected to the tests provided for in these specifications or in the Special Provisions to determine their quality and fitness for the work.

**Additional Requirements.** The bidder's attention is directed to Section 3 of the General Provisions for additional proposal requirements and conditions, and information regarding award and execution of the contract. Contractor submitting a bid to the City of Rohnert Park, a public entity, must state, under penalty of perjury, the contractor's license number and the license's expiration date. This information must be entered in the Schedule of Bid Prices. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

**Explanations and Addenda.** Any explanation desired by the bidders regarding the meaning or interpretation of the drawings and specifications must be requested in writing and in sufficient time to allow for a written reply to reach them and all other potential bidders before the date and time for submission of bids. Oral explanation or instructions given before award of the contract will not be binding. Any interpretations made will be in the form of an addendum to the specifications or drawings and will be furnished to all bidders and its receipt by the bidder must be acknowledged. Any explanation that makes a material change, addition, or deletion to the terms of the Invitation for Sealed Bids shall be issued no less than seventy-two (72) hours before the date and time for submission of bids. If an explanation making a material change, addition, or deletion must be issued less than seventy-two (72) hours before the scheduled date and time for submission of bids, the date and time for submission shall be extended so that a full seventy-two (72) hours is provided for analysis of the change, addition, or deletion.

**Quantity of Work.** The quantity of work is for a lump sum as noted in the bid schedule. **The right is reserved to increase or decrease, or to entirely eliminate items from the work if found desirable or expedient. The Contractor will be allowed no claims for anticipated profits, loss of profits, or for any damages of any sort because of any difference between the estimated and the actual quantities of work done.**

The City reserves and must have the right to increase or decrease the quantities of work to be performed under a scheduled unit item or to entirely omit the performance thereof and upon decision of the City to so do, the City Engineer will direct the Contractor to proceed with the said work as so modified. If an increase in the quantity of work so ordered should result in delay to the work, the Contractor will be given an equivalent extension of time.

**Insurance.** The bidders' attention is drawn to Special Provisions – Location and Description of Work and Special Provisions – Minimum Limits of Insurance.

**Inspection of Site.** The bidder must examine carefully the site of the work contemplated and the proposal, plans, specifications, and the Contract form therefor. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements of these specifications, the Special Provisions, and the Contract.

Where the City has investigated the subsurface conditions in respect to foundation or other design, bidders may inspect the City's investigation records, including examination of samples, if available. When the Plans include a log of test borings showing a record of the data obtained in the City's investigation of subsurface conditions, said log represents only the City's opinion as to the character of material encountered by it in its test borings and is only included for the convenience of bidders.

Investigations of subsurface conditions are made for the purpose of design. The City assumes no

responsibility whatsoever in respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations, or of the interpretation thereof, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work, or any part of it, or that uninvestigated developments may not occur.

Making such information available to the bidders is not to be construed in any way as a waiver of the provisions of the first paragraph of this article and bidders must satisfy themselves through their own investigations as to conditions to be encountered.

No information derived from such inspection of the records of preliminary City investigations or from the maps, plans, specifications, profiles or drawings will in any way relieve the Contractor from any risk from properly fulfilling all the terms of the Contract.

Records of such preliminary City investigations may be inspected at the office of the Engineer. As-builts can be provided upon request.

**Pre-construction Meeting.** At the pre-construction meeting, the successful bidder **must submit a Critical Path method (CPM) progress schedule and a lighting phasing schedule** which will show the time he/she proposes to occupy in prosecuting the various major divisions of work and his/her proposed sequence of operations. The CPM progress schedule must be subject to the approval of the City Engineer.

**Adjustment of Schedule.** If at any time the construction schedule is inadequate to secure completion of the work within the time specified, and the work is being prosecuted inadequately or improperly, the Engineer may require the Contractor to submit a revised progress schedule, providing for proper and timely completion of the work.

The Contractor is not entitled to additional compensation on account of revisions required by the City.

**The contractor must give the City seventy-two (72) hours before a schedule change, request for entrance to a building, or changes to approved work.**

BIDDER'S PROPOSAL

LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT  
PROJECT NO. 2024-11

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

To: City Council, City of Rohnert Park

The undersigned hereby declares:

- (a) That the only persons or parties interested in this proposal as principals are the following:

\_\_\_\_\_.

(If the bidder is a corporation, give the name of the corporation and the name of its president, secretary, treasurer, and manager. If a co-partnership, give the name under which the co-partnership does business, and the names and addresses of all co-partners. If an individual, state the name under which the contract is to be drawn.)

- (b) That this proposal is made without collusion with any other person, firm, or corporation.
- (c) That he/she has carefully examined the locations of the proposed work and has familiarized himself/herself with all of the physical and climatic conditions and makes this bid solely upon his/her own knowledge.
- (d) That he/she has carefully examined the drawings and specifications and makes this proposal in accordance therewith.
- (e) That, if this bid is accepted, he/she agrees to enter into an agreement with City in the form included in the Contract Documents to complete all work as specified in the Contract for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.
- (f) That this bid will remain open and not be withdrawn for the period specified in the Instructions to Bidders.
- (g) That he/she has read the insurance requirements in Section 2.03, Insurance in the Special Provisions section of this bid document;
- (h) That he/she has conferred with his/her insurance carriers or brokers to determine in advance of the bid submission the availability of insurance certificates and endorsements as prescribed and provided herein;
- (i) That if the bid is accepted, he/she will enter into a written contract and within ten (10) calendar days furnish the required proof of insurance including certificates and endorsements;
- (j) That failure to comply strictly with the insurance requirements may result in forfeiture of the bid security and withdrawal of the bid proposal.
- (k) That he/she is properly licensed in accordance with California Business and Professions Code section 7000, *et seq.* Bidder acknowledges that if the bidder is not properly licensed at the time the bid is awarded or as otherwise required by law, the bid will be considered non-responsive and will be rejected.
- (l) That he/she and any subcontractor relied on by him will keep an accurate payroll record, 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 the contractor or subcontractor in connection with the public

work, as more fully set forth in the Contract. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement).

- (m) That in compliance with the Subletting and Subcontracting Fair Practices Act, California Public Contracts Code Section 4100, *et seq.*, he/she has listed on the attached "List of Subcontractors" each subcontractor who will perform work or labor or render service to the bidder in or about the construction of the work or will specifically fabricate and install a portion of the work in an amount in excess of one half of one percent (0.5%) of the total bid sum or in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent (0.5%) of the total bid or ten thousand dollars (\$10,000), whichever is greater, and that no subcontractors may be used other than those specified without written approval of the City Engineer.

Accompanying this proposal is a certified or cashier's check, or bidder's bond payable to the order of the City Clerk of the City of Rohnert Park, in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_). Said bidder's bond is the City's bid bond form. Said bidder's bond has been duly executed by the undersigned bidder and by a financially sound surety company admitted in the State of California.

It is understood and agreed that should the bidder fail within ten (10) calendar days after the date of mailing written notice to the successful bidder that the contract has been awarded to enter into the contract and furnish acceptable surety bonds and insurance on forms included herein, then the proceeds of said check or bidder's bond will become the property of the City. But if the contract is entered into and said bonds are furnished, or if the bid is not accepted, then said check will be returned to the undersigned or the bidder will be released from the bidder's bond.

\_\_\_\_\_  
Address of Bidder

\_\_\_\_\_  
Telephone Number of Bidder

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

\_\_\_\_\_  
Signature of Bidder

SCHEDULE OF BID PRICES

LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT

PROJECT NO. 2024-11

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

In accordance with the plans and specifications approved by the City of Rohnert Park, the undersigned bidder is submitting the following bid prices for the performance of the entire proposed work as described in these specifications and attached drawings. The contract award will be based upon the Base Bid.

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
1	Construction Services for the Library Building Systems Replacement Project: demolish existing interior lights, lighting controls, fire alarm control panel, initiating and signaling devices, VAVs, coil units, 1-packaged HVAC rooftop unit and exhaust fans. Provide and install new electrical equipment, fire alarm control panel, initiating and signaling devices as designate on electrical plans. Provide and install new VAVs, coil units, a new packaged HVAC roof top unit, new relocated exhaust fans and extended exterior ducting, as designated on mechanical plans. Provide and install new nlighting and controls for all removed/demolished and built-in furniture light fixtures.	1	LS	X	

**Total Amount of Base Bid** (written in words) is: \_\_\_\_\_

\_\_\_\_\_ dollars

and \_\_\_\_\_ cents.

Any discrepancy between words and figures shall be resolved as provided in the Instructions to Bidders.

\$ \_\_\_\_\_

**Total Amount of Base Bid (Figures)**

---

Address of Bidder

---

Signature of Bidder

---

City, State, Zip

---

Name of Bidder (Print)

---

Telephone Number of Bidder

---

FAX Number of Bidder

---

Contractor's License Number

---

License's Expiration Date

---

Contractor's DIR Number

---

Contractor's DIR Expiration Date

---

Contractor's email address

ADDENDUM ACKNOWLEDGEMENT

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID IF ADDENDUM ISSUED

**ADDENDUM #1** Date \_\_\_\_\_ Signature acknowledging receipt: \_\_\_\_\_

**ADDENDUM #2** Date \_\_\_\_\_ Signature acknowledging receipt: \_\_\_\_\_

**ADDENDUM #3** Date \_\_\_\_\_ Signature acknowledging receipt: \_\_\_\_\_

CONTRACTOR'S LICENSE DECLARATION  
(Business and Professions Code Section 7028.15)

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

The undersigned declares that he or she is \_\_\_\_\_ of \_\_\_\_\_ (party making foregoing bid) (hereinafter the "Bidder")

1. Bidder's Contractor's License Number is as follows: \_\_\_\_\_.
2. The expiration date of Bidder's Contractor's License is \_\_\_\_\_, 20\_\_.
3. Bidder acknowledges that pursuant to Business and Professions Code Section 7028(a), it is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this State without having a license therefor, except as provided therein.

The undersigned declares, under penalty of perjury, that the representations made by the undersigned in this bid proposal are true and correct.

Executed on \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ (insert city and state where Declaration signed).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Bidder

LIST OF SUBCONTRACTORS

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

In accordance with the provisions of Public Contract Code Sections 4103 to 4108, inclusive, each bidder must list below the name and location of place of business, contractor’s license number and Department of Industrial Relations registration number of each subcontractor who will perform a portion of the contract work in an amount in excess of one-half of one percent (0.5%) of the total contract price. In each such instance, the nature and extent of the work to be sublet must be described.

Subcontractor name, California Contractor’s License Number and DIR Registration Number	Location of Place of Business	Description of Work to be Performed (also show bid Schedule Item No.)	Percentage of total contract work to be performed
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			
Name:			
CLN:			
DIR:			

*[Add additional sheets if necessary]*

**\*\*Note, the Subletting and Subcontracting Fair Practices Act also requires inclusion of any subcontractor who specially fabricates and installs a portion of the work according to detailed drawings.**

**BID BOND**

**Bond No.** \_\_\_\_\_

WHEREAS, \_\_\_\_\_ (“Principal”) intends to submit a bid to the City of Rohnert Park (“City”) for the above-referenced Project, and the terms of the bid require the Principal to submit bidder’s security.

NOW, THEREFORE, Principal and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and duly authorized to transact business under the laws of the State of California as Surety, are held and firmly bond unto City in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States of America, such sum being not less than ten percent (10%) of the bid amount for the payment of which sum to be made, the Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the Principal submits a bid for the above-referenced Project, the terms and conditions of which are incorporated herein by reference, and if said bid is rejected by the City, or if said bid is accepted by the City and the Bidder properly executes and submits to the City the Agreement and all required documents (including the Performance bond, the Payment Bond, and the proof of insurance), then this obligation will be null and void; otherwise it will remain in full force and effect.

The Surety hereby agrees, for value received, that its obligations under this bond must in no way be impaired or modified by any agreement between the City and the Principal to extend the time within which the City may accept the Principal’s bid, and the Surety hereby waives notice of any such extension.

In the event suit is brought upon this bond, the Surety must pay reasonable attorneys’ fees and costs incurred by the prevailing parties in such suit, which fees and costs must be in addition to the face amount of the bond.

IN WITNESS WHEREOF, the undersigned represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this document on behalf of the Principal and the Surety and have caused this document to be executed by setting hereto their names, titles and signatures.

Principal: \_\_\_\_\_  
(Name of Firm)

Surety: \_\_\_\_\_  
(Name of Firm)

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

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

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

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

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

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

Address for Notices to Surety:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Note: Notary acknowledgment for Surety and Surety’s Power of Attorney must be attached.*

# NONCOLLUSION DECLARATION

## TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing bid.

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

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

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

\_\_\_\_\_  
Firm (print or type)

\_\_\_\_\_  
Signature

# DECLARATION OF ELIGIBILITY TO CONTRACT

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

The undersigned, a duly authorized representative of the bidder, certifies and declares that:

1. The bidder is aware of California Labor Code Sections 1771.1 and 1777.7, which prohibit a contractor or subcontractor who has been found by the Labor Commissioner or the Director of Industrial Relations to be in violation of certain provisions of the Labor Code from bidding on, being awarded, or performing work as a subcontractor on a public works project for specified periods of time.
2. The bidder is not prohibited from bidding on, being awarded, or performing work as a contractor or subcontractor on a public works project under Labor Code sections 1771.1 and 1777.7, or any other provision of law.
3. The bidder is aware of Public Contract Code Section 6109, which states:
  - (a) A public entity, as defined in Section 1100 [of the Public Contract Code], may not permit a contractor or subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to Section 1771.1 or 1777.7 of the Labor Code to bid on, be awarded, or perform work as a subcontractor on, a public works project. Every public works project shall contain a provision prohibiting a contractor from performing work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
  - (b) Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project will be returned to the awarding body. The contractor is responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.
4. The bidder has investigated the eligibility of each and every subcontractor that bidder intends to use on this public works project and has determined that none of them is ineligible to perform work as a subcontractor on a public works project by virtue of Public Contract Code Section 6109, Labor Code Sections 1771.1 and 1777.7, or any other provision of law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title of Authorized Official

**IN-USE OFF-ROAD DIESEL-FUELED FLEETS**  
**CERTIFICATION**

TO BE EXECUTED BY ALL BIDDERS AND SUBMITTED WITH BID

The undersigned Bidder certifies to Owner as set forth in sections 1 through 2, below.

1. Certification of Compliance. I hereby certify that I and all of my Subcontractors will conform to the California Air Resource Board (CARB) In-Use Off-Road Diesel-Fueled Fleets requirements for all work involving the use of vehicles subject to the regulations, including, without limitation, as applicable, the Contracting Requirements in Title 13 CCR section 2449, subdivision (i), subparts (1) – (4), and the Prime Contractor Requirements in Title 13 CCR section 2449, subdivision (j), subparts (1) – (5).

2. Instructions. Check one (1) box below.

Bidder's current CARB issued Certificate of Reported Compliance accompanies this Certification. (If this box is checked, the Certificate *must be* provided.)

Bidder certifies that its work on the Project (including work of its Subcontractors) does not involve the use of vehicles subject to the CARB In-Use Off-Road Diesel-Fueled Fleets requirements.

BIDDER: \_\_\_\_\_  
(Name of Bidder)

Date: \_\_\_\_\_, 202\_\_ By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_  
(Title)

CONTRACT

**LIBRARY BUILDING SYSTEMS REPLACEMENT PROJECT**

PROJECT NO. 2024-11

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, (“Contractor”) License No. \_\_\_\_\_, DIR No. \_\_\_\_\_, DIR Expiration Date \_\_\_\_\_, and the City of Rohnert Park, (“City”) (“Agreement”).

WHEREAS, the City Council of said City has awarded a contract to Contractor for performing the work hereinafter mentioned in accordance with the sealed proposal of said Contractor.

NOW, THEREFORE, IT IS AGREED, as follows:

1. Scope of Work: Contractor must perform all the work and furnish all the labor, materials, equipment and all utility and transportation services required to complete all of the work of construction and installation of the improvements more particularly described in the Resolution adopted by the City Council of said City on <<MONTH DAY, YEAR>>, the items and quantities of which are more particularly set forth in Contractor’s bid therefor on file in the office of the City Clerk, except work to be performed by subcontractors as set forth in Contractor’s bid and for which Contractor retains responsibility.

2. Time of Performance and Liquidated Damages:

A. Contractor must begin work within fifteen (15) calendar days after official notice by the City Engineer to proceed with the work and must diligently prosecute the same to completion within **199** calendar days of that Notice. Contractor acknowledges and agrees that time is of the essence with respect to Contractor’s work and that Contractor shall diligently pursue performance of the work.

B. In the event Contractor does not complete the work within the time limit so specified or within such further time as said City Council must have authorized, Contractor must pay to City liquidated damages in the amount of \$1,336.00 (One Thousand Three Hundred Thirty-Six Dollars) per day for each and every day’s delay in finishing the work beyond the completion date so specified. Additional provisions with regard to said time of completion and liquidated damages are set forth in the specifications, which provisions are hereby referred to and incorporated herein by reference.

3. Payments:

A. City will pay Contractor for said work performed at the times and in the manner provided in the specifications and at the unit prices stated in Contractor’s bid.

B. The award of the contract is for a total amount not to exceed <<AMOUNT [words (\$\_\_\_\_)]>>.

4. Component Parts and Interpretation:

A. This contract consists of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated herein and made a part hereof by reference thereto (“Contract Documents”):

- 1) This Agreement
- 2) Notice Inviting Sealed Proposals

- 3) Instruction and Information to Bidders
- 4) Accepted Proposal, with all attachments and certifications
- 5) Performance Bond
- 6) Payment Bond
- 7) Special Provisions
- 8) Standard Specifications
- 9) Technical specifications
- 10) Design Standards
- 11) Plans, Profiles and Detailed Drawings

B. In the event of conflict between these documents, the following order of precedence will govern: this Agreement; change orders; supplemental agreements and approved revisions to plans and specifications; special conditions; standard specifications; detail plans; general plans; standard plans; and reference specifications. In the absence of a controlling or contrary provision in the foregoing, the *Standard Specifications* (2025 edition) of the California Department of Transportation shall apply to this Project.

5. Independent Contractor. Contractor is and will at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, or agents will have control over the conduct of Contractor or any of Contractor's officers, employees, agents or subcontractors, except as expressly set forth in the Contract Documents. Contractor may not at any time or in any manner represent that it or any of its officers, employees, agents, or subcontractors are in any manner officers, employees, agents or subcontractors of City.

6. Prevailing Wages:

A. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the City's Public Works Department and may be obtained from the California DIR website <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

B. Contractor must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code Sec. 1773.2.)

C. Contractor, and any subcontractor Contractor may engage may pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the Agreement. (Labor Code § 1774.) Contractor is responsible for compliance with Labor Code Section 1776 relative to the retention and inspection of payroll records.

D. Contractor must comply with all provisions of Labor Code section 1775. Under Section 1775, Contractor may forfeit as a penalty to City up to two hundred dollars (\$200) for each worker Contractor or any subcontractor employs in the execution of the Contract for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

E. With each application for payment, Contractor shall also deliver certified payrolls to the City as set forth above in these General Conditions, and concurrently therewith (but in no event less frequently than monthly) directly to the Labor Commissioner in the format prescribed by the Labor Commissioner.

F. If federal funds are used to pay for the Work, Contractor and any subcontractor agree to comply, as applicable, with the labor and reporting requirements of the Davis-Bacon Act (40 USC § 276a-7), the Copeland Act (40 USC § 276c and 18 USC § 874), and the Contract Work Hours and Safety Standards Act (40 USC § 327 *et. seq.*).

7. Hours of Labor: Contractor acknowledges that under California Labor Code sections 1810 and following, eight hours of labor constitutes a legal day's work. Contractor will forfeit as a penalty to City the sum of twenty-five dollars (\$25) for each worker employed in the execution of this Contract by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Labor Code Section 1810.

8. Apprentices:

A. Contractor and any subcontractor under him must comply with the requirements of Labor Code Sections 1777.5 and 1777.6. Section 1777.5, as amended, requires Contractor or any subcontractor employing tradesmen in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the Contract. The ratio of apprentices to journeymen in such cases must not be less than one to five except:

1) When unemployment in the area of coverage by the joint apprenticeship committee has exceeded an average of fifteen percent (15%) in the ninety (90) days prior to the request for certificate, or

2) When the number of apprentices in training in that area exceeds a ratio of one (1) to five (5), or

3) When the trade can show that it is replacing at least one-thirtieth (1/30) of its membership through apprenticeship training on an annual basis statewide or locally, or

4) When the assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life or the life, safety, or property of fellow employees or the public at large, or if the specified task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman, or

5) When Contractor provides evidence that he employs registered apprentices on all of his contracts on an annual average of not less than one (1) apprentice to eight (8) journeymen.

B. Contractor is required to make contributions to funds established for the administration of an apprenticeship program if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.

C. Contractor is responsible for making training fund contributions in the amount established in the prevailing wage rate – either to the applicable apprenticeship committee, or the California Apprenticeship Council (“CAC”).

D. Contractor is required to submit contract award information for each craft required on

the Project using the appropriate form prepared by the Division of Apprenticeship Standards (“DAS”) within the California Department of Industrial Relations (“DIR”)—currently the “DAS 140 form.” A copy of the current DAS 140 form is available at <https://www.dir.ca.gov/DAS/DASForm140.pdf>. If Contractor is approved to train apprentices, Contractor must send the required information to its apprenticeship committee. If Contractor is not approved to train apprentices, Contractor must send the information to all apprenticeship committees that can supply apprentices to the site of the public works project.

E. Contractor is required to contact the applicable apprenticeship committee to request apprentices for each craft or trade on the Project using the appropriate form DIR, currently the DAS 142 form. A copy of the current DAS 142 form is available at <https://www.dir.ca.gov/DAS/DASForm142.pdf>. The form must be submitted at least three business days before apprentices are required.

F. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

9. Labor Discrimination: Labor Code Section 1735 reads as follows:

A contractor must not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

10. Workers’ Compensation Insurance:

A. In accordance with the provisions of Labor Code Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700), Contractor is required to secure the payment of compensation to his employees and must for that purpose obtain and keep in effect adequate Worker’s Compensation Insurance.

B. Contractor is aware of the provisions of Labor Code Section 3700 which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this Agreement.

11. Indemnity and Insurance:

A. To the fullest extent permitted by law (including without limitation California Civil Code Section 2782), Contractor must indemnify, hold harmless, release and defend City, its officers, elected officials, employees, agents, volunteers, and consultants from and against any and all actions, claims, demands, damages, disability, losses, expenses including, but not limited to, attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity including Contractor, in whole or in part, arising out of Contractor’s activities hereunder, including the activities of other persons employed or utilized by Contractor including subcontractors hired by the Contractor in the performance of this Agreement excepting liabilities due to the sole negligence, intentional misconduct or active negligence of the City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Contractor under Worker’s Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Contractor and must continue to bind the parties after termination/completion of this Agreement.

B. Contractor shall procure and maintain throughout the time for performance of the work under this Contract the insurance required by the Special Provisions. The requirement that Contractor

procure and maintain insurance shall in no way be construed to limit the Contractor's duty to indemnify City as provided in the paragraph above.

C. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

12. City Right of Termination and Right to Complete the Work.

A. The City may terminate the Contract when conditions encountered during the work make it impossible or impracticable to proceed, or when the City is prevented from proceeding with the Contract by act of God, by law, or by official action of a public authority. In addition, the occurrence of any of the following is a default by Contractor under this Contract:

- 1) Contractor refuses or fails to prosecute the Work or any part thereof with such diligence as will insure its completion within the time specified or any permitted extension.
- 2) Contractor fails to complete the Work on time.
- 3) Contractor is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Contractor's insolvency.
- 4) Contractor fails to supply enough properly skilled workers or proper materials to complete the Work in the time specified.
- 5) Contractor fails to make prompt payment to any subcontractor or for material or labor.
- 6) Contractor fails to abide by any applicable laws, ordinances or instructions of City in performing the Work.
- 7) Contractor breaches or fails to perform any obligation or duty under the Contract.

B. Upon the occurrence of a default by Contractor, City will serve a written notice of default on Contractor specifying the nature of the default and the steps needed to correct the default. Unless Contractor cures the default within 10 days after the service of such notice, or satisfactory arrangements acceptable to City for the correction or elimination of such default are made, as determined by City, City may thereafter terminate this Contract by serving written notice on Contractor. In such case, Contractor will not be entitled to receive any further payment, except for Work actually completed prior to such termination in accordance with the provisions of the Contract Documents.

C. In the event of any such termination, City will also immediately serve written notice of the termination upon Contractor's surety. The surety will have the right to take over and perform pursuant to this Contract; provided, however, that if the surety does not give City written notice of its intention to take over and perform this Contract within five (5) days after service of the notice of termination or does not commence performance within ten (10) days from the date of such notice, City may take over the Work and prosecute the same to completion by contract or by any other method it may deem advisable for the account and at the expense of Contractor. Contractor and the surety will be liable to City for any and all excess costs or other damages incurred by City in completing the Work.

D. If City takes over the Work as provided in this Section, City may, without liability for so doing, take possession of, and utilize in completing the Work, such materials, appliances, plant, and other property belonging to Contractor as may be on the site of the Work and necessary for the completion of the Work.

13. Substitution of Securities for Withheld Amounts:

A. Pursuant to California Public Contracts Code Section 22300, securities may be substituted for any moneys withheld by a public agency to ensure performance under a contract. At the request and sole expense of the Contractor, securities equivalent to the amount withheld must be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who must pay such moneys to the Contractor upon satisfactory completion of the contract.

B. Securities eligible for substitution under this section must include those listed in the Public Contracts Code Section 22300 or bank or savings and loan certificates of deposit. Contractor must be the beneficial owner of any securities substituted for moneys withheld and must receive any interest thereon.

C. Alternatively, Contractor may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of the Contractor. At Contractor's expense, Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for in Section 22300 for securities deposited by the Contractor. Upon satisfactory completion of the Agreement, Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City, pursuant to the terms of this section.

D. Any escrow agreement entered into pursuant to this section must contain as a minimum the following provisions:

- 1) The amount of securities to be deposited;
- 2) The terms and conditions of conversion to cash in case of the default of the Contractor; and
- 3) The termination of the escrow upon completion of the contract.

#### 14. General Provisions

A. Authority to Execute. Each party represents and warrants that all necessary action has been taken by such party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations.

B. Assignment. Contractor may not assign this Agreement without the prior written consent of City, which consent may be withheld in City's sole discretion since the experience and qualifications of Contractor were material considerations for this Agreement.

C. Binding Effect. This Agreement is binding upon the heirs, executors, administrators, successors and permitted assigns of the parties.

D. Integrated Contract. This Agreement, including the Contract Documents, is the entire, complete, final and exclusive expression of the parties with respect to the Work to be performed under this Agreement and supersedes all other agreements or understandings, whether oral or written, between Contractor and City prior to the execution of this Agreement.

E. Modification of Contract. No amendment to or modification of this Agreement will be valid unless made in writing and approved by Contractor and by the City Council, City Manager or Assistant City Manager, as applicable. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver will be void.

F. Counterparts, Facsimile or other Electronic Signatures. This Agreement may be executed in several counterparts, each of which will be deemed an original, and all of which, when taken together, constitute one and the same instrument. Amendments to this Agreement will be considered

executed when the signature of a party is delivered by facsimile or other electronic transmission. Such facsimile or other electronic signature will have the same effect as an original signature.

G. Waiver. Waiver by any party of any term, condition, or covenant of this Agreement will not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement will not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Work performed by Contractor will not constitute a waiver of any of the provisions of this Agreement.

H. Interpretation. This Agreement will be interpreted, construed and governed according to the laws of the State of California. Each party has had the opportunity to review this Contract with legal counsel. The Agreement will be construed simply, as a whole, and in accordance with its fair meaning. It will not be interpreted strictly for or against either party.

I. Severability. If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will not be affected, and the Agreement will be read and construed without the invalid, void or unenforceable provision.

J. Venue. In the event of litigation between the parties, venue in state trial courts will be in the County of Sonoma. In the event of litigation in a U.S. District Court, venue will be in the Northern District of California.

IN WITNESS WHEREOF, the City of Rohnert Park has caused these presents to be executed by its officers, thereunto duly authorized, and Contractor has subscribed same, all on the day and year first above written.

CITY OF ROHNERT PARK

<<CONTRACTOR>>

\_\_\_\_\_  
Marcela Piedra, City Manager Date  
Per Resolution No. <<RESO #>> adopted by the Rohnert Park  
City Council at its meeting of <<Month>><<Day>>, <<Year>>.

\_\_\_\_\_  
Name: \_\_\_\_\_ Date  
Title: \_\_\_\_\_

\_\_\_\_\_  
Tracy Rankin, Interim Risk Manager Date

\_\_\_\_\_  
Betsy Howze, Finance Director Date

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

## INSURANCE

Bidder's attention is directed to the following insurance forms and to Section 2.03 of the Special Provisions, located on Pages 2-1 through 2-6 in the Special Provisions section. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. Failure to comply strictly with the insurance requirements may result in forfeiture of the bid security and withdrawal of the bid proposal.

# CERTIFICATE OF INSURANCE

## CITY OF ROHNERT PARK (the "City")

ISSUE DATE MM/DD/YY)

<b>PRODUCER</b>	THIS CERTIFICATE OF INSURANCE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.																		
<b>INSURED</b>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: center; width: 20%;">COMPANIES</th> <th style="text-align: center; width: 20%;">BEST'S RATING</th> </tr> </thead> <tbody> <tr> <td>COMPANY LETTER <b>A</b> _____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>COMPANY LETTER <b>B</b> _____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>COMPANY LETTER <b>C</b> _____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>COMPANY LETTER <b>D</b> _____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>COMPANY LETTER <b>E</b> _____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </tbody> </table>		COMPANIES	BEST'S RATING	COMPANY LETTER <b>A</b> _____	_____	_____	COMPANY LETTER <b>B</b> _____	_____	_____	COMPANY LETTER <b>C</b> _____	_____	_____	COMPANY LETTER <b>D</b> _____	_____	_____	COMPANY LETTER <b>E</b> _____	_____	_____
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COMPANY LETTER <b>D</b> _____	_____	_____																	
COMPANY LETTER <b>E</b> _____	_____	_____																	

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	ALL LIMITS IN THOUSANDS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input type="checkbox"/> OTHER _____				GENERAL AGGREGATE	\$
					PRODUCTS-COMP/OPS AGGREGATE	\$
					PERSONAL & ADVERTISING INJURY	\$
					EACH OCCURRENCE	\$
					FIRE DAMAGE (Any one fire)	\$
					MEDICAL EXPENSE (Any one person)	\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				COMBINED SINGLE LIMIT	\$
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE	\$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE	\$
					AGGREGATE	\$
	<input type="checkbox"/> WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY	
					EACH ACCIDENT	\$
					DISEASE-POLICY LIMIT	\$
					DISEASE-EACH EMPLOYEE	\$
	PROPERTY INSURANCE <input type="checkbox"/> COURSE OF CONSTRUCTION				AMOUNT OF INSURANCE	\$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

- THE FOLLOWING PROVISIONS APPLY:**
1. None of the above-described policies will be canceled until after 30 days' written notice has been given to the City at the address indicated below.
  2. The City of Rohnert Park, its officers, elected officials, employees, agents and volunteers are added as insureds on all liability insurance policies listed above.
  3. It is agreed that any insurance or self-insurance maintained by the City will apply in excess of and not contribute with, the insurance described above.
  4. The City is named a loss payee on the property insurance policies described above, if any.
  5. All rights of subrogation under the property insurance policy listed above have been waived against the City.
  6. The workers' compensation insurer named above, if any, agrees to waive all rights to subrogation against the City for injuries to employees of the insured resulting from work for the City or use of the City's premises or facilities.
  7. Attached hereto are copies of the applicable policy pages or endorsements regarding notice of cancellation, additional insured and waiver of subrogation matters.

<b>CERTIFICATE HOLDER/ADDITIONAL INSURED</b> <b>CITY OF ROHNERT PARK</b> <b>130 AVRAM AVENUE</b> <b>ROHNERT PARK, CA 94928</b>	<b>AUTHORIZED REPRESENTATIVE</b>  SIGNATURE _____ TITLE _____ PHONE NO. _____
---	---

Rev. 11/08

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Organization:

The City of Rohnert Park, its officers, elected officials, employees, agents and volunteers are named as additional insured.

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement).

WHO IS INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of “your work” performed for that insured.

Modifications to ISO for CG 20 10 11 85

1. The insured scheduled above includes the insured's elected or appointed officers, officials, employees, agents and volunteers.
2. This insurance must be primary as respects the insured shown in the schedule above, or if excess, must stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above must be in excess of this insurance and must not be called upon to contribute with it.
3. The insurance afforded by this policy must not be canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Entity.
4. Coverage must not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insurance would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

\_\_\_\_\_  
Signature-Authorized Representative

\_\_\_\_\_  
Address

CG 20 10 11 85 Insurance Services Office, Inc. Form (Modified)

**SUBMIT IN DUPLICATE**

**AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT  
FOR CITY OF ROHNERT PARK (the "City")**

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

**POLICY INFORMATION:**

Insurance Company:  
Policy No.: \_\_\_\_\_ (to)  
Policy Period: (from) \_\_\_\_\_ (to) \_\_\_\_\_  
LOSS ADJUSTMENT EXPENSE  Included in Limits  
 In Addition to Limits

Deductible  Self-Insured Retention (check which) of \$ \_\_\_\_\_

NAMED INSURED

**APPLICABILITY.** This insurance pertains to the operation and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here  in which case only the following specific agreements and permits with the City are covered:  
CITY AGREEMENTS/PERMITS

**TYPE OF INSURANCE**

- COMMERCIAL AUTO POLICY
- BUSINESS AUTO POLICY
- OTHER \_\_\_\_\_

**OTHER PROVISIONS**

**LIMIT OF LIABILITY**

\$ \_\_\_\_\_ per accident, for bodily injury and property damage.

**CLAIMS:** Underwriter's representative for claims pursuant to this insurance.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_

In consideration of the premium charged and notwithstanding an inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **INSURED.** The City of Rohnert Park, its officers, elected officials, employees, agents and volunteers are included as insureds with regard to damages and defense of claims arising from: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, or for which the Named Insured is responsible.
2. **CONTRIBUTION NOT REQUIRED.** As respects work performed by the Named Insured for or on behalf of the City, the insurance afforded by this policy must: (a) be primary insurance as respects the City, its officers, officials, employees, agents or volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insured's primary coverage. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers must be in excess of the Named Insured's insurance and not contribute with it.
3. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance must not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City.
4. **SCOPE OF COVERAGE.** This policy affords coverage at least as broad as:  
(1) If primary, Insurance Services Office form number CA0001 (Ed. 1/87), Code 1 ("any auto"); or  
(2) If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding section (1).

Except as stated above nothing herein must be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

**ENDORSEMENT HOLDER**

CITY

**CITY OF ROHNERT PARK  
130 AVRAM AVENUE  
ROHNERT PARK, CA 94928**

AUTHORIZED REPRESENTATIVE  Broker/Agent  Underwriter  \_\_\_\_\_

I \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature \_\_\_\_\_  
(original signature required)

Telephone: ( ) \_\_\_\_\_ Date signed: \_\_\_\_\_

REV. 11/08



**PART 2 – SPECIAL PROVISIONS**

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## **SPECIAL PROVISIONS**

### **2.01 PROJECT OWNER**

The Project Owner is the City of Rohnert Park, California. Wherever in these or the Standard Specifications the word “Owner” appears, it means the City of Rohnert Park.

### **2.02 LOCATION AND DESCRIPTION OF WORK**

Location of work is within the City of Rohnert Park, Cotati Rohnert Park Regional Library, located at 6250 Lynne Conde Way.

The work generally consists of, but not limited to the following: demolish existing interior lights, lighting controls, fire alarm control panel, initiating and signaling devices, VAVs, coil units, 1-packaged HVAC rooftop unit and exhaust fans. Provide and install new electrical equipment, fire alarm control panel, initiating and signaling devices as designate on electrical plans. Provide and install new VAVs, coil units, a new packaged HVAC roof top unit, new relocated exhaust fans and extended exterior ducting, as designated on mechanical plans. Provide and install new nlighting and controls for all removed/demolished and built-in furniture light fixtures, and appurtenances as shown on the plans and specified in these Special Provisions.

### **2.03 INSURANCE REQUIREMENTS FOR CONTRACTORS**

A. The following parties or entities must be listed as additional insured by endorsement:

1. The City of Rohnert Park, its officers, elected officials, employees, agents and volunteers

B. BIDDER’S ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT BIDDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF AN APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

C. Contractor must procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, Contractor’s agents, representatives, employees or subcontractors. The coverage of the above-named parties as additional insureds shall be “primary and non-contributory” and must state that it will not seek contribution from the City’s insurance or self-insurance. The cost of Contractor’s insurance must be included in Contractor’s bid. The Notice to Proceed with the Work will not be issued, and Contractor must not commence work, until such insurance has been approved by the City. Such insurance must remain in full force and effect at all times during the prosecution of the Work and until the final completion and acceptance thereof. In addition, the Commercial General Liability Insurance must be maintained for a minimum of three (3) years after final completion and acceptance of the Work. It is Contractor’s responsibility to ensure that proof of insurance is sent to the City during this time. The Notice to Proceed does not relieve Contractor of the duty to obtain such insurance as required herein.

D. Minimum Scope of Insurance

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001).

2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or the exact equivalent. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employee(s) will use personal autos in any way on this Project, Contractor must provide evidence of personal auto liability coverage for each such person.

3. Workers' Compensation and Employers Liability: Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence.

4. Course of Construction insurance coverage must provide "all risk" coverage for the completed value of the Project. Policies must contain the following provisions:

- a. The City must be named as loss payee, and
- b. The insurer must waive all rights of subrogation against the City.

5. Pollution Exposure and/or Asbestos Pollution Liability

**Coverage must not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.**

D. Minimum Limits of Insurance

Contractor must maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage and \$2,000,000 general aggregate. It is permissible to use excess/umbrella coverage to meet limit requirements provided the umbrella policies are appropriately endorsed and meet all other requirements. Additionally, a letter clearly identifying the primary policy or policies to which the excess umbrella coverage applies must be submitted attesting to the following: *"Umbrella or excess liability policies must provide coverage at least as broad as specified for underlying coverages and covering those insured in the underlying policies. Coverage must be "pay on behalf", with defense costs payable in addition to policy limits. There must be no cross-liability exclusion of claims or suits by one insured against another, and such coverage must also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured."*

2. Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage.

3. Workers' Compensation and Employers Liability: Workers' Compensation providing statutory benefits as required by the Labor Code with employers' liability insurance, with minimum limits of \$1,000,000 per accident or disease.

4. Course of Construction insurance coverage must provide “all risk” coverage for the completed value of the Project. Policies must contain the following provisions:

- a. The City must be named as loss payee, and
- b. The insurer must waive all rights of subrogation against the City.

5. Pollution and/or Asbestos Pollution Liability: \$1,000,000 each occurrence/\$1,000,000 policy aggregate. If coverages are written on a Claims Made form:

- a. The “Retro Date” must be shown and must be before the date of the contract or the beginning of contract work.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
- c. If coverage is canceled or non-renewed, and not replaced with another claims made policy form with a “Retro Date” prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
- d. A copy of the claims reporting requirements must be submitted to the City for review.

E. Contractor agrees that any available insurance proceeds broader than or in excess of these specified minimum coverage requirements or the limits in subsection (A) shall be available to the additional insureds named above. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified herein; or (2) such broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured for the work performed; whichever is greater.

F. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer must reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, elected officials, employees, agents, and volunteers; or the Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

G. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

a. The City, its officers, elected officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage must contain no special limitations on the scope of protection afforded to the City, its officers, elected officials, employees, agents or volunteers.

b. The Contractor’s insurance coverage must be primary insurance as respects the City, its officers, elected officials, employees, agents and volunteers. Any insurance

or self-insurance maintained by the City, its officers, elected officials, employees, agents or volunteers must be in excess of Contractor's insurance and must not contribute with it.

c. Any failure to comply with reporting provisions of the policies must not affect coverage provided to the City, its officers, elected officials, employees, agents or volunteers.

d. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 2. Workers' Compensation and Employers Liability Coverage

The insurer must agree to waive all rights of subrogation against the City, its officers, elected officials, employees, agents and volunteers for losses arising from work performed by Contractor for the City.

## 3. All Coverages

a. Each insurance policy required by this clause must be endorsed to state that coverage must not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

**b. Coverage must not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Civil Code Section 2782(b).**

4. Course of Construction policies must contain the following provisions:

a. The City must be named as loss payee.

b. The insurer must waive all rights of subrogation against the City.

5. Pollution and/or Asbestos Pollution Liability: \$1,000,000 each occurrence/ \$1,000,000 policy aggregate. If coverages are written on a Claims Made form:

a. The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.

c. If coverage is canceled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

d. A copy of the claims reporting requirements must be submitted to the City for review.

## H. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A:VII or as approved by the City.

## I. Verification of Coverage

Contractor must furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City. Where by statute, the City's workers' compensation-related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**J. Subcontractors**

Contractor must include all subcontractors as insureds under its policies or must furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors must be subject to all of the requirements stated herein.

**2.04 BONDS**

A. In accordance with Section 3.4 of the Standard Specifications, Contractor must provide the following bonds: Payment Bond equal to one hundred percent (100%) of the Contract Bid Price, and Performance Bond equal to one hundred percent (100%) of the Contract Bid Price on City's forms. Both bonds must, by their terms, remain in full force and effect for a period of one (1) year after the completion and acceptance of said Work to guarantee the replacement or making acceptable of any defective materials or faulty workmanship.

B. Contractor may elect to post a maintenance bond equal to one hundred percent (100%) of the Contract Bid Price, which will run for one (1) year after completion and acceptance of said Work to guarantee replacing or making acceptable any defective materials or faulty workmanship prior to the acceptance of said Work.

**2.05 LIQUIDATED DAMAGES**

In accordance with Section 8.6 of the Standard specifications, liquidated damages shall be One Thousand Three Hundred Thirty-Six Dollars \$1,336.00 per calendar day.

**2.06 WITHDRAWALS OF PROPOSALS**

A. City reserves the right to reject any and all bids and to waive any informality or irregularity in the bids received.

B. No bidder may withdraw his/her bid for a period of ninety (90) days from the opening thereof.

**2.07 DRAWINGS AND SPECIFICATIONS**

A. The drawings showing location and character of work are entitled Library Building Systems Replacement Project, numbered 1 through 27 inclusive, and are included as a part of these specifications. The City of Rohnert Park 2023 Manual of Standards, Details and Specifications are the adopted Standard Plans for the City of Rohnert Park and are included as a part of these specifications.

B. Also included by reference as part of these specifications are the Standard Specifications of the City of Rohnert Park, Sections 1-10 inclusive, hereinafter referred to as "General Provisions."

C. In addition, the technical provisions of the Standard Plans and Standard Specifications, State of California, Department of Transportation, Business and Transportation Agency, most current edition, and to revisions thereof are included by reference as a part of these specifications insofar as they refer to materials and methods of work where applicable. Wherever in the Special Provisions reference is made to “Caltrans Standard Specifications” or “Caltrans Standard Plans,” it refers to these specifications or plans.

## **2.08 COOPERATION AND COLLATERAL WORKS**

A. Contractor must conform to the provisions of Section 7.26, “Cooperation and Collateral Works,” of the Standard Specifications.

B. Contractor must ascertain the nature and extent of any simultaneous collateral work and must coordinate their operations and cooperate to minimize interference.

## **2.09 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS**

A. Contractor must conform to the provisions of Section 7.15, “Preservation of Property,” of the Standard Specifications.

B. Without additional compensation, Contractor may remove and replace, in a condition as good as or better than original, such small miscellaneous structures as fences and sign posts, that interfere with the Contractor’s operations.

C. All costs to Contractor for protecting, removing, modifying, relocating and restoring existing improvements must be considered as included in the Contract prices paid for the various items of work, and no additional allowance will be made therefor.

## **2.10 PERMITS AND LICENSES**

A. Contractor must have a valid California contractor’s Class **B** License. Contractor and all subcontractors will be required to **obtain a City Business license**.

B. Contractor will obtain all permits and pay any fees connected therewith having to do with its construction operations outside of the project’s building permit acquired by the City of Rohnert Park. The City has an approved Building Permit #CB26-0002. The contractor will need to sign the Workers Compensation Declaration and submit it to the Project Manager, Michelle Fajardo, at Public Works. The Project Manager will submit the signed Workers Compensation Declarations to the Building Department for the issuance of the permit acquired by the City of Rohnert Park. Contractor to set up account for permit information and to schedule building permit inspections with the City’s Building Department at: <https://rpcrwr.rpcity.org/etrakit3/>

C. The Contractor will be required to submit all deferred permit submittals to the City of Rohnert Park Public Safety for the following items:

- FIRE ALARM (E6.01) Diagram E6.01 furnished upon request.

## **2.11 APPROVED DEBRIS HAULERS**

A. There are three (3) approved debris haulers within the City and their contact information is listed below. Contractor shall contract with one of the three (3) debris haulers for service on the project. Payment for debris hauling shall be included within the Contractor’s bid and no additional payment will be made for using one of the three (3) approved debris haulers.

<p style="text-align: center;">Industrial Carting (Global Materials Recovery Services C&amp;D Recycling Facility) (707) 585-0511</p>	<p style="text-align: center;">Recology Sonoma Marin 800-243-0291 <a href="https://www.recology.com/recology-sonoma-marin/">https://www.recology.com/recology-sonoma-marin/</a></p>	<p style="text-align: center;">Pacific Sanitation 707-838-2597 <a href="http://www.pacificsanitation.com/">http://www.pacificsanitation.com/</a></p>
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B. When Contractor utilizes a staging area, laydown yard, or material storage yard that is to be fenced and screened as required per Special Provisions Section 2.15, final cleanup of the staging area and storage yard must be completed before the fence and screen are removed, except for spot cleanup or trimming that may be required in areas directly under or adjacent to the fence and screen.

C. Unless expressly waived by the City Engineer in writing, when Contractor utilizes an area for storage of material or staging its activities, the area will be fenced and locked and all fencing will be installed with protective screening (*i.e.*, green screen) to minimize the visual impact of the storage and staging area.

## 2.12 FIELD REVIEW PRIOR TO BIDDING

The bidder must examine carefully the site of the work contemplated and the proposal, plans, specifications, and the contract forms therefor. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of these specifications, the Special Provisions, and the Contract.

## 2.13 TESTING

The City will only pay for passing compaction tests meeting the requirements of these specifications. All failing tests will be charged to Contractor and the costs of such failing tests will be deducted from the Contract. In addition, the decision as to when and from what areas tests are to be made will be at the judgment of the Engineer only.

## 2.14 WORKING HOURS AND RECORD DRAWINGS

A. Contractor normal working hours shall be between 8:00 AM and 6:00 PM, Monday through Friday, excluding weekends and City observed holidays. Deviations from these hours may be request seventy-two (72) hours in advance and must be approved in writing by the City Engineer, unless approved the City Engineer at least seventy-two (72) hours in advance. Working days shall be Monday through Friday, excluding weekends and City observed holidays.

B. Contractor shall indicate the need for non-normal working hours in the various schedules submitted during the progress of the Project. All requests for non-normal working hours shall be subject to the prior written approval of the City Engineer. Work outside of regular working hours without prior written approval and requested at least 72 hours in advance of the City Engineer is prohibited.

C. All costs of overtime inspection will be charged to the Contractor. Overtime inspection shall include inspection required during non-normal working hours, Saturdays, Sundays, and Legal Holidays. Such costs shall include but not limited to inspection, general supervision, and other overhead expenses which are directly chargeable to the overtime work. All such charges shall be deducted by the City from payments due to Contractor.

D. Contractor shall provide record drawings at the end of the Project, and final payment shall not be issued until completed and approved by the Project manager. The record drawing compilation shall be considered part of the bid amount.

## **2.15 CONSTRUCTION STAGING AREAS, LAYDOWN YARDS, AND TEMPORARY SCREENING**

A. When the Contractor utilizes a construction staging area, laydown yard, or material storage area, whether on public or private property, the Contractor shall provide temporary fencing and visual screening around the perimeter of the area.

B. Temporary fencing shall consist of a minimum six-foot (6') high chain-link fence or equivalent, securely installed and maintained for the duration of use. All fencing shall be fitted with opaque visual screening material, such as privacy fabric, mesh screening, or other approved material, to fully obscure stored materials, equipment, and construction activities from public view. Screening color shall be green and subject to approval by the City Engineer.

C. The Contractor shall be responsible for obtaining all required permits, property owner permissions, and approvals for the use of any staging or yard area. The staging area shall be maintained in a neat, orderly, and safe condition at all times, free of debris, trash, and hazards.

D. Gates shall be lockable and secured during non-working hours. The Contractor shall maintain fencing and screening in good condition, promptly repairing or replacing any damaged or displaced sections.

E. Upon completion of the work, or when the staging area is no longer required, all fencing, screening, materials, and equipment shall be removed, and the area shall be restored to its original condition or better, as determined by the City Engineer.

F. All costs associated with temporary fencing, screening, installation, maintenance, removal, permits, and site restoration shall be considered incidental to the Contract and no separate payment will be made.

G. Work found to be noncompliant with this Section shall be corrected by the Contractor at no additional cost to the City.

## **2.16 PROJECT NOTIFICATION AND IDENTIFICATION SIGN**

A. Contractor shall post notification flyers at each residence or commercial establishment within the work limit two (2) weeks prior to commencement of work and three (3) days prior to commencement of work. Cost for notification shall be considered as part of mobilization, and no additional payment shall be made.

B. Contractor shall supply a four foot-by-eight foot (4' X 8') signs to be displayed at the Project site as approved by the Engineer in wording to be provided by the City. The sign shall be constructed in accordance with City STD 742. Contractor shall remove the sign when construction is complete.

## **PART 3 – STANDARD SPECIFICATIONS**

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**PART 3  
CONDITIONS OF THE CONTRACT**

**SECTION 1**

**DEFINITIONS AND TERMS**

Whenever in these specifications, or in any documents or instruments where these specifications govern, the following terms, or acronyms in place of them, are used, the intent and meaning must be interpreted as follows (except as the context requires a different meaning):

**Abbreviations**

AAI	American Asphalt Institute
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute Steel Construction
AISI	American Iron and Steel Institute
API-ASME	American Pressure Institute - American Society of Mechanical Engineers
AREA	American Railway Engineering Association
ASA	American Standards Association
ASTM	American Society for Testing Materials
AWPA	American Wood Preservers Association
AWA	American Welding Society
AWWA	American Water Works Association
CRA	California Redwood Association
DFPA	Douglas Fir Plywood Association
NEMA	National Electrical Manufacturers' Association
WCLA	West Coast Lumbermen's Association

**Acceptance**

The formal written acceptance by the City of an entire Contract which has been completed in all respects in accordance with the plans and specifications and any modifications thereof previously approved.

**Bidder**

Any individual, firm or corporation submitting a proposal for the Work contemplated, acting directly or through a duly authorized representative.

**City**

City of Rohnert Park

**City Engineer**

The City Engineer of the City of Rohnert Park.

**Contract or Contract Documents**

The contract or agreement to be entered into by the successful bidder for the performance of the work must consist of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated in the Contract and made a part thereof by reference thereto: Contract, Invitation for Sealed Proposals, Instructions and Information to Bidders, Accepted Proposal, Performance Bond, Payment Bond, Special Provisions, Standard Specifications, Design and Construction Standards, Plans, Profiles and Detailed Drawings.

### **Contractor**

The word “Contractor” means the person, persons, partnership or corporation entering into the Contract for the performance of the work required and the legal representative of said party of the agent appointed to act for said party in the performance of the Work.

### **Contract Prices**

Either the unit prices or lump sum amounts to be named in the Contract, or the total of all payments under the Contract at the unit prices or lump sum amounts, as the case may be. This definition is for convenience and reference only and must not be construed to alter the fact that the Contract is an entire Contract for the performance of all work depicted on the plans and as described herein.

### **Directed**

Whenever in these specifications the words “directed,” “required,” “permitted,” “ordered,” “instructed,” “designated,” “considered necessary,” “prescribed,” or words of like import are used, it must be understood that the directions, requirements, permission, order, instruction, designation, or prescription, etc. of the City Engineer are intended; and, similarly, the words “approved,” “acceptable,” “satisfactory,” or words of like import, mean approved by, or acceptable or satisfactory to the City Engineer, unless otherwise stated.

### **Engineer**

“Engineer” means properly authorized engineers, inspectors, and superintendents acting severally within their scope of the particular duties entrusted to them by the City Engineer.

### **Federal Agencies**

Whenever in these specifications reference is made to any federal agency or officer, such references are deemed made to any agency or officer succeeding in accordance with law to the powers, duties, jurisdictions and authority of the agency or officer mentioned.

### **Inspector**

The word “Inspector” means the authorized individual or firm acting within the jurisdiction entrusted to it by the City Engineer.

### **Plans**

The word “Plans” means collectively all of the drawings or plans referenced by the Project specifications and made a part thereof, and also such supplemental drawings or plans as the City Engineer must issue from time to time to elucidate drawings or plans attached to these specifications, or for showing details which are not shown thereon, or for the purpose of showing changes in the work, as authorized in later paragraphs describing changes and Extra Work.

### **Specifications**

The directions, provisions, and requirements contained herein as supplemented by such special provisions or special specifications as may be necessary, pertaining to the method and manner of performing the work or the quantities and qualities of materials to be furnished under the Contract. The special provisions or special specifications are specified clauses setting forth conditions or requirements peculiar to the Project under consideration and covering work or materials involved in the proposal and estimate but not satisfactorily covered by these Standard Specifications.

**State**

State of California.

**Supervision**

The word “supervision” where used in these specifications to indicate supervision by the City Engineer means the performance of obligations and the exercise of rights specifically imposed and granted upon and to the City in becoming a party to the Contract, of which the text of these specifications forms a part. Excepting as specifically stated herein, supervision by the City is not be construed to mean active and direct superintendence of the details of the Work.

**Surety**

The word “surety” or “sureties” means the bondsmen or party or parties who may guarantee the fulfillment of the Contract by bond, and whose signatures are attached to said bond.

## SECTION 2

### PROPOSAL REQUIREMENTS AND CONDITIONS

#### 2.1 INTENT

It is the intent of these specifications that the provisions of all sections must apply unless otherwise specified in the Special Provisions, in which case the provisions contained therein must have precedence over those specified in the Standard Specifications. It is also the intent where reference is made to specifications or other organizations for portions of the Work, that such reference applies only to construction methods and materials used in said Work.

## SECTION 3

### AWARD AND EXECUTION OF CONTRACT

#### 3.1 AWARD OF CONTRACT

A. The City reserves the right to accept or reject any or all proposals and waive technical defects as the City's best interests may require. Award of the Contract, if it be awarded, will be to the lowest responsive, responsible bidder whose proposal complies with all the requirements prescribed. The award, if made, will be awarded as soon as practicable after the opening of the proposals but not before the time for bid protests set forth below. Proposals in which the prices are obviously unbalanced will be rejected.

B. The proposals will be compared on a basis of the sum of the totals of the items on the schedule as calculated from the given estimated quantities and the unit prices or lump sums of the amount submitted. The entire work will be awarded to one bidder, unless otherwise specified in the Special Provisions.

#### 3.2 BID PROTESTS

A. Any bid protest ("Bid Protest") must be filed in writing with the City Clerk, with a copy to the bidder whose bid is being protested and served by email or facsimile transmission within seven (7) calendar days of the City's issuance of the Notice to Intent to Award for Construction Work. **Proof of service of the Bid Protest must be submitted to the City Clerk within one business day of the filing of the Bid Protest, and any protest without a timely submitted proof of service may be rejected.** City will use reasonable efforts to deliver by email or facsimile a copy of the Notice of Intent to Award to all bidders who submitted bids no later than the business day after issuance, although any delay or failure to do so will not extend the bid protest deadline described above.

B. The Bid Protest must state all grounds upon which the protest is based and include all facts and documents in support of each protest ground.

C. Any bidder whose bid is subject to a protest may submit to the City Clerk a written response ("Response") to the Bid Protest, with a copy to the protesting bidder, and served by email or facsimile transmission within five (5) calendar days of the service of the Bid Protest.

D. The City Clerk shall promptly submit the Bid Protest, and any Response, to the City Manager, Assistant City Manager or his/her designee for decision ("Decision"). The Decision on the Bid Protest shall be in writing and shall be served upon the protesting bidder, and the bidder whose bid is being protested, via email or facsimile transmission within five (5) calendar days of his or her receipt of Bid Protest and any Response. If the City Manager, Assistant City Manager or his/her designee has not issued a written Decision on the Bid Protest within said five (5) calendar day period, then the Bid Protest shall be deemed denied. The Decision, by written Decision or deemed denial, shall be final.

E. Failure to comply with these Bid Protest Procedures shall be deemed to be a waiver of the right to protest a bid.

#### 3.3 RETURN OF PROPOSAL GUARANTEES

Within ten (10) days after award of the Contract, the City will upon demand return the

proposal guarantees accompanying the proposals of all bidders, except those of the three (3) lowest responsible bidders as determined by the City. Proposal guarantees of the three (3) lowest responsible bidders will be held until the Contract has been finally executed, after which they will be returned to the respective bidders whose proposals they accompany.

### **3.4 BONDS**

A. Prior to the City's execution of the Contract, the successful bidder must file good and sufficient bonds to be approved by the City conditioned upon the complete performance of the Contract and upon the payment of claims for labor and materials in connection therewith. The Contractor must pay all premiums and costs thereof and incidental thereto. Such bonds must not be subject to cancellation.

B. The following minimum thresholds require Payment and Performance bonds for projects over twenty-five thousand dollars (\$25,000):

1. Payment Bond. Per Civil Code Section 9550, a payment bond is required for a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000). Civil Code Section 9554 requires that the payment bond be in an amount not less than one hundred percent (100%) of the total amount payable pursuant to the public works contract and is subject to the provisions of that chapter as specified in the Special Provisions.

2. Performance Bond: The performance bond shall be in an amount specified in the Special Provisions and must be conditioned so as to ensure the complete performance of the Contract without exception.

C. Should City deem any surety or sureties unsatisfactory at any time, notice will be given to Contractor to that effect, and they must forthwith substitute a new surety or sureties satisfactory to the City. No further payment will be deemed due or will be made under this Contract until the new surety is qualified and accepted by the City.

D. Any alterations in the Work to be done, or increase or decrease of the materials to be furnished, which may be made pursuant to the terms of said Contract, will not in any way release either the principal or surety thereunder, nor will any extensions of time granted under the provisions of said Contract release either the principal or surety, and notice of such alterations or extensions of the Contract must be waived by the surety. The bonds must be maintained in full force and effect until the Contract has been completely performed and until all claims for material and labor have been paid.

E. Once the Notice of Completion has been recorded, Contractor may elect to post a Maintenance Bond equal to one hundred percent (100%) of the final Contract Price, including Contract change orders, if any, for a period of one-year after the Notice of Completion recorded date.

### **3.5 EXECUTION OF CONTRACT**

The Contract must be signed by the successful bidder and returned, together with the Contract Bonds and valid insurance on City forms, within ten (10) calendar days after the date of mailing written notice to the successful bidder that the Contract has been awarded.

### **3.6 FAILURE TO EXECUTE CONTRACT**

Failure to execute the Contract, file acceptable bonds, and/or acceptable insurance as

provided herein within said ten (10) calendar days shall allow the City, at its discretion, to annul the award and claim the proposal guarantee as provided in the California Public Contract Code. If the successful bidder refuses or fails to execute the Contract, the City may award the Contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses or fails to execute the Contract, the City may award the Contract to the third lowest responsible bidder. On the failure or refusal of the second or third lowest responsible bidder, to whom any Contract is so awarded, to execute the same, such bidders' guarantees must be likewise forfeited to the City. The Work may then be re-advertised or may be constructed by other means as the City may decide.

## SECTION 4

### SCOPE OF WORK

#### 4.1 WORK TO BE DONE BY CONTRACTOR

A. The Work to be done consists of furnishing all labor, methods or processes, implements, tools, machinery, transportation, insurance, permits, bonds, taxes and materials, except as otherwise specified which are required to construct the demolishing of existing interior lights, lighting controls, fire alarm control panel, initiating and signaling devices, Variable Air Volume (VAVs) systems, coil units, 1-packaged HVAC rooftop unit and exhaust fans. **Provide** and install new electrical equipment, fire alarm control panel, and initiating and signaling devices as designated on electrical plans. Provide and install new VAVs, coil units, a new packaged HVAC roof top unit, new relocated exhaust fans and extended exterior ducting, as designated on mechanical plans. Provide and install new nlighting and controls for all removed/demolished and built-in furniture light fixtures, in complete order for use and to leave the grounds in a neat and orderly condition.

B. Where items contain a description of work to be included for payment under a particular item, such description will be considered as including, but not being limited to, the Work described. It is further understood that it is the intent that the cost of all Work necessary for the completion of a particular item must be included in the price proposal for the item, unless the cost of such Work is specifically included in another item.

#### 4.2 FINAL CLEANUP

A. Before City's final inspection, Contractor must clean the site and grounds occupied by it in connection with the Work of all rubbish, excess materials, falsework, temporary structures, and equipment, and all parts of the Work must be left in a neat and presentable condition. Nothing herein, however, requires Contractor to remove warning and directional signs prior to City's formal acceptance of the Work.

B. When Contractor utilizes a staging area, laydown yard, or material storage yard that is to be fenced and screened as required per Special Provisions Section 2.15, final cleanup of the site, to the satisfaction of the City Engineer, must be completed before the fence and screen are removed, except for spot cleanup or trimming that may be required in areas directly under or adjacent to the fence and screen.

#### 4.3 CHANGES IN THE CONTRACT - EFFECT BETWEEN PARTIES

A. City reserves the right to make such alterations or deviations, additions to or omissions from the plans and specifications, as may be determined during the progress of the Work to be necessary and advisable for the proper completion thereof. When such change is ordered, the City Engineer must determine and state in his/her written order to Contractor made pursuant thereto whether in his/her opinion such change constitutes a material change and what adjustment of consideration provided for in the Contract is warranted. Upon written order of the City Engineer, Contractor must proceed with the Work as so increased, decreased or altered. Such action and any disposition thereof may be taken without notice by City to Contractor's insurance underwriters, sureties, or guarantors required by this Contract, and absence of notice thereto will not discharge

the obligation of any such party.

B. When City and Contractor fail to agree as to whether an omission of a portion of the work or alterations, or deviations or additions to or omissions from the plans and specifications ordered by the Engineer or City constitute a material change or difference in character of the Work as herein contemplated sufficient to warrant adjustment in the consideration provided to be paid to the Contractor or fail to agree on the consideration adjustment or compensation to be allowed for such change, Contractor must forthwith proceed with the changed Work upon receipt of written order from the City Engineer.

C. Pending a settlement of the dispute, the Contractor must file with the City Engineer, within ten (10) days after receiving such written notice to proceed, a protest setting forth in detail in what particulars the character of the Work was changed so as to warrant a consideration adjustment or by what amount the unit cost or other cost was increased or to what extent the consideration demand or reduction in consideration determined by the City Engineer as warranted is excessive. Failure to file such a protest in the time allotted will be deemed a waiver of any right to protest, and Contractor will proceed to complete the Work under the changed Contract terms and specifications.

D. The failure of the parties to agree will not be construed as relieving Contractor of its duty and responsibility for continuing with performance under the Contract as changed. Failure to continue performance under such circumstances will constitute a material breach of Contract by Contractor and the appropriate provisions hereof with relation thereto will apply. The determination of the City Engineer of the amount of reduction in Contract consideration or other consideration to City or increase in consideration or other basis of compensation to Contractor arising out of any such change will be final and binding upon the Contractor, unless it files a protest as set forth in Section 4.3(C) above. Payment by City on the basis of Contract prices so adjusted will constitute full and final performance of City obligations hereunder. If the parties fail to agree prior to completion of the Contract, final payments will not be delayed but must be made in accordance with the City Engineer's determinations subject to further claim of Contractor and compliance by City with court order, but nothing contained in this clause will excuse Contractor from proceeding with the performance of the Work as changed.

#### **4.3.1 Reduction in Cost**

If the cost of the Work to Contractor is reduced by reason of any modification of the Contract, compensation must be made to City therefor or a proportionate reduction in Contract consideration must be made therefor.

#### **4.3.2 Quantity Changes**

The quantities given in the proposal schedule for unit price items are for comparing proposals and may vary from the actual final quantities. Some quantities may be increased and others may be decreased or eliminated, and no claims can be made against the City for damage occasioned thereby or for loss of anticipated profits, Contractor being entitled only to compensation for the actual work done at the unit prices proposed.

#### **4.3.3 Extra Work**

A. City reserves the right, when confronted with unpredicted conditions, unforeseen events, or emergencies, to revise the details of the contemplated Work or to add work of a different

character or function and have the Contractor perform such revised or added work, as Extra Work, when such Extra Work is considered by the City Engineer to be vitally appurtenant to the satisfactory completion of the Project. "Extra Work" is defined as added work of a different character or function and for which no basis for payment is prescribed in the Contract; or that involving revisions of the details of the Work in such a manner as to render inequitable payment under items upon which the Contractor proposed; or that work to be done under stipulated prices as given in the Schedule of Bid Prices.

B. Contractor's execution of the Contract will be deemed to be an agreement on its part to perform Extra Work, as and when ordered by the City Engineer. Contractor must give notice to the sureties on the Contractor's bonds if the estimated total value of the Contract, as changed or supplemented, exceeds the original total proposal price by more than twenty-five percent (25%), but failure to give such notice will not affect the surety's obligation under said bonds. If required Extra Work results in delay to the Work, Contractor will be given an equivalent extension of time.

C. Upon City's decision to have Extra Work performed, the City Engineer will so inform Contractor, acquainting it with the details of the new work. Should an item of work within the proposal schedule correspond with the type of work to be done under Extra Work to the mutual satisfaction of Contractor and City, the Extra Work must be performed at the stipulated bid price and in the manner provided for said item. Should such Extra Work not correspond to a stipulated bid price, Contractor must prepare a price for said work based upon its estimate of cost and submit said price and estimate to the City Engineer based on one of the following methods as requested by City:

1) For a stated unit price or lump sum amount based upon current prevailing fair prices for materials, labor, plant, overhead, and profit; or

2) On a cost plus markup basis ("force account" by the Contractor). All work done by Contractor on a cost plus markup basis will be computed in the manner hereinafter described, and the compensation thus provided must be accepted as payment in full by the Contractor, and no additional payment will be allowed for the use of small tools, superintendent's services, timekeeper's services, nor any other overhead expenses incurred in the prosecution of the force account work.

(3) Under either method (1) or (2), total cost shall include:

(a) MATERIALS: For all materials purchased by Contractor and used in this specific work, the cost estimate shall reflect the actual cost less normal discounts of such materials, including freight and delivery charges, as shown by original receipted bills. Salvage value, as may be agreed upon between the City and the Contractor for materials which are not permanently incorporated in the work, will be deducted from the total amount as derived above. City reserves the right to furnish such materials required as it deems advisable, and Contractor shall have no claim for profit on the cost of such materials.

(b) LABOR: For all direct labor engaged in the specific operation, Contractor will receive the prevailing wage paid on the Project for each and every hour that said labor is actually engaged in such work. In addition, City will reimburse Contractor for unemployment compensation insurance payments; contributions made to the State as required by the provisions of the Unemployment Reserve Act, Chapter 352, Statutes of 1935, as amended; and for taxes paid to the federal government, as required by the Social Securities Act, approved August

14, 1935, as amended.

(c) **EQUIPMENT:** For any machine, power and equipment which is deemed necessary, Contractor will receive the actual cost of rented equipment furnished by it as shown on its paid vouchers. For the use of equipment Contractor owns, it will be paid at the rental rates currently prevailing in the locality, and said rental rates must be deemed to include profit and overhead, and no extra compensation will be allowed, nor will any percentage or amount whatsoever be added thereto.

(d) **MARKUP:**

(i) **Work by Contractor.** A fifteen percent (15%) allowance will be added to Contractor's direct costs and will constitute the markup for all overhead and profit on Contractor's work. Contractor will also be compensated for any actual increase in the Contractor's bond premium caused by the Extra Work.

(ii) **Work by Subcontractor.** When any of the Extra Work is performed by a subcontractor, a fifteen percent (15%) allowance will be added to the subcontractor's direct costs and will constitute the markup for all overhead and profit on work by the subcontractor. In addition, a five percent (5%) allowance will also be added to the subcontractor's direct cost and will constitute the markup for all overhead and profit for Contractor on work by the subcontractor. Contractor will also be compensated for any actual increase in Contractor's bond premium caused by the Extra Work.

D. Contractor shall not commence Extra Work until it has secured the City's approval as to the method and amount of payment thereunder, excepting that the City Engineer may, in writing, order Contractor to proceed with Extra Work in advance of such approval.

E. Upon receipt of Contractor's price, the City Engineer will make an analysis thereof, and City will adopt one of the following procedures for prosecuting the Extra Work:

(1) Accept Contractor's price for the lump sum or unit price amount in the original or amended form and direct Contractor to proceed with the work; or direct Contractor to perform the work on a cost plus markup basis; or

(2) Have the work performed by the City or another contractor under separate contract, without undue interference or hindrance to Contractor and without claim or suit by Contractor for damages on account thereof.

#### **4.4 MAINTENANCE OF DETOURS**

A. Contractor will construct and maintain detours and detour bridges for the use of public traffic as provided in the Special Provisions, or as shown on the plans or as directed by the Engineer, and payment for such work will be made as set forth in the Special Provisions or at the contract prices for the items of work involved if the work being performed is covered by contract items of work, and no other method of payment therefor is provided in the Special Provisions. Otherwise, the work will be paid for as Extra Work as specified under Paragraph 4.3 of this section.

B. When public traffic is routed through the work, provisions for passageway through construction operations will not be considered as detour construction or detour maintenance.

C. Detours used exclusively by Contractor for hauling materials and equipment will be constructed and maintained by Contractor at Contractor's expense.

D. Contractor's failure or refusal to construct and maintain detours at the proper time will be sufficient cause for closing down the work until such detours are in satisfactory condition for the safe use of public traffic.

E. Where Contractor's hauling is causing such damage to the detour that its maintenance in a condition satisfactory for public traffic is made difficult or unusually expensive, the Engineer will have authority to regulate Contractor's hauling over the detour.

#### **4.5 USE OF MATERIALS FOUND ON THE WORK**

Contractor, with the approval of the Engineer, may use in the proposed construction such stone, gravel, sand or other material suitable, in the opinion of the Engineer, as may be found in the excavation, but it must replace at its own expense with other suitable material all of that portion of the material so removed and used which was contemplated for use in the embankments, backfills, bridge approaches, or otherwise. No charge for materials so used will be made against Contractor. Contractor shall not excavate or remove any materials from within the Project location which is not within the excavation, as indicated by the slope and grade lines, without written authorization from the Engineer.

**SECTION 5**  
**CONTROL OF THE WORK**

**5.1 AUTHORITY OF CITY ENGINEER**

The City Engineer must decide all questions which may arise as to the quality or acceptability of materials furnished and work performed, the manner of performance, the rate of progress of the work, and the interpretation of the Plans and Specifications. His/her decision will be final, unless otherwise ordered by the City Manager or Assistant City Manager, and the City Engineer will have the authority to enforce and make effective all decisions and orders Contractor fails to carry out promptly.

**5.2 PLANS**

The approved Plans are hereby made a part of these Specifications. These Plans show in general the nature and dimensions of the work to be done. Contractor acknowledges that changes may be made to the Plans according to the best interests of the City.

**5.3 CONFORMITY WITH PLANS**

A. Finished surfaces in all cases must conform with the lines, grades, cross sections, and dimensions shown on the approved Plans. Deviations from the approved Plans and working drawings, as may be required by the exigencies of construction, will in all cases be determined by the City Engineer and must be authorized in writing by him/her.

B. Contractor must have Plans and Specifications for the Project on the Project location at all times and must make these Plans and Specifications available to the Engineer upon request.

**5.4 WORKING DRAWINGS**

A. Contractor must submit working drawings, in quadruplicate, as required by the Special Provisions. Working drawings for any structure must consist of such detailed plans as may be required for the prosecution of the work and are not included in the plans furnished by the City. They must include shop details, erection plans, masonry layout diagrams, and bending diagrams for reinforcing steel, which must be approved by the Engineer before any work involving these plans is performed. Plans for cribs, cofferdams, falsework, centering, and form work will be required and must be subject to approval, unless approval is waived by the Engineer. These plans will be subject to approval insofar as the details affect the character of the finished work, but other details of design will be left to Contractor, who must be responsible for the successful construction of the work.

B. Contractor hereby acknowledges that approval by the Engineer of Contractor's working drawings does not relieve Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreement of dimensions and details.

C. Full compensation for furnishing all working drawings must be considered as included in the prices paid for the various Contract items of work, and no additional allowance will be made therefor.

**5.5 COORDINATION OF PLANS, SPECIFICATIONS, AND SPECIAL PROVISIONS**

A. These Specifications, the Plans, Special Provisions, Contract change orders, and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is binding as though occurring in all. They are intended to be cooperative and to describe and provide

for a complete work.

B. In case of discrepancy either in the Plans or Specifications, the matter must be promptly submitted to the City Engineer who must make a determination in writing. Any adjustment by the Contractor without this determination will be at its own risk and expense. If Contractor, in the course of the work, finds any discrepancy in the Plans in the physical conditions of the locality, or any errors or omissions in the Plans, or in the layout as given by survey points and instructions, Contractor must immediately notify the Engineer in writing who will promptly verify the same. Any work or material not herein specified or shown on the Plans, but which is fairly implied in the judgment of the City Engineer, should be included therein, must be done or furnished as a part of the Contract as though shown or included in the Plans or Specifications. Any work done after such discovery, until authorized, will be done at Contractor's risk.

## **5.6 INTERPRETATION OF PLANS AND SPECIFICATIONS**

A. Should it appear that the work to be done or any of the matter relative thereto are not sufficiently detailed or explained in the Plans and Specifications, Contractor shall apply to the Engineer for such further explanations as may be necessary and must conform to them as part of the Contract, so far as they may be consistent with the original Specifications; and in the event of any doubt or question arising respecting the true meaning of the Specifications, reference must be made to the City Engineer, whose decision thereon will be final.

B. In the event of any discrepancy between any Plans and the figures written thereon, the figures must be taken as correct.

## **5.7 SUPERINTENDENCE**

A. Whenever Contractor is not present on any part of the work where it may be desired to give direction, the Engineer will give orders that must be received and obeyed by the superintendent, foreman, or authorized representative who may have charge of the particular work in reference to which the orders are given. Any order given by the Engineer, not otherwise required by the Specifications to be in writing, will, on Contractor's request, be given or confirmed by the Engineer in writing.

B. An authorized representative of the Contractor must be present at the site of the Work at all times, both while work is actually in progress and during periods when work is suspended.

C. Where Contractor is comprised of two or more persons, co-partnership or corporations, functioning on a joint-venture basis, Contractor must designate in writing to the City the name of their authorized representative who must have supreme authority to direct the work and to whom orders will be given by the Engineer, to be received and obeyed by Contractor.

D. Contractor must have a sufficient number of superintendents or foremen on the site of the work to adequately supervise and direct each major type of its construction work, and when, in the opinion of the Engineer, Contractor's required supervisory personnel are considered inadequate, Contractor, upon request from the City, must promptly provide adequate personnel.

## **5.8 LINES, GRADES AND MEASUREMENTS**

A. Contractor will do the initial staking out of the work unless otherwise stated in the Special Provisions. Contractor will establish control lines and offset lines and set all stakes normally

required so Contractor can make the necessary measurements therefrom for the layout of the details of its work without the need for surveyors. Survey stakes and benchmarks removed by the carelessness of Contractor or its employees will be replaced by the City at Contractor's expense.

B. Contractor must employ skilled personnel for making measurements and skilled mechanics for setting equipment or metal parts that are to be permanently imbedded in or attached to proposed structures. Contractor must remedy any inaccuracies in the placing of equipment or metal parts at its own cost. Any inaccuracies in the performance of the Contractor's work due to faulty transfer or measurements must be remedied by the Contractor at its own expense.

## 5.9 INSPECTION

A. Except as otherwise provided in paragraph (D) below, all material and workmanship, if not otherwise designated by the Specifications, must be subject to inspection, examination and test by the Engineer at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Engineer may reject defective material and workmanship or require its correction. Rejected workmanship must be satisfactorily corrected, and rejected material must be satisfactorily replaced with proper material without charge therefor, and Contractor must promptly segregate and remove the rejected material from the premises. If Contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship, the Engineer may by contract or otherwise replace such material and/or correct such workmanship and charge the cost thereof to Contractor, or may terminate the right of Contractor to proceed.

B. Contractor must furnish promptly without additional charge, all reasonable facilities, labor, and materials necessary for the safe and convenient inspection and tests as the Engineer may require. All Engineer inspections and tests will be performed in such a manner as not unnecessarily to delay the work. Special, full size, and performance tests will be as described in the Specifications. Contractor will be charged with any additional cost of inspection when material and workmanship are not ready at the time inspection is requested by the Contractor.

C. Inspection of material and finished articles to be incorporated in the work at the site must be made at the place of production, manufacture, or shipment, whenever the quantity justifies it, unless otherwise stated in the Specifications; and such inspection and written or other formal acceptance, unless otherwise stated in the Specifications, will be final, except as regards latent defects, departures from specific requirements of the Contract, damage or loss in transit, frauds, or such gross mistakes amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of material and workmanship for final acceptance as a whole or in part must be made at the site. Nothing contained in this paragraph will in any way restrict the City's rights under any warranty or guarantee. No work will be covered by a succeeding operation until the Engineer has had adequate notice and a sufficient opportunity to inspect the work. Any violation of this requirement will be deemed an attempt to defraud the City, and the work covered may be rejected. Contractor must comply promptly with all instructions of the Engineer. Failure to so comply will be sufficient cause for breach of contract. The Engineer may, when in the best interests of the City, order a suspension of the work or any part of the work which is not, in his/her opinion, proceeding satisfactorily.

D. The inspection of the work will not relieve Contractor of any of its obligations to fulfill its Contract as prescribed.

E. Should the Engineer consider it necessary or advisable at any time before final acceptance of the entire work to examine work already completed, and upon which adequate notice and sufficient opportunity for inspection was provided, Contractor must on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or non-conforming in any material respect due to fault of the Contractor or its subcontractors, Contractor must defray all the expense of such examination and satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual direct cost of labor and material necessarily involved in the examination and replacement, plus markup as determined in Section 4.3, will be allowed the Contractor, and if completion of the work has been delayed thereby, Contractor will be granted a suitable extension of time on account of the additional work involved.

F. All inspections by the City, the Engineer, or the Engineer's representative are for the City's use in determining the acceptability of the Project. Contractor is responsible for the quality of all materials supplied and all workmanship. Contractor must provide and implement a quality control program independent of the inspections provided by the City. Such quality control program must be designed to ensure materials and workmanship are of first quality in conformance with these specifications and the best practices of the construction industry. Contractor's quality control plan must be submitted to the Engineer for review within fifteen (15) days of Notice to Proceed. Approval of the quality control plan by the Engineer does not relieve Contractor of providing sufficient tests or certifications to provide a complete and useable product in accordance with these specifications.

## **5.10 UNAUTHORIZED WORK AND DEFECTIVE WORK OR MATERIALS**

Any work done beyond the scope of the Plans and Specifications established by the City Engineer, or any Extra Work done without written authority, will be considered unauthorized and will not be paid for. Work so done may be ordered removed at Contractor's expense. Upon failure of Contractor to comply promptly with any order of the Engineer made under the provisions of this Section 5, the City Engineer will have authority to cause defective work or materials to be remedied or removed and replaced, and unauthorized work to be removed, and to deduct the cost from any moneys due or to become due to the Contractor, notwithstanding that such defective work and materials have been previously overlooked by the Engineer and accepted or estimated for payment.

## **5.11 METHODS AND EQUIPMENT**

A. Equipment not suitable to produce the quality of work required will not be permitted to operate on the Project. If the City Engineer or representative observes unsuitable equipment, the City Engineer shall have the right and authority to stop work. Contractor will not be granted extra additional days or compensation for delay due to Contractor's use of unsuitable equipment.

B. Plants must be designed and constructed in accordance with general practice for such equipment and must be of sufficient capacity and of such character to insure the production of sufficient material to carry the work to completion within the time limit.

C. Contractor must provide adequate and suitable equipment and plants to meet the above requirements and, when ordered by the Engineer, must remove unsuitable equipment from the work and discontinue the operation of unsatisfactory plants.

D. Each machine or unit of equipment must be operated by a person experienced in handling the particular make of machine or unit of equipment in use, at a speed or rate of production

not to exceed Manufacturer's recommendations.

E. All vehicles used to haul materials over existing highways must be equipped with pneumatic tires.

F. Beam scales for use in batchers, proportioning plants, platform scales, or for other purposes must be equipped with "V" blocks and pivots of hard steel in all hangers or other points of support which are used as parts of the weighing mechanism.

## **5.12 FINAL INSPECTION AND ACCEPTANCE**

A. City will inspect the work for acceptance promptly upon receipt of notice in writing from Contractor that the work required under the Contract has been performed.

B. If, in the judgment of the City Engineer, the work has been completed in accordance with the Plans and the Specifications and is ready for acceptance, he/she will so certify and accept the completed work in accordance with the City's approved procedures. The City Engineer will, in his/her certification, give the date upon which the work was completed. Upon City's acceptance pursuant to such certification, the date of completion as certified by the City Engineer will be the date of completion of work up to which penalties for liquidated damages, if any, will be computed.

## **5.13 STORMWATER POLLUTION CONTROL**

A. During all construction activities, the Contractor shall protect the construction site from all illicit (non-rainwater) and construction activity discharges into the storm drain system and install all required construction stormwater best management practices, per latest State and Federal regulations including the National Pollutant Discharge Elimination System (NPDES) Permit Program, the North Coast Regional Water Quality Control Board MS4 Permit, and Construction Stormwater General Permit. The Construction Stormwater General Permit will apply when project disturbs one acre or more of surface area.

B. The Contractor shall develop and implement a Water Pollution Control Plan (WPCP) during construction activities, to be reviewed and approved by the City Engineer. The WPCP shall include all project required stormwater BMPs (Best Management Practices) to be installed, per the latest California Stormwater Quality Association BMP handbook, including 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. The Contractor shall install and maintain all BMPS and shall update the WPCP to meet changing stages of the construction site(s). The cost of furnishing all labor, materials, tools, equipment, and incidentals required to complete Stormwater Pollution Control work shall be included in the prices paid for other contract bid items unless otherwise specified, and no additional payment will be made therefor.

## **5.14 CLEANUP WORK**

A. During construction, Contractor must keep the site reasonably free and clear from all rubbish and debris. Care must be taken to prevent spillage when hauling is being done on any public road or street, and any such spillage or debris resulting from Contractor's operation must be immediately cleaned up.

B. Upon the completion of the work, Contractor must remove all plants, building, rubbish, unused materials, concrete forms and other like material belonging to it or used under its direction during the construction. In the event of its failure to do so, the same may be removed by the City at Contractor's expense.

## SECTION 6

### CONTROL OF MATERIALS

#### 6.1 CITY-FURNISHED MATERIALS

A. Contractor must notify the City as to the time at which it will require those materials which are to be furnished by the City. This notice must be given in sufficient advance of actual need to avoid delay.

B. City-furnished materials will be delivered Freight on Board (f.o.b.) trucks at the site of the work. "Site of the work" means the nearest point to the work which is readily accessible to trucks. Contractor will be charged with any standby or demurrage charges which may accrue at the point of delivery because of their failure to unload the trucks immediately upon their arrival at the site of work.

C. Contractor must receive and be responsible for these materials, storing those which may be damaged by the elements, in a safe, substantial manner until they are used in the work.

D. Any materials City delivered in an acceptable condition to Contractor which are subsequently lost or rejected by the City due to damages from handling, transporting, storing, flood waters, fire, or for any other reasons before its use in the completed Work, must be paid for by the Contractor. The total value of such materials will be deducted from moneys due or becoming due to Contractor. Contractor must remove any condemned material immediately and permanently from the site of work.

E. Any of the City's materials, remaining unused after all requirements for said materials have been met, must be promptly returned to City in acceptable condition. Contractor must return these materials f.o.b. to the City's truck at the site of work and at such points as will be conveniently accessible to City transportation.

F. Contractor must not sell, assign, mortgage, hypothecate, or remove equipment or materials which have been installed or delivered and which may be necessary for the completion of the Contract, without the City's written consent.

#### 6.2 MATERIALS TO BE FURNISHED BY CONTRACTOR

Unless otherwise specified herein, or on the Plans and Specifications, Contractor must furnish all materials required for the completion of the Contract. The cost of hauling, storing and handling of all the materials Contractor is required to furnish must be included in the unit price proposal in the schedule for the work for which the materials are required.

#### 6.3 SOURCE OF SUPPLY AND QUALITY OF MATERIALS

A. It is the Contractor's responsibility to require material suppliers and subcontractors to furnish materials which meet the requirements of the Specifications. All materials which are to become part of the completed Project must be new and must conform to the requirement prescribed therefor in these Specifications or as specified in the Special Provisions.

B. Unless otherwise waived in writing by the Engineer, Contractor will be required to furnish the City with certification(s) prepared and signed by the manufacturers and/or suppliers to the effect that items furnished meet all the requirements of the Specifications. Such certification(s) must be furnished prior to the use of the material in any part of the construction.

C. In the case of sand and gravel to be used for concrete construction, Contractor must notify the City’s representative in writing of the sources of the available materials and secure source approval in writing prior to placing order for delivery of this material to the job site.

#### **6.4 WATER AND ELECTRIC POWER**

A. Unless otherwise indicated in the proposal schedules, Contractor will be responsible for providing, paying all costs for, and maintaining at their own expense an adequate supply of water and electric power of a quality suitable for construction and domestic purposes.

B. The contractor may use city owned fire hydrants with a temporary water meter, obtained from the city, to supply water at contractor's expense. The contractor will be required to complete a hydrant meter application (available on city website) and obtain a fire hydrant flow meter and will be responsible for paying all applicable deposits and fees for use of the temporary water meter.

C. Contractor must indemnify, defend, and save City harmless against any and all claims or suits for damages arising from its acquisition and use of electric power and water.

#### **6.5 MATERIALS AND WORKMANSHIP; WARRANTY**

A. All material furnished by the Contractor must be of the specified quality and equal to approved samples, if samples have been submitted. All work must be performed and completed in a thorough, workmanlike manner, notwithstanding any omission from the Plans and Specifications. All work done and all materials furnished must comply with these Specifications to the City’s satisfaction.

B. Materials furnished by Contractor and condemned by the Engineer as being unfit for use must be immediately and permanently removed from the site of work. Unused materials, except such as furnished by the City, will remain the property of Contractor.

C. Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices, all Contract Documents requirements, and all laws, codes, standards, licenses, and permits. Contractor warrants that all materials and equipment shall be new, of suitable grade of their respective kinds for their intended uses, and free from defects. Contractor hereby grants to City for a period of one (1) year following the date of completion its unconditional warranty of the quality and adequacy of all of the Work including, without limitation, all labor, materials and equipment provided by Contractor and its subcontractors of all tiers. If either prior to completion of the Work, or within one (1) year after completion, any Work (completed or incomplete) is found to violate any of the foregoing warranties (“Defective Work”), Contractor shall promptly, without cost to City and in accordance with City’s written instructions, correct, remove and replace the Defective Work with conforming Work, and correct, remove and replace any damage to other Work or other property resulting therefrom. If Contractor fails to do so, Contractor shall pay all of the City’s resulting claims, costs, losses and damages. 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.

#### **6.6 STORAGE OF MATERIALS**

Materials must be so stored as to insure the preservation of their quality and fitness for the work. When considered necessary by the Engineer, they must be placed on wooden platforms or other hard, clean surfaces and not on the ground. They must be placed under cover when so directed.

Stored materials must be so located as to facilitate prompt inspection.

## **6.7 SAMPLES AND SPECIMENS**

Contractor must submit specimens or samples of materials to be used in the work as the Engineer may require.

## **6.8 TRADE NAMES AND ALTERNATIVES**

A. For convenience in designation on the Plans or in the Specifications, certain equipment or articles or materials may be designated under the trade name of a manufacturer and its catalogue information. The use of alternative equipment or an article or material which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the approval of the City Engineer.

B. The burden of proof as to the comparative quality and suitability of alternative equipment or articles or materials is on Contractor, and it must furnish, at its own expense, all information necessary or related thereto as required by the City Engineer. The City Engineer will be the sole judge as to the comparative quality and suitability of alternative equipment or articles or materials, and his/her decision will be final.

C. Contractor's price proposal is assumed to be on the basis of trade names specified or designated in the Specifications. Savings resulting from use of a less expensive equal or alternate must accrue to the City and must be subtracted from the unit price for this item.

## **6.9 REMOVAL OF EQUIPMENT OR MATERIALS**

Contractor may not sell, assign, mortgage, hypothecate or remove equipment or materials which have been installed or delivered and which may be necessary for the completion of the Contract without the written consent of the City.

## **6.10 TESTING OF MATERIALS**

Unless otherwise specified elsewhere in the Specifications or in the Special Provisions or called for in the Plans, the City or its authorized representative shall perform all tests of materials and work for determining compliance with specified requirements.

## SECTION 7

### LEGAL RELATIONS AND RESPONSIBILITY

#### 7.1 LAWS TO BE OBSERVED

Contractor must keep itself fully informed of all existing and future State and Federal laws and County and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Contractor must at all times observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the work; and must indemnify, defend, and hold the City and all its officers, agents and servants harmless against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its employees or agents. If any discrepancy or inconsistency is discovered in the Plans, Drawings, Specifications, or Contract for the Work in relation to any such law, ordinance, regulation, order or decree, Contractor must forthwith report the same to the City Engineer in writing.

#### 7.2 PERMITS

A. City will obtain all necessary rights and approvals for the work to occupy properties in streets, highways or railways. Contractor will obtain all permits and pay any fees connected therewith having to do with its construction operations. Contractor will furnish City with a copy of all permits and must fully comply with all conditions and provisions of same.

The Contractor will be required to submit all deferred permit submittals to the City of Rohnert Park Public Safety for the following items: FIRE ALARM (E6.01) Diagram E6.01 furnished upon request.

B. Bidders must contact railway companies affected by the work under the Project and ascertain their requirements in respect to indemnification agreements, bonds and insurance. Upon award of the Contract, Contractor must immediately again contact the railway company and, if required, enter into an indemnification agreement, furnish bonds and insurance, and pay the fees therefor.

C. All expenses incurred by the railway company as a result of Contractor's operations will be borne by the Contractor.

#### 7.3 PATENT CLAIMS

The bidder must include in the price proposal for the work the patent fees or royalties or charges upon any patented article or process which it may furnish or use in the prosecution of the work, and the bidder to whom the Contract is awarded must indemnify, defend and save the City harmless against any legal action that may be brought for infringement of patents upon any articles or processes that may be used by Contractor in the prosecution of the work. Contractor must furnish satisfactory evidence of release of all claims of this nature before the final payment is made upon the Contract.

#### 7.4 SANITARY PROVISIONS

Contractor must provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with all applicable

laws, ordinances and regulations pertaining to the public health and sanitation of dwellings and camps. Enclosed toilets must be provided for the use of the persons employed or engaged on any work under these Specifications.

## **7.5 RIGHT OF WAY AND RIGHT OF ACCESS**

A. City will acquire all permanent rights of way or permanent easements required for the constructed Project. Contractor is hereby authorized to use the site for the purposes described in the Specifications.

B. Contractor is responsible for obtaining the right to enter, remove, alter, or make use of any existing road, culvert, bridge, canal, pipeline, levee, fence or similar barrier, lines of communications or improvement of any nature, or the trespassing on privately owned lands, and it must indemnify, defend and save City harmless from any and all claims for such damages occasioned by such entering, removing, altering, using or trespassing.

C. In case of interference to the work by delay of the City in furnishing permanent rights of way or permanent easements, Contractor will be allowed an extension of time equivalent to the time lost by unavoidable delay in the completion of the Contract because of the failure to furnish the rights of way on time, but no damages will be allowed or paid for such delay.

D. Rights of way and/or easements and construction easements have been secured for work sites, and for trails and roadways as considered necessary for ingress and egress to the work site. Such rights and/or easements have been delineated on the Plans. The right to enter, remove, alter, or otherwise make use of adjacent property, roads, utility lines, fences, vegetation and other improvements as not included within the rights of way or easements will be at Contractor's sole expense and responsibility.

## **7.6 PUBLIC CONVENIENCE AND ACCESS**

A. Contractor must conduct its operations so as to cause the minimum obstruction and inconvenience to traffic and to places of business and residence adjacent to the work. No greater quantity of work must be under construction at any one time than can be properly conducted with due regard for the rights of the public. Where existing streets are not available as detours, all traffic must be permitted to pass through the work with as little inconvenience and delay as possible, unless otherwise provided or authorized. If only half the street is under improvement, the other half must be conditioned and maintained as a detour.

B. The work must be conducted by tunneling, backfilling or bridging where necessary to provide access to fire hydrants and water gates; driveways to service stations, markets or other places of business requiring public vehicular access; and driveways to private residences, unless Contractor makes other arrangements satisfactory to the City. Temporary approaches to intersecting streets and alleys must be provided and maintained in good condition. Safe crossings for pedestrians must be provided at intervals of not more than three hundred feet (300').

## **7.7 STORAGE OF MATERIALS IN PUBLIC STREETS, ROADS OR HIGHWAYS**

Construction materials and equipment must not be stored on the streets unless permitted by the City Engineer. All Construction materials and equipment, including construction machinery must be stored within a construction staging area, laydown yard, or material storage area as specified in Special Provisions Section 2.15 titled Construction Staging Areas, Laydown Yards, and Temporary Screening.

## **7.8 PUBLIC SAFETY**

Contractor is required by law to conform to the “Construction Safety Order,” “Trench Construction Safety Orders,” “General Safety Orders,” and “Tunnel Safety Rules” of the California Division of Occupational Safety and Health. Contractor must maintain copies of these rules and orders at the site of its operations and shall be governed by the requirements thereof. The requirements concerning Ventilation, General Safety Precautions, Transportation, Roof Inspection, Timbering, and all rules and regulations concerning the use of explosives are of particular importance.

## **7.9 STREET CLOSURES, DETOURS, BARRICADES**

A. In addition to the requirements of this paragraph and Section 4 of these Specifications, Contractor must, unless otherwise permitted by the City Engineer, conform to the requirements for street closures, detours and barricades as stipulated in the Special Provisions. However, the City Engineer may permit deviations from the requirements stipulated therein when such deviations are to the best interests of the City and are approved by the County, City or State authorities concerned.

B. During the progress of the work, Contractor must make adequate provisions to accommodate the normal traffic along streets and highways immediately adjacent to or crossing the work so as to cause a minimum of inconvenience to the general public.

C. Contractor must give due notice to local police and fire departments prior to beginning construction and must cooperate with said departments in complying with their requirements pertaining to emergency vehicles and equipment.

D. Contractor must comply with County, City or State requirements and authorities concerning closure of streets; the providing of barriers, guards, lights, temporary bridges, flagmen and watchmen; and the posting of proper notices or signals to the public regarding detours and the condition of the work under construction so as to effectively guard the public from danger as a result of the work being done under the Contract. Contractor must fully comply with such requirements. Contractor must also be held responsible for compliance with any additional requirements as may arise during the progress of the work. All costs involved in respect to the above requirements will be considered as included in the price proposals for the various items of work.

E. Contractor must furnish, install, and upon completion of the work, remove all signs and warning devices required for directing and protecting the public during construction.

F. The signs and posting thereof must conform to the current requirements as specified in the manuals covering signs published by the Division of Highways, Department of Public Works of the State of California. Copies of these manuals are on file in the office of the Engineer.

G. Contractor must notify the appropriate authorities of any municipality or unincorporated area twenty-four (24) hours in advance of the start of any construction work being done in said municipality or area.

H. The provisions of Paragraph 7.18, “Emergencies and Responsibility for Damage,” apply to the precautions and safeguards taken by Contractor in connection with the closure of streets, barricades, detours, signs, etc., as required by the above authorities.

## **7.10 USE OF EXPLOSIVES**

A. The use of explosives will not be permitted unless otherwise stated in the Special Provisions. If permitted, the method employed and the quantity of explosives used must at all times be subject to the approval of the Engineer. Explosives must be handled, used and stored in accordance with the provisions and requirements of all applicable laws, ordinances and regulations with respect thereto.

B. The Engineer's approval for the use of explosives does not relieve Contractor from its responsibility to indemnify, defend and save City harmless from any legal actions or claims brought against it because of or on account of the use of explosives.

## **7.11 PRESERVATION OF PROPERTY**

A. Contractor is responsible for the protection, restoration, or the replacement of any improvements such as, but not limited to, lawns, trees, shrubs, hedges, fences, walls, sidewalks, driveways, curbs, gutters and pavement existing on public or private property at the start of work or placed there during the progress of work and not being specified or shown on the drawings to be either temporarily or permanently removed. Contractor is responsible for removal of all USA Markings created within the Project limits and in relation to the Project. Replacement or restoration must meet the approval of the Engineer.

B. With respect to trees, Contractor must obtain permission from the Engineer and from any jurisdictional agency concerned prior to the removal or trimming of any trees, except where a tree is specifically indicated on the Plans or in the Specifications to be removed. Trees which are so indicated need not be replaced except where otherwise stipulated in the Specifications.

C. All costs involved in the protection and restoration of existing improvements as herein specified must be included in the prices proposal for the various items of work.

## **7.12 PRESERVATION OF MONUMENTS**

Contractor must not disturb any monuments or stakes found on the lines of improvements without permission from the Engineer, and must bear the expenses of resetting any monuments or stakes which may have been disturbed with such permission. Contractor must reset all street signs and traffic signs it disturbed during the progress of the Work.

## **7.13 SAFEGUARDING EXCAVATIONS AND STRUCTURES**

A. In excavating for the Project, Contractor must be fully responsible for providing and installing adequate sheeting and/or timbering and bracing as may be necessary as a precaution against slides or cave-ins, and to protect all existing improvements of any kind, either on public or private property, from damage. Contractor must make necessary repairs to or reconstruction of any such damaged improvements at its own expense and as directed by the Engineer.

B. Contractor must remove all shattered rock or other loose material which may be dangerous to workmen or to structures. Even if such removal enlarges the excavation beyond the required limits, it does not relieve Contractor from the necessity of making such removal, and Contractor will not be entitled to additional compensation under any Contract item on account of such removal and enlargement.

C. Contractor is responsible for providing all materials required for sheeting, bracing and shoring. Upon completion of the work, except for such as may be left in place, all remaining

materials will become Contractor's property and responsibility.

#### **7.14 EMERGENCIES AND RESPONSIBILITY FOR DAMAGE**

A. Contractor, at all times throughout the performance of the Contract, must take all precautions necessary to prevent any accident or other cause of damage to life or property in any place affected by the operations, arising from the Work, or resulting from any unusual conditions which may arise, including, but not limited to, erecting and maintaining suitable and sufficient barriers, signs, lights, or other necessary protection. This duty also extends to interruption or contamination of public water supplies, irrigation, or other public services, or to any failures of partly completed works.

B. If, in the opinion of the Engineer, the precautions taken by Contractor are not safe or adequate at any time during the life of the Contract, he/she may order Contractor to take further precautions, and if Contractor fails to remediate the situation adequately, the Engineer may order the work done by the City and charge Contractor for the cost thereof, such cost to be deducted from any moneys due or becoming due to Contractor. Failure of the Engineer to order such additional precautions, however, does not relieve Contractor from its full responsibility for public safety.

C. Contractor must indemnify, defend and save City harmless from any legal actions or claims of every kind and description brought against City for, or on account of, any injury or damage to person or property received or sustained by any person or persons on account of work done by Contractor, any duly authorized subcontractor, agent, employee or workman of Contractor ("Indemnifying Parties") pursuant to the Contract or any extension or addition thereof caused by the negligence of the Indemnifying Parties, or by or in consequence of any negligence in guarding the person or property, or any material used or to be used for the same, or by or on account of any material, implement, appliance or machine used in the construction, or by or on account of any accident or of any act or omission of the Indemnifying Parties.

D. City may withhold and retain a sufficient amount of the money due Contractor under the Contract as City determines is necessary until all legal actions or claims for such damages have been resolved and evidence to that effect has been furnished to the City. The funds retained under this Section is in addition to any funds retained as provided for in Paragraph 9.5.

E. All of the above provisions also apply to suits for loss of business and/or obstruction or inconvenience to business of private property owners.

#### **7.15 DISPOSAL OF MATERIAL OUTSIDE OF CITY'S RIGHT OF WAY**

A. Unless otherwise specified in the Special Provisions, Contractor must make its own arrangements for disposing of materials outside of City's right of way at Contractor's own expense and Contractor must pay all costs associated therewith.

B. When any material, including excess or unsuitable excavated earth or other materials are to be disposed of outside of City's right of way, Contractor must first obtain written permit from the owner on whose property the disposal is to be made, and it must file said permit or a certified copy thereof, together with a written release from the property owner, absolving City from any and all responsibility in connection with disposal of material on said property.

C. Unless otherwise provided in the Special Provisions, full compensation for all costs for disposing of materials, as specified above, must be included in the prices paid for the various Contract items of work, and no additional allowance will be made therefor.

## **7.16 CONTRACTOR'S RESPONSIBILITY FOR WORK**

A. The submission of a proposal hereunder shall be considered evidence that the bidder has carefully examined the site of the work with regard to the climatic and physical conditions which will affect construction operations.

B. Throughout the term of the Contract, Contractor assumes all risks and expense of interference and delay in its operations, and the protection from or the repair of damage to improvements being built by it under the Contract as may be caused by floods, storms, industrial waste, irrigation, underground water, or other sources. Contractor also assumes full responsibility and expense of protecting or removing and returning to the site of work all equipment or materials under its care that are or may be endangered by weather elements.

C. Furthermore, Contractor must indemnify, defend and save City harmless against all claims or suits for damage arising from Contractor's operations in dewatering the Work and efforts to control or divert water.

D. All works installed by the Contractor in connection with dewatering, control, and diversion of water, but not specified to become a permanent part of the Project, must be removed and the site restored, insofar as practical, to original condition at the Contractor's own expense.

## **7.17 CITY ENGINEER CANNOT WAIVE OBLIGATIONS**

It is expressly agreed that neither the City Engineer nor any of his/her agents have the power or authority to waive any of the obligations of these Specifications for Contractor's furnishing of good and suitable material and for performing the work as herein described. Failure or omission on the part of the City Engineer, or any of his/her assistants or agents, to condemn defective or inferior work or materials does not imply acceptance of the work nor release of Contractor from obligations to immediately tear out, remove and properly replace the same without compensation, at its own cost and expense at any time, upon the discovery of said defective work or material, prior to the final acceptance of the entire Work; neither will such failure or omission, nor any acceptance by the City or by the City Engineer or any other officer or employee of the City, be construed as barring the City at any subsequent time from recovery of damages from Contractor and its sureties of such a sum of money as may be needed to remove and to build anew all portions of the work in which fraud was practiced, or improper work or material hidden.

## **7.18 RIGHTS IN LAND IMPROVEMENTS**

Nothing in these Specifications may be construed as allowing Contractor to make any arrangements with any person to permit occupancy or use of any land, structure or building within the limits of the Contract for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the City and any owner, former owner, or tenant of such land, structure or building.

## **7.19 PERSONAL LIABILITY**

Neither the City, the City Engineer, nor any of their elected officials, officers, employees, or agents may be held personally responsible for any liability arising under the Contract. Contractor must maintain in full force and effect, during the entire life of the Contract, public liability, property damage and personal injury insurance in amounts not less than specified in the Special Provisions.

Contractor must maintain on file with the City during the entire life of the Contract a memorandum of coverage or other evidence of such insurance, issued by the underwriter. Said insurance may not be cancelled or declined renewal unless notice is mailed to the City at least forty-five (45) days prior to the effective date of renewal or at least sixty days (60) days prior to the effective date of cancellation. In addition, if a public agency is named as an additional insured by way of endorsement or certificate of insurance, notice shall be given to said public agency. Contractor must pay all premiums whether said premiums cover Extra Work or work under regular Contract items.

## **7.20 REPAIR OF EQUIPMENT**

The work of installing, assembling, repairing, reconditioning, or other work of any nature on machinery, equipment, or tools used for the Work will be considered a part of the work to be performed under the Contract, and any laborers, workmen, or mechanics working on such machinery, equipment or tools, unless employed by bonafide commercial repair shops, garages, blacksmith shops, or machine shops, which have been established and operating on a commercial basis for a period of at least two (2) months prior to the award of the Contract, will be subject to all of the requirements relating to labor set forth in the Contract and in these Special Provisions.

## **7.21 CONTRACTOR'S LEGAL ADDRESS**

The address given in the proposal will be considered Contractor's legal address, which may be changed at any time by notice in writing to the City at its office. The delivery to such address, or the depositing in the United States mails in a sealed envelope, postpaid, registered and properly directed to the Contractor's legal address, of any communications will be legal and sufficient service of the same upon Contractor.

## **7.22 COOPERATION AND COLLATERAL WORKS**

A. Where two or more contractors are employed in related or adjacent work, each must conduct its operations in such manner as not to cause any unnecessary delay or hindrance to the other. Each contractor must be responsible to the other for all damage to work, to person or property, and for loss caused by failure to finish the work within the specified time for completion.

B. Contractor must also coordinate its work and cooperate with contractors or workmen employed by other agencies on or adjacent to the site of the work.

C. The Library Facility will be completing a separate renovation project. The work consists of replacing the carpet, painting the interior of the building and replacing furniture. Contractor to be advised that project coordination and scheduling with the Library's contractor will be required for the success of both projects.

D. Additionally, the entire adjacent parking lot will be temporarily fenced off and not available for use between March 2026 and July 2026 for a separate City project installing solar panels within the parking lot. The Contractor will work with the City to coordinate parking location for work vehicles.

## **7.23 UTILITIES**

A. "Utilities" for the purpose of these specifications must be considered as including, but not limited to, pipelines, conduits, transmission lines, and appurtenances of "Public Utilities" (as defined in the California Public Utilities Code) and those of private industry, businesses, or individuals solely for their own use or for the use of their tenants, and storm drains, sanitary sewers,

street lighting, and traffic signal systems.

B. All utility service interrupted or severed by Contractor's operations shall be immediately reinstated at the earliest opportunity whether by temporary or permanent connections, and permanent reconstruction must be made as soon as construction operations permit.

C. City has, by a search of known records, endeavored to locate and indicate on the drawings, all utilities that exist within the limits of the work. However, the accuracy or completeness of the utilities indicated on the drawings is not guaranteed. Service connections to adjacent property may or may not be shown on the drawings. It is Contractor's responsibility to determine the exact location of all utilities and their service connections. Contractor must make its own investigation as to the location and type of existing utilities, their appurtenances, and service connections which may be affected by the Work and must notify the City as to any utility located by it which has been incorrectly shown or omitted from the drawings.

D. Work required in connection with utilities because of interference with Contract work will be performed and paid for as specified in the following paragraphs, 7.23(D)(1) through 7.23(D)(8); however, when directed or approved by the City Engineer, changes in line or grade of structure being built may be made in order to avoid utilities. The cost of such changes will be paid for as Extra Work.

(1) By Other Than Contractor

When it is stated in the Special Provisions or indicated on the drawings that a utility is to be relocated, altered, or reconstructed by other than Contractor, City will conduct all negotiations with the owners in respect to such work, and the work will be done at no cost to Contractor.

(2) By Contractor Under a Specified Contract Item

When the bidding schedule contains a separate item covering the relocation, alteration, or reconstruction of a utility by Contractor, the price proposal for said item must cover all costs involved in such work. The utility owner's drawings and Special Provisions will give the construction details for the work, and unless the time at which the work must be done is specified in the Special Provisions, Contractor must coordinate with the utility owner regarding when the work is to be done.

(3) By Contractor But Not Under a Specified Contract Item

When work on a utility is specified or indicated on the Plans to be done by Contractor, but is not included as a separate Contract item in the bidding schedule, City will make all arrangements with the owner of the utility with respect to the construction details; however, Contractor must coordinate with the utility owner as to when the work is to be done. Any costs for such work must be included in the unit prices or included in the lump sum amounts proposed for the various Contract items.

(4) By Contractor – Service Connections

The alteration, temporary relocation or reconstruction of service connections to adjacent property is Contractor's responsibility, and Contractor must notify occupants of the affected properties before service is interrupted and make all arrangements with the utility owners regarding the interruption and reconstruction of service connections. The costs for such work on

service connections must be included in the unit prices or in the lump sum amounts proposed for the various Contract items, unless otherwise specified in the Special Provisions. Reconstruction of sanitary sewer house connections must be accomplished in the manner shown on the Plans.

(5) By Contractor for His Own Convenience

The temporary relocation or alteration of any utility desired by Contractor solely for its own convenience in the performance of the Contract work to a position or condition other than that provided for in the Special Provisions or shown on the Plans is Contractor's responsibility, and Contractor must make all arrangements with the owners of the utility regarding such work. Any cost of such work for Contractor's own convenience must be included in the unit prices or included in the lump sum amounts proposed for the various Contract items.

(6) By Contractor or by Others – Unknown Utilities Disclosed During the Work

In the event that a utility is disclosed subsequent to the award of the Contract, such utility not being indicated on the drawings, the alteration, relocation, or proper support and protection must be done and paid for as follows:

(a) When said utility is found to occupy space required to be occupied by a part of the permanent works to be constructed under the Contract, or when said utility is more or less parallel with the conduit and, in the case of pipe conduit, found to be within vertical planes of each side of the pipe a distance away from the pipe equal to ten inches (10") for pipe ninety-six inches (96") or less in diameter and equal to twelve inches (12") for pipe greater than ninety-six inches (96") in diameter or to be within the specified excavation pay lines (when such are specified or shown on the drawings), City will arrange for the relocation or alteration of said utility or require Contractor to do the same as Extra Work. However, when said utility is found to cross the excavation laterally, but not to intercept the permanent works to be constructed, then Contractor will be required to maintain the utility in place at its own expense.

(b) When said utility is more or less parallel with and any portion of it does not lie within the vertical planes specified hereinabove (for pipe conduit) or does not lie within the excavation pay lines (when such are specified or shown on the drawings), Contractor must advise the City thereof, and in cooperation with the City, provide and place the necessary support for proper protection to insure continuous and safe operation of the utility structure. All costs for such work must be borne by Contractor, unless it is ascertained by the City that the utility's franchise is such as to require the utility to bear such costs, in which case, it will be Contractor's responsibility to secure enforcement of said franchise if it so desires.

(7) Responsibility of Contractor

Contractor is responsible for all costs for the repair of any and all damage to the Work or to any utility (whether previously known or disclosed during the work), as may be caused by Contractor's operations. Contractor must maintain in place all utilities not shown on the drawings to be relocated or altered by others. Contractor must maintain in their relocated positions utilities which are relocated by others to avoid interference with structures and which cross the Project work. At the completion of the Work, Contractor must leave all utilities and appurtenances in a condition satisfactory to the owners and the City.

(8) Delays Caused by Failure to Relocate Utilities

(a) Where parties other than Contractor are responsible for the relocation of utilities in accordance with these Plans and Specifications, and a delay in the Contractor's work is caused by the failure on the part of said parties to remove or relocate such utilities in time to prevent such delay, Contractor will not be entitled, as a result of such delay, or to damages or additional payments over and above the Contract price. In the event of such delays, Contractor will be entitled to an extension of time. The City will determine the length of such extension with consideration as to the effect of the delay on the Project as a whole.

(b) To minimize delays caused by the failure of other parties to relocate utilities which interfere with construction work, Contractor, upon request to the City, may be permitted to temporarily omit that portion of work affected by the utility. Contractor must construct the portion thus omitted immediately following the relocation of the utility involved. Should the omitted portion of the work consist of concrete pipe, Contractor may complete said portion by constructing a field joint.

(c) Unless otherwise specified, where sewers, drainage water, gas or any other conduits and related structures and appurtenances which have been abandoned or which are to be abandoned as a result of the construction of this Project are found to interfere with construction, the interfering portions will be removed and the remaining exposed portions sealed with either a wall of concrete not less than six inches (6") thick. All salvable castings or steel parts which interfere with construction must be removed, and Contractor must contact the owners and, if required, must deliver such materials f.o.b. to the owner's trucks at the site of the work; otherwise, such material will become Contractor's property to be disposed of away from the site of work.

(d) The cost of all such work must be included in the prices proposed for the various items of work, unless it is ascertained that the franchise of the former owner is such as to require it to bear such costs, in which event, it will be Contractor's responsibility to secure enforcement of said franchise if it so desires.

## **7.24 IN-USE OFF ROAD DIESEL-FUELED FLEETS REGULATION**

Attention is directed to provisions of the California Code of Regulations Sections 2449, 2449.1, and 2449.2, Title 13, relating to In-Use Off-Road Diesel-Fueled Fleets (Regulation), issued by the California Air Resources Board (CARB). Contractor warrants that it shall be knowledgeable of and comply with the Regulation, including without limitation the matters contained in this Section, at all times prior to and during its work on the Project. The Regulation shall control in the event of any conflict between this Section and the Regulation.

### **A. Contracting Requirements.**

(a) If the Project involves the use of vehicles subject to the Regulation, Contractor must obtain copies of the valid Certificates of Reported Compliance, as described in Regulation section 2449(n), for the fleet selected for the Contract and its listed subcontractors, if applicable, prior to entering into a new or renewed contract with that fleet.

(b) Contractor shall not enter into a contract with a fleet for which it does not have a valid Certificate of Reported Compliance for the fleet and Contractor's listed Subcontractors, if applicable, prior to entering into a new or renewed contract with that fleet.

(c) The Certificates of Reported Compliance received by the Contractor for the Project must be retained for three years after the Project's completion. Upon request by CARB,

these records must be provided to CARB within five business days of the request.

(d) If the Project is considered to be an emergency operation, as defined in Regulation section 2449(c)(18), it is exempt from the requirements in Regulation section 2449(i)(1)-(3). Nevertheless, Contractor must still retain records verifying vehicles subject to the Regulation that are operating on the emergency operations project are actually being operated on the project for emergency operations only. These records must include a description of the emergency, the address or a description of the specific location of the emergency, the dates on which the emergency operations were performed, and an attestation by the fleet that the vehicles are operated on the project for emergency operations only.

B. Other Contractor Requirements.

(a) Between March 1 and June 1 of each year, Contractor must collect new valid Certificates of Reported Compliance for the current compliance year, as defined in Regulation section 2449(n), from all fleets that have an ongoing contract with the Contractor as of March 1 of that year. Contractor must not write contracts to evade this requirement.

(b) Contractor shall only allow fleets with valid Certificates of Reported Compliance on Contractor's job sites.

(c) If Contractor discovers that any fleet intending to operate vehicles subject to the Regulation for Contractor does not have a valid Certificate of Reported Compliance, as defined in Regulation section 2449(n), or if Contractor observes any noncompliant vehicles subject to the Regulation on Contractor's job site, then Contractor must report the required information to CARB when as provided and within the time period contained in in the Regulation

(d) Upon request by CARB, Contractor must immediately disclose to CARB the name and contact information of each responsible party for all vehicles subject to the Regulation operating at the job site or for Contractor.

(e) If applicable, Contractor shall prominently display signage for any project where vehicles subject to the Regulation as provided and within the time period contained in in the Regulation.

## **SECTION 8**

### **PROSECUTIONS AND PROGRESS**

#### **8.1 SUBCONTRACTS**

Contractor may sublet the Contract work only in accordance with the provisions of these Specifications and with the consent of City. Contractor will be responsible as the prime contractor to ensure that its subcontractors and material suppliers conform to all the provisions of these Specifications. If Contractor, after complying with these conditions, must sublet any portion of the proposed work to a subcontractor, Contractor will remain directly responsible to City for all work being performed by it or by any subcontractor under it, and all obligations imposed upon Contractor in the original Contract will be equally binding upon any subcontractor. City will deal directly with and make all payment to Contractor and will have no obligation at any time to pay a subcontractor for any work done. Contractor understands and acknowledges that the Subletting and Subcontracting Fair Practices Act (as set forth in the California Public Contracts Code) applies to this Contract, and Contractor agrees to comply with the terms of that Act.

#### **8.2 ASSIGNMENT**

Contractor may not assign the Contract or sublet it as a whole without the written consent of City. Contractor may not assign or permit the assignment of or any lien on any money due or to become due to it hereunder without the written consent of the City.

#### **8.3 PROGRESS OF THE WORK**

A. Time is of the essence in this Contract. Unless otherwise provided in the Special Provisions, Contractor must begin work not later than fifteen (15) calendar days after the date of the Notice to Proceed, and Contractor shall prosecute the work with due diligence so as to complete the work within the time specified in the Special Provisions or within such extension of time as may be granted.

B. Should Contractor begin work in advance of receiving notice that the Contract has been approved as above provided, any work performed in advance of said date of approval will be considered as having been done by Contractor at its own risk and as a volunteer, unless the Contract is so approved.

#### **8.4 CHARACTER OF WORKERS**

A. Contractor will only employ skilled foremen and workers on work requiring special qualifications. When required by the Engineer, Contractor shall discharge from the Work any employee – whether employed by Contractor or any subcontractor – who is incompetent, disorderly, abusive, dangerous, insubordinate, or who in any way attempts to interfere with City employees in the inspection and supervision of the work and shall not employ them again without the consent of the City Engineer.

B. Any representative of Contractor who is proven to have deliberately given false information about the performance of any part of the work shall be discharged if so ordered by the City Engineer.

#### **8.5 TEMPORARY SUSPENSION OF WORK**

The City Engineer may order Contractor to suspend work when, in his/her opinion, the

conditions are such as to prevent the work being properly carried out. Such conditions may include war, government regulations, labor disputes, strikes, fire, floods, adverse weather or elements, inability to obtain material, labor or equipment, required Extra Work, or other specific conditions or events as may be further described in the Specifications. When delay is caused by such an order, an extension of time may be granted when the conditions, in the opinion of the City Engineer, could not have reasonably been foreseen. Under no circumstances will Contractor be excused from performance or entitled to any extra compensation or reimbursement because of any such suspension.

## **8.6 TIME OF ESSENCE, LIQUIDATED DAMAGES, EXTENSION OF TIME BY CITY**

A. Time is of the essence, and the parties acknowledge and agree that, (1) if all the Work called for under the Contract in all parts and requirements is not finished or completed by the date set forth in the Special Provisions, (2) circumstances and conditions as reflected by records of the City are such that material damage will be sustained by the City, and (3) it is and will be impracticable and extremely difficult to ascertain and determine the actual damage which City will sustain by reason of such delay, Contractor will pay to City the sum stated in the Special Provisions per day for each and every calendar days' delay in finishing the work beyond the date prescribed; and Contractor agrees to pay said liquidated damages as herein provided. In case the same are not paid, Contractor agrees that the City may deduct the amount thereof from any monies due or that may become due to Contractor under the Contract.

B. It is further agreed that, in case the work called for under the Contract is not finished and completed in all parts and requirements by the date specified, City shall have the right to extend the time of completion or not, as may be deemed to best serve the interest of the City. If City decides to extend said time, City has the right to charge Contractor, its heirs, assigns or sureties and to deduct from the final payment for the work all or any part, as may be deemed proper, the actual cost of engineering, inspection, superintendence, and other overhead expenses directly chargeable to Contractor and which accrue during the period of such extension, except that the cost of final surveys and preparation of a final estimate will not be included in such charges.

C. The time of completion will be extended, and Contractor will not be assessed with liquidated damages during any delay beyond the day named for completion of the work caused by Acts of God or acts of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes or delay of subcontractors due to such causes, provided Contractor must notify the Engineer in writing of any cause or causes of such delay within ten (10) days from the beginning of any such delay and must include in each monthly pay request the number of days of such delay that occurred in said pay period. Subject to entry of a judgment of a court of competent jurisdiction contrary to the decision of the Engineer's determination of the facts and cause of such delay, the Engineer's determination of what constitutes a reasonable extension of time for completion will be final and conclusive. Failure to give notice of cause for such a time delay and failure of inclusion of the Contractor's request for an extension in the monthly pay request will be deemed a waiver of any right to an extension of time for such cause, subject only to impossibility of compromise therewith by Contractor.

D. Under no circumstances will Contractor be excused from performance or entitled to any extra compensation or reimbursement because of any delay occasioned by, or in any way arising out of, any Acts of God or acts of a public enemy, fires, floods, epidemics, quarantine restrictions,

strikes, and freight embargoes or delay of subcontractors due to such causes.

## **8.7 DEFAULT BY CONTRACTOR**

A. If Contractor fails to begin delivery of material and equipment, to commence the Work within the time specified, to maintain the rate of delivery of material, to execute the Work in the manner and at such locations as specified, or to maintain the work schedule that will ensure the City's interest, or, if Contractor fails to carry out the intent of the Contract, City may serve written notice upon Contractor and the surety on its Performance Bond demanding satisfactory compliance with the Contract.

B. The Contract may be canceled by the City without liability for damage, when in City's opinion Contractor is not complying in good faith, has become insolvent, or has assigned or subcontracted any part of the work without the City's consent. In the event of such cancellation, Contractor will be paid the actual amount due based on Contract unit prices or the lump sums proposal and the quantity of the work completed at the time of cancellation, less damages caused to City by Contractor's acts. Contractor, in having tendered a Proposal, will be deemed to have waived any and all claims for damages because of cancellation of the Contract for any such reason. If City declares the Contract canceled for any of the above reasons, City will serve written notice to that effect upon the surety. The surety must, within five (5) days, assume control and perform the work as successor to the Contractor.

C. If the surety assumes any part of the Work, it must take Contractor's place in all respects for that part, and City will pay the surety for all work performed by it in accordance with the Contract. If the surety assumes the entire Contract, all money due to Contractor at the time of its default will be paid to the surety as the work progresses, subject to the terms of the Contract.

D. If the surety does not assume control and perform the work within five (5) days after receiving notice of cancellation, or fails to continue to comply, City may exclude the surety from the premises. City may then take possession of all material and equipment and complete the work by using City forces, by letting the unfinished work to another contractor, or by a combination of such methods. In that event, the cost of completing the Work will be charged against the Contractor and its surety and may be deducted from any money due or becoming due from the City. If the sums due under the Contract are insufficient for completion, the Contractor or surety must pay to City all costs in excess of the sums due within five (5) days after the Notice of Completion resolution.

E. The remedies available to City under this subsection are cumulative and in addition to all other rights and remedies available to City under the law.

## **8.8 WORK AT NIGHT – Not Applicable**

## **8.9 MAXIMUM LENGTH OF OPEN TRENCH**

A. Except by special permission of the Engineer, the maximum length of any open trench where prefabricated pipe is used must not be greater than five hundred feet (500'), or the distance necessary to accommodate the amount of pipe installed in a single day, whichever is greater. The distance is measured as the collective length, including excavation, construction, pipe laying, backfilling, and compaction at any one location. All trenches shall be covered with trench plates. All trench plates used within the public right-of-way shall be steel plates designed,

fabricated, and installed to safely support vehicular traffic. Trench plates shall meet or exceed **AASHTO H-20 loading requirements** and be of sufficient thickness and size to prevent deflection, movement, or settlement under traffic loads. Plates shall be secured to prevent shifting, ramped as necessary to provide a smooth driving surface, and maintained in a safe condition at all times. The Contractor shall be responsible for any damage or injury resulting from inadequate trench plate design, installation, or maintenance. No trench plates shall be used on the weekends without prior written approval from the City. If approved for the use on the weekends, Contractor shall be responsible for inspecting trench plates including providing digital pictures to the City on condition of trench plates within the street.

B. Except by special permission of the Engineer, the maximum length of open trench in any one location where concrete structures are poured in place will be that which is necessary to permit the uninterrupted progress of construction of the concrete structure, with construction pursued as follows: excavation, setting of reinforcing steel, pouring of floor slab, walls, and cover slab or arch are to follow each other without any one of these operations preceding the next nearest operation by more than two hundred feet (200').

C. Except by special permission of the Engineer, the maximum length of open trench in any one location where prefabricated concrete box conduit is used will be that which is necessary to permit the uninterrupted progress of construction of the concrete structure with construction pursued as follows: excavation, setting of reinforcing steel, pouring of floor slab, erection of side walls, erection of cover slab, and pouring of filler spaces are to follow each other without any one of these operations preceding the next nearest operation by more than two hundred feet (200').

## **8.10 LIMITED ACCEPTANCE OF WORK**

At any time during the progress of the Work, City may, upon written notice to Contractor, take over and utilize the whole or any part of the work, or appurtenance thereto, which has been completed, giving, if desired, permits to utilize the same. Such use by City will constitute a limited acceptance of that part of the work so taken over and utilized which will relieve Contractor and its sureties from responsibility for any damage to, or defect in, that part of the work not inherent in its construction which may be caused by the use of such part by City or by property owners under its permits.

## **SECTION 9**

### **MEASUREMENT AND PAYMENT**

#### **9.1 MEASUREMENT FOR PAYMENT**

A. Measurement and calculations of quantities for payment will be as hereinafter specified for the particular material to be furnished or class of work to be performed, unless otherwise specified in the Special Provisions.

B. Unit prices or lump sum amounts proposals shall include full compensation for furnishing all labor, materials, tools, and equipment and doing all work shown on the Plans or stipulated in the Specifications for that particular item of work, unless otherwise specified in the Special Provisions.

C. When payment is specified to be made on the basis of weight, the weighing shall be done on certified platform scales, and Contractor must furnish the Engineer with the duplicate Certified Weighmaster's Certificate(s) showing the actual net weights. When weighing is done on certified scales at a mixing plant, duplicate weight delivery tickets will be accepted. One ticket must be furnished to the inspector at the plant and one ticket to the Engineer at the site of work. City will accept the certificates as evidence of the weight delivered.

#### **9.2 SCOPE OF PAYMENT**

Contractor hereby accepts the compensation as herein provided, in full payment for furnishing all materials, labor, tools, and equipment necessary to complete the Work and for performing all Work contemplated by the Contract; also for loss or damage arising from the nature of the Work, or from the action of the elements, except as provided above or from any unforeseen difficulties that may be encountered during the prosecution of the work until acceptance of the completed Work; also for all expenses incurred in consequence of the suspension or discontinuance of the work as herein specified; and for completing the work according to the Plans and Specifications. Neither the payment of any estimate nor of any retained percentage relieves Contractor of any obligation to make good any defective work or material.

#### **9.3 DEDUCTIONS FROM PAYMENTS**

City may, at its option and at any time, retain out of any amounts due to Contractor sums sufficient to cover any unpaid claims, provided that sworn statements of said claims must have been filed with the City.

#### **9.4 SCHEDULE OF VALUES**

A. Prior to Contractor's application for the first progress payment, Contractor must submit a detailed breakdown of its bid by scheduled Work items and/or activities, including coordination responsibilities and Project record document responsibilities. Where more than one subcontractor comprises the work of a work item or activity, the Schedule of Values must show a separate line item for each subcontract. Contractor must 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. The format and detail of the breakdown must be as directed by City to facilitate and clarify future progress payments to Contractor for direct work under the Contract Documents. This breakdown will be referred to as the "Schedule of Values."

B. Contractor's overhead, profit, insurance, cost of bonds 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), must be prorated through all activities so that the sum of all the Schedule of Values line items equals Contractor's total Contract sum.

C. 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, fair-market cost allocations for the Work items listed. Upon City's favorable review, City will accept this Schedule of Values for use. City will be the sole judge of fair-market cost allocations.

D. City will reject any attempt to increase the cost of early activities (i.e., "front loading") which will result in a complete reallocation of monies until such front loading is corrected. Repeated attempts at front loading may result in suspension or termination of the Work or refusal to process progress payments, until such time as the Schedule of Values is acceptable to City. The contractor will be paid for materials on hand and services rendered.

## **9.5 PAYMENTS AND MONTHLY ESTIMATES**

A. The City Engineer will, after the award of Contract, establish a monthly payment closure date. This date will serve to close each working month for which a monthly payment is payable during the life of the Contract. Contractor will, within five (5) days after the established monthly payment closure date each month in which work is being performed, make and deliver to the City two signed copies of monthly Contract payment applications stating the amount or percentage of work completed according to the Contract, as of the closure date established, estimated on the basis of the unit or lump-sum Contract prices. No allowance will be made for materials and equipment not incorporated into the work, unless approved by the City Engineer. City will independently verify Contractor's monthly payment application and create a monthly progress payment request. City's determinations of the amounts or percentages of work completed are final.

B. Except as otherwise provided in a labor compliance program applicable to the Work or as otherwise required by City, concurrently with each application for payment, Contractor shall submit to City Contractor's and its subcontractors' certified payroll records required to be maintained pursuant to Labor Code Section 1776 for all labor performed during the pay periods ending in the period covered by the application for payment

C. City will prepare a warrant in an amount sufficient with all previous payments to make the aggregate ninety-five percent (95%) of the amount earned as certified, provided, however, that City, at any time after fifty percent (50%) of the Work has been completed may make any of the remaining partial payments in full, less authorized deductions, if it finds that satisfactory progress is being made.

D. The partial payments made as the work progresses will be payments on account and will in no way be considered as an acceptance of any part of the Work or materials, nor will they govern the final estimate. Extra Work will be paid for as specified in Section 4.6. Payments for unit price items will be made upon the basis of the unit prices proposal and the quantities of work done, calculated as hereinafter specified, for each particular item of work. However, where several types of work are included in a unit price item, City will make partial payment for the portions of such work as are completed at the time of making the monthly estimates. City will pay all monies due to Contractor under the Contract on demand, prepared and approved as required by law. It is further

understood that any delay in the preparation, approval and payment of these demands will not constitute a breach of Contract on the part of City.

E. Payments for lump sum items will be based upon the lump-sum proposal and City's estimate as to the percentage of completion.

## **9.6 PAYMENT FOR STORED MATERIALS OFF SITE**

A. Contractor to submit a request in writing for such payment. Upon approval by the City Engineer, the Contractor may invoice City for materials purchased in advance and not stored at the Project Location, if any. Payment of such invoice(s) by City is contingent upon the following conditions:

1. The invoice shall specifically identify the quantity, manufacturer and unique description of each of the materials stored off-site ("Listed Items");
2. Contractor shall certify that the Listed Items are in accordance with the Contract;
3. Contractor shall provide proof that (a) title to the Listed Items has vested in Contractor and (b) the Listed Items are insured while stored or in transit until delivered to the Project Location;
4. Contractor shall include an anticipated schedule for delivery of the Listed Items to the Project Location;
5. Listed Items must be clearly and visibly marked as belonging to Contractor and/or City, as applicable and segregated from other materials; and
6. City shall be entitled to inspect the Listed Items at the off-site storage facility.

B. City will pre-pay one hundred percent (100%) of Contractor's Application for Payment for the materials delivered, less (5%) Retention as indicated in Section 9 of these Standard Specifications. Contractor shall protect stored materials from damage. Damaged materials, even though paid for, will not be incorporated into the Work and will be replaced at Contractor's expense.

## **9.7 PAYMENT FOR EXTRA WORK**

A. Payment for Extra Work will be made as provided by Section 4.6. Where payment is to be made on a force account basis, Contractor and the City's representative will compare records of Extra Work Contractor performed on a force account basis at the end of each day. City's representative will make copies of these records in duplicate and must be signed by both the inspector and Contractor's representative, one copy for Contractor and one copy for the City. Bills for Extra Work must be signed by Contractor and submitted to the City.

B. Each month, Contractor will include in the monthly payment application an estimate of the amount or cost of Extra Work performed as included in approved Contract change orders. Contractor will submit, at the same time it returns the signed monthly payment application, a complete itemized statement of claim for all costs of Extra Work performed. Failure to include such a statement or claim for Extra Work for the pay period, or failure to deliver a complete statement for Extra Work in excess of that estimated by the City Engineer, will constitute a waiver on the part of Contractor to any claim for payment for Extra Work not therein included.

C, Method of payment for Extra Work approved as specified in Section 4 under unit price or lump sum amounts or at stipulated prices must be the same as that for Contract items as set forth in this Section.

D. Payment for Extra Work by Contractor's force account must be made in the following manner: Upon verification by the Engineer of Contractor's statement for force-account work, a claim will be prepared upon the proper claims form for approval of the City Engineer and presentation to the City Manager or Assistant City Manager, for his/her approval and direction.

## **9.8 FINAL PAYMENT**

A. Upon Contractor's completion and City's acceptance of the Work, and at least thirty-five (35) days after the date of recordation of the Notice of Completion, the City Engineer will present Contractor's claim for the balance of the total Contract price, less any sums which may lawfully be retained under the Contract.

B. Unless qualified by Contractor under the procedure established in Section 9.5 hereof, the final progress payment request of the City Engineer shall be taken as conclusive evidence of the amount of work done under the Contract. If Contractor qualified its acceptance of the final progress payment and the parties fail to agree prior to the termination of the thirty-five- (35-) day period after recordation of Notice of Completion, the final payment shall not be delayed and shall be made in accordance with the City Engineer's determination, subject to further claim of Contractor and compliance by City with any applicable court order.

## SECTION 10

### CLAIMS BY CONTRACTOR

#### 10.1 OBLIGATION TO FILE CLAIMS FOR DISPUTED WORK

A. Should it appear to Contractor that (1) the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, (2) should any questions arise as to the meaning or intent of the Contract Documents, or (3) should any dispute arise regarding the true value of any work performed, work omitted, or Extra Work that Contractor may be required to perform, time extensions, payments to Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or (4) should Contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER, then Contractor shall first follow all other procedures set forth in the Contract Documents and Standard Specifications. If a dispute remains, then Contractor shall give written notice to City that expressly invokes this Section 10. City shall decide the issue in writing within fifteen (15) 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 ("Claim").

B. Contractor shall present as its Claims all subcontractor, sub-subcontractor and supplier claims of any type, and prove them under the terms of the Contract Documents. City shall not be directly liable to any subcontractor, supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages or extra costs of any type arising out of or resulting from the Project.

#### 10.2 FORM AND CONTENTS OF CLAIM

A. Contractor's written Claim shall be submitted via registered mail or certified mail with return receipt requested, identify itself as a "Claim" under this Section 10, and include the following: (i) a narrative of pertinent events; (ii) citation to contract provisions; (iii) theory of entitlement; (iv) complete pricing of all cost impacts; (v) a time impact analysis of all time delays that shows actual time impact on the critical path; (vi) reasonable documentation supporting items (i) through (v); and (vii) 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, shall be priced like a change order, and must be updated monthly as to cost and entitlement if it is 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.

B. Upon receipt of a Claim, City shall conduct a reasonable review of the Claim. Within forty-five (45) days, or such extended period as City and Contractor may agree, City shall provide Contractor with a written statement identifying what portion of the Claim is disputed and what portion is undisputed.

C. If City's governing body must approve City's response to the Claim and the governing body has not met within the forty-five- (45-) day (or extended) period, then City shall provide its written statement within three (3) days of the governing body's meeting.

D. City shall pay the undisputed portions of the Claim within sixty (60) days of the issuance of a written statement identifying an undisputed portion.

E. Claims must be submitted on or before the day of final payment. Claims not submitted before final payment are deemed waived.

F. 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.

### **10.3 INFORMAL CONFERENCE AFTER CLAIM SUBMISSION**

A. If Contractor disputes City's response to its Claim, including a failure to respond, it may submit via registered mail or certified mail, return receipt requested, a written demand for an informal conference to meet and confer for settlement of the issues in dispute. City shall schedule such a meet-and-confer conference within thirty (30) days for settlement of the dispute.

B. Within ten (10) days of the meet-and-confer conference, City shall provide Contractor with a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed.

C. City shall pay the undisputed portions of the Claim within sixty (60) days of the issuance of a written statement identifying an undisputed portion.

### **10.4 MEDIATION**

A. If the Contractor disputes City's statement provided under Paragraph 10.3(B), it shall lodge with the City Clerk a written objection to the City's written statement within three (3) days of the date on the City's statement of dispute. The parties shall then mutually agree to a mediator within ten (10) business days of the date of the City's written statement. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

B. Mediation shall be confidential and non-binding. Unless otherwise agreed, by the parties or as provided in this Paragraph 10.4, the mediation shall be pursuant to the construction mediation procedures of JAMS and held at the JAMS office closest to the Project site.

C. The cost of mediation shall be equally shared by all parties to the mediation. The parties shall, prior to the commencement of mediation upon notice of the other party, exchange relevant, non-privileged Project documents in compliance with Code of Civil Procedure Sections 2031.010, *et seq.* The parties may agree mutually to engage in additional discovery prior to mediation. Should the parties proceed with additional discovery, they shall, unless mutually agreed otherwise, comply with Code of Civil Procedure Sections 2019.010, *et. seq.* The mediator(s) will undertake to resolve any discovery disputes relating to the mediation.

D. For Claims under three hundred seventy-five thousand dollars (\$375,000), unless the parties agree otherwise in writing, mediation pursuant to this Paragraph 10.4 shall excuse the mediation obligation under Public Contract Code Section 20104.4(a).

E. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be resolved as otherwise provided by the Contract and applicable law.

F. Following receipt of a Claim, the parties may mutually agree, in writing, to waive the mediation requirements of this Paragraph 10.4 and proceed to the commencement of a civil action.

G. All statutes of limitation shall be tolled from the date of the demand for mediation until a date two (2) weeks following the mediation's conclusion.

## **10.5 OTHER MATTERS**

A. The provisions of this Section 10 constitute a non-judicial claim settlement procedure that, pursuant to Government Code Section 930.2, shall constitute a condition precedent to submission of a valid Government Code claim. Contractor shall bear all costs incurred in the preparation, submission and administration of a claim. Any Government Code claims presented must affirmatively indicate Contractor's prior compliance with the claims procedure herein and the previous dispositions under Paragraphs 10.3 and 10.4 above of the claims asserted. No suit may be brought against City arising out of or in connection with the Project unless and until Contractor presents to City a statutory Government Code claim, in accordance with Government Code Sections 910, *et seq.* Pursuant to Government Code Section 930.2, the one- (1-) year period in Government Code Section 911.2 shall be reduced to one hundred and fifty (150) 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 this Section 10 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 Section 10 may not be asserted in any subsequent litigation, Government Code claim, or legal action.

C. Contractor shall submit subcontractor claims in the same manner as other Claims. In the event a subcontractor (on behalf of the subcontractor or a lower-tier subcontractor) requests in writing that Contractor present a Claim to the City and furnishes reasonable documentation supporting the Claim, Contractor shall, within forty-five (45) days of receipt of the written request, notify the subcontractor in writing as to whether the Contractor presented the claim to City and, if the Contractor did not present the Claim, provide the subcontractor with a statement of the reasons for not doing so.

D. All waivers or modifications of this Section 10 may only be made in a writing signed by City and Contractor and approved as to form by legal counsel for both; oral or implied modifications shall be ineffective.

E. Any failure by City to respond within any time frame contained in Paragraphs 10.2 through 10.5 of this Section shall result in the Claim being deemed rejected in its entirety. No failure to meet a time requirement shall constitute an adverse finding with regards to the merits of the Claim or the responsibility or qualifications of the Contractor.

## **10.6 COMPLIANCE WITH STATUTORY PROCEDURES**

The foregoing provisions of Paragraphs 10.2 through 10.5 are intended to comply with Public Contract Code Section 9204 and, to the extent applicable, Public Contract Code Section 20104, *et seq.* In the event of any conflict between these provisions and the Public Contract Code, the applicable Public Contract Code provision will apply.

## **PART 4 – TECHNICAL SPECIFICATIONS**

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## **PART 5 – DRAWINGS**

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