

CITY OF CARLSBAD

San Diego County

California

**CONTRACT DOCUMENTS, GENERAL
PROVISIONS AND CITY STANDARDS**

FOR

**Carlsbad Safety Center
Renovation Project**

**CONTRACT NO. 4715
PWS21-_____**



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CITY OF CARLSBAD, CALIFORNIA

NOTICE INVITING BIDS

Until 5 p.m. on September 8, 2021, the City shall accept bids via electronic format via the City of Carlsbad Electronic Bidding Site, PlanetBids, which may be accessed at <https://www.carlsbadca.gov/services/depts/finance/contracting/default.asp>, for performing the work as follows:

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715 BID NO. PWS21-_____

ELECTRONIC FORMAT RECEIPT AND OPENING OF BIDS: Bids will be received in electronic format (eBids) EXCLUSIVELY at the City of Carlsbad's electronic bidding (eBidding) site, at: <https://www.carlsbadca.gov/services/depts/finance/contracting/default.asp> and are due by the date and time shown on the cover of this solicitation.

BIDDERS MUST BE PRE-REGISTERED with the City's bidding system and possess a system-assigned Digital ID in order to submit an electronic bid.

The City's electronic bidding (eBidding) system will automatically track information submitted to the site including IP addresses, browsers being used and the URLs from which information was submitted. In addition, the City's bidding system will keep a history of every login instance including the time of login, and other information about the user's computer configuration such as the operating system, browser type, version, and more. Because of these security features, Bidders who disable their browsers' cookies will not be able to log in and use the City's bidding system.

The City's electronic bidding system is responsible for bid tabulations. Upon the bidder's or proposer's entry of their bid, the system will ensure that all required fields are entered. The system will not accept a bid for which any required information is missing. This includes all necessary pricing, subcontractor listing(s) and any other essential documentation and supporting materials and forms requested or contained in these solicitation documents.

BIDS REMAIN SEALED UNTIL DUE DATE AND TIME.

eBids are transmitted into the City's bidding system via hypertext transfer protocol secure (https) mechanism using SSL 128-256-bit security certificates issued from Verisign/Thawte which encrypts data being transferred from client to server. Bids submitted prior to the Due Date and Time are not available for review by anyone other than the submitter, who will have until the Due Date and Time to change, rescind or retrieve its bid should they desire to do so.

BIDS MUST BE SUBMITTED BY DUE DATE AND TIME.

Once the deadline is reached, no further submissions are accepted into the system. Once the Due Date and Time has passed, bidders, proposers, the general public, and City staff are able to immediately see the results online. City staff may then begin reviewing the submissions for responsiveness, compliance and other issues.

RECAPITULATION OF THE WORK.

Bids shall not contain any recapitulation of the Work. Conditional Bids may be rejected as being non-responsive. Alternative proposals will not be considered unless called for.

BIDS MAY BE WITHDRAWN by the Bidder prior to, but not after time set as Due Date and Time.



Important Note: Submission of the electronic bid into the system may not be instantaneous. Due to the speed and capabilities of the user's internet service provider (ISP), bandwidth, computer hardware and other variables, it may take time for the bidder's submission to upload and be received by the City's eBidding system. It is the bidder's sole responsibility to ensure their bids are received on time by the City's eBidding system. The City of Carlsbad is not responsible for bids that do not arrive by the Due Date and Time.

ELECTRONIC SUBMISSIONS CARRY FULL FORCE AND EFFECT.

The Bidder, by submitting their electronic proposal, agrees to and certifies under penalty of perjury under the laws of the State of California, that the certification, forms and affidavits submitted as part of this proposal are true and correct. The bidder, by submitting its electronic bid, acknowledges that doing so carries the same force and full legal effect as a paper submission with a longhand (wet) signature. By submitting an electronic bid, the bidder certifies that the bidder has thoroughly examined and understands the entire Contract Documents (which consist of the plans and specifications, drawings, forms, affidavits and the solicitation documents), and that by submitting the eBid as its bid proposal, the bidder acknowledges, agrees to and is bound by the entire Contract Documents, including any addenda issued thereto, and incorporated by reference in the Contract Documents.

BIDS ARE PUBLIC RECORDS

Upon receipt by the City, bids shall become public records subject to public disclosure. It is the responsibility of the Bidder to clearly identify any confidential, proprietary, trade secret or otherwise legally privileged information contained within the proposal's General references to sections of the California Public Records Act (PRA) will not suffice. If the Bidder does not provide applicable case law that clearly establishes that the requested information is exempt from the disclosure requirements of the PRA, the City shall be free to release the information when required in accordance with the PRA, pursuant to any other applicable law, or by order of any court or government agency, and the Bidder agrees to hold the City harmless for any such release of this information.

This bid and the terms of the Contract Documents and Supplemental Provisions constitute an irrevocable offer that shall remain valid and in full force for a period of 90 days and such additional time as may be mutually agreed upon by the City of Carlsbad and the Bidder.

INSTRUCTIONS TO BIDDERS AND BID REQUIREMENTS

This bid and the terms of the Contract Documents and General Provisions constitute an irrevocable offer that shall remain valid and in full force for a period of 90 days and such additional time as may be mutually agreed upon by the City of Carlsbad and the Bidder.

No bid will be received unless it is made on a proposal form furnished by the Purchasing Department. Each bid must be accompanied by security in a form and amount required by law. The bidder's security of the second and third next lowest responsive bidders may be withheld until the Contract has been fully executed. The security submitted by all other unsuccessful bidders shall be returned to them, or deemed void, within ten (10) days after the Contract is awarded. Pursuant to the provisions of law (Public Contract Code section 10263), appropriate securities may be substituted for any obligation required by this notice or for any monies withheld by the City to ensure performance under this Contract. Section 10263 of the Public Contract Code requires monies or securities to be deposited with the City or a state or federally chartered bank in California as the escrow agent. The escrow agent shall maintain insurance to cover negligent acts and omissions of the agent in connection with the handling of retentions under this section in an amount not less than \$100,000 per contract.

The City of Carlsbad may disqualify a contractor or subcontractor from participating in bidding when a contractor or subcontractor has been debarred by the City of Carlsbad or another jurisdiction in the State of California as an irresponsible bidder.



GENERAL SCOPE OF WORK

Carlsbad Safety Center is located at 2560 Orion Way, Carlsbad CA 92010. The City desires to renovate the Safety Center per the plans and specifications for the work as indicated in the Bid Documents.

The work shall be performed in strict conformance with the plans, provisions, and specifications as approved by the City Council of the City of Carlsbad on file with the City Clerk's Office. The specifications for the work include the Specifications for Construction dated April 14, 2021, volumes 1 and 2, and titled City of Carlsbad Safety Center Renovation. Specification Reference is hereby made to the plans and specifications for full particulars and description of the work.

To optimize document management during the project, the contractor shall use Submittal Exchange software (www.submittalexchange.com) to submit, track, distribute and collaborate on project documentation / action items. Contractor to obtain software and necessary licenses for own staff and up to seven (7) city staff/consultant team members to access project information for collaborative purposes. See **Attachment D**, Electronic Submittal Procedures – Submittal Exchange.

To optimize workflow and collaboration with all project stakeholders, the city recommends the use of pull planning and last planner to manage the project and including the city's third-party construction management firm and project manager to attend those meetings. See **Attachment E**, Pull Planning and Last Planner Procedures.

The City of Carlsbad encourages the participation of minority and women-owned businesses. The City of Carlsbad also encourages all bidders, suppliers, manufacturers, fabricators and contractors to utilize recycled and recyclable materials when available, appropriate and approved by the Engineer.

CRIMINAL BACKGROUND CHECK

Selected contractor will be required to submit employees' and subcontracted employee names, addresses, social security numbers, driver's licenses and dates of birth for all personnel conducting work inside the building. Information will be used by Carlsbad Police Department to conduct a criminal background check. Any employees/subcontracted personnel that do not pass the criminal background check will not be allowed on site." See **Attachment A**.

BID DOCUMENTS

The bid documents comprise the following documents which must be completed and properly executed including notarization, where indicated.

1. Contractor's Proposal
2. Project Drawings, dated September 11, 2020, volumes 1 and 2, and titled Carlsbad Safety Center Renovation Project
3. Project Drawings, dated April 14, 2021, volumes 1 and 2, and titled Carlsbad Safety Center / EOC Wing Renovation
4. Specifications for Construction dated April 14, 2021, volumes 1 and 2, and titled City of Carlsbad Safety Center Renovation Project, Construction Change 01
5. Bidder's Bond (At Time of Bid Submit PDF Copy via PlanetBids / All Bidders). Bid Bond (Original) Due within Two Business Days After Bid Opening/ 3 Apparent Low Bidders.
6. Non-collusion Declaration
7. Designation of Subcontractor and Amount of Subcontractor's Bid
8. Bidder's Statement of Technical Ability and Experience
9. Acknowledgement of Addendum(a)
10. Certificate of Insurance. The riders covering the City, its officials, employees and volunteers may be omitted at the time of bid submittal but shall be provided by the Bidder prior to award of contract.
11. Bidder's Statement Re Debarment
12. Bidder's Disclosure of Discipline Record



13. Escrow Agreement for Security Deposits - (optional, must be completed if the Bidder wishes to use the Escrow Agreement for Security)

BIDDER'S GUARANTEE OF GOOD FAITH (BID SECURITY)

At the time of bid submission, bidders must upload and submit an electronic PDF copy of the aforementioned bid security. Whether in the form of a cashier's check, a properly certified check or an approved corporate surety bond payable to the City of Carlsbad, the bid security must be uploaded to the City's eBidding system. Within two (2) business days after the bid opening date, the first three (3) apparent low bidders must provide the City with the original bid security.

Failure to submit the electronic version of the bid security at time of bid submission shall cause the bid to be rejected and deemed **non-responsive**. Only the three (3) apparent low-bidders are required to submit original bid security to the city within two (2) business days after bid opening date. Failure to provide the original within two (2) business days may deem the bidder **non-responsive**.

Bidder's Bid Bond (Original) will only be accepted **via USPS, UPS or any other courier service during regular business hours**.

ENGINEER'S ESTIMATE

All bids will be compared on the basis of the Engineer's Estimate. The estimated quantities listed in the Contractor's Proposal are approximate and serve solely as a basis for the comparison of bids. The Engineer's Estimate is \$13,700,000.

TIME OF COMPLETION

The contractor shall complete the Work within the time set in the contract as defined in the General Provisions Section 6-7.

SPECIALTY CONTRACTORS: ACCEPTABLE LICENSE TYPES

Except as provided herein a bid submitted to the City by a Contractor who is not licensed as a contractor pursuant to the Business and Professions Code shall be considered nonresponsive and shall be rejected by the City. In all contracts where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with California law. Where federal funds are involved the contractor shall be properly licensed at the time the contract is awarded. In all other cases the contractor shall state their license number, expiration date and classification in the proposal, under penalty of perjury. This invitation to bid does not include federal funds. The following classifications are acceptable for this contract: B – General Building.

BIDDER'S STATEMENT OF TECHNICAL ABILITY AND EXPERIENCE

Contractor and his designated subcontractor(s) shall demonstrate, providing proof of their experience and technical ability for construction in the disciplines of construction required to complete this project.

Proof of the Contractor's technical ability and experience (as outlined below) shall be attached to The Bidder's Statement of Technical Ability and Experience to be included with the Contractor's bid. The statement and listing of information shall include but not be limited to the successful construction of a minimum of the following:

The City will only consider Contractors that demonstrate they have the experience and ability to manage, construct, and staff the project.

1. Submit no more than three projects fully completed by the Contractor within the last 10 years that are comparable in size, scope, complexity, building, type, technically sound and aesthetically distinctive projects constructed for public owner or institutional clients. The City will not give additional consideration for submitting more than three projects. Projects presented for



consideration must be attached to the Bidders Statement of Technical Ability and Experience form.

2. The lead personnel including superintendent, the foreman, and lead crew personnel for the Contractor and designated subcontractors must have a minimum of three (3) years of total experience and must have demonstrated competency and experience to perform the scope of work contained in this contract. Please provide the name and experience of each lead individual performing work on this contract. Please attach responses to the Bidders Statement of Technical Ability and Experience. Personnel replaced by the Contractor, on this contract, shall have similar, verifiable experience as the personnel originally submitted for the project.

ESCROW AGREEMENT

If the Contractor intends to utilize the escrow agreement included in the contract documents in lieu of the usual 5% retention from each payment, these documents must be completed and submitted with the signed contract. The escrow agreement may not be substituted at a later date.

OBTAINING PLANS AND SPECIFICATIONS

Bid packages, various supplemental provisions and Contract Documents may be obtained on the City of Carlsbad website at www.carlsbadca.gov. Paper copies will not be sold.

INTENT OF PLANS AND SPECIFICATIONS

Any prospective bidder who is in doubt as to the intended meaning of any part of the drawings, specifications or other contract documents, or finds discrepancies in or omissions from the drawings and specifications may submit to the Engineer a written request for clarification or correction. Any response will be made only by a written addendum duly issued by the Engineer a copy of which will be mailed or delivered to each person receiving a set of the contract documents. No oral response will be made to such inquiry. **Prior to the award of the contract, no addition to, modification of or interpretation of any provision in the contract documents will be given by any agent, employee or contractor of the City of Carlsbad except as hereinbefore specified. No bidder may rely on directions given by any agent, employee or contractor of the City except as hereinbefore specified.**

REJECTION OF BIDS

The City of Carlsbad reserves the right to reject any or all bids and to waive any minor irregularity or informality in such bids.

PREVAILING WAGE TO BE PAID

The general prevailing rate of wages for each craft or type of worker needed to execute the Contract shall be those as determined by the Director of Industrial Relations pursuant to the sections 1770, 1773, and 1773.1 of the Labor Code. Pursuant to section 1773.2 of the Labor Code, a current copy of applicable wage rates is on file in the Office of the City Engineer. The Contractor to whom the Contract is awarded shall not pay less than the said specified prevailing rates of wages to all workers employed by him or her in the execution of the Contract.

The Prime Contractor shall be responsible for insuring compliance with provisions of section 1777.5 of the Labor Code and section 4100 et seq. of the Public Contracts Code, "Subletting and Subcontracting Fair Practices Act." The City Engineer is the City's "duly authorized officer" for the purposes of section 4107 and 4107.5.

The provisions of Part 7, Chapter 1, of the Labor Code commencing with section 1720 shall apply to the Contract for work.



A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Prime Contractor and all subcontractors shall comply with Section 1776 of the Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require all subcontractors to comply with Section 1776.

MANDATORY PRE BID MEETING

A mandatory pre-bid meeting and tour of the project site will be held at Carlsbad Safety Center, 2560 Orion Way, Carlsbad, CA 92010 on **August 11, 2021 at 10:00AM**.

UNIT PRICES AND COMPUTATION OF BIDS

All bids are to be computed on the basis of the given categories and/or units of work, as indicated in the Contractor's Proposal, times the unit price (if applicable) as submitted by the bidder. In case of a discrepancy between words and figures, the words shall prevail. In case of an error in the extension of a unit price, the corrected extension shall be calculated and the bids will be computed as indicated above and compared on the basis of the corrected totals. All bids are to be complete work including all fees, equipment, labor and materials associated with carrying out the work in accordance with plans and specifications.

All prices must be in ink or typewritten. Changes or corrections may be crossed out and typed or written in with ink and must be initialed in ink by a person authorized to sign for the Contractor.

BIDDER'S INQUIRIES

Questions on the bid documents during the bid period shall be submitted in writing via email to:

Janean Hawney, Contract Administrator

Janean.Hawney@carlsbadca.gov

Questions shall be definite and certain and shall reference applicable drawing sheets, notes, details or specification sheets.

Pre-bid substitution requests shall be submitted to Contract Administrator in accordance with the Instructions to Bidders and Technical Specifications Section 002600 a minimum of 14 calendar days prior to bid opening (by August 25, 2021).

The cutoff date and time to submit questions regarding this project is **August 25, 2021, at 5:00 p.m.** No questions will be entertained after that date.

The answers to questions submitted during the bidding period will be published in an addendum and provided to those bidding on the project by September 1, 2021.

ADDENDA

Bidders are advised to verify the issuance of all addenda and receipt thereof one day prior to bidding. Submission of bids without acknowledgment of addenda may be cause of rejection of bid.

BOND AND INSURANCE REQUIREMENTS

The Contractor shall provide bonds to secure faithful performance and warranty of the work in an amount equal to one hundred percent (100%) of the Contract price on this project. The Contractor shall provide bonds to secure payment of laborers and materials suppliers, in an amount equal to one hundred percent (100%) of the total amount payable by the terms of the contract. These bonds shall



be kept in full force and effect during the course of this project and shall extend in full force and effect and be retained by the City until they are released as stated in the General Provisions section of this contract. All bonds are to be placed with a surety insurance carrier admitted and authorized to transact the business of insurance in California and whose assets exceed their liabilities in an amount equal to or in excess of the amount of the bond. The bonds are to be accompanied by the following documents:

- 1) An original, or a certified copy, of the unrevoked appointment, power of attorney, by laws, or other instrument entitling or authorizing the person who executed the bond to do so.
- 2) A certified copy of the certificate of authority of the insurer issued by the insurance commissioner.

If the bid is accepted, the City may require copies of the insurer's most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, within 10 calendar days of the insurer's receipt of a request to submit the statements.

Insurance is to be placed with insurers that:

- 1) Have a rating in the most recent Best's Key Rating Guide of at least A-:VII
- 2) Are admitted and authorized to transact the business of insurance in the State of California by the Insurance Commissioner.

Auto policies offered to meet the specification of this contract must:

- 1) Meet the conditions stated above for all insurance companies.
- 2) Cover any vehicle used in the performance of the contract, used onsite or offsite, whether owned, non-owned or hired, and whether scheduled or non-scheduled.

Workers' compensation insurance required under this contract must be offered by a company meeting the above standards with the exception that the Best's rating condition is waived. The City does accept policies issued by the State Compensation Fund meeting the requirement for workers' compensation insurance.

The Contractor shall be required to maintain insurance as specified in the Contract. Any additional cost of said insurance shall be included in the bid price.

The award of the contract by the City Council is contingent upon the Contractor submitting the required bonds and insurance, as described in the contract, within twenty days of bid opening. If the Contractor fails to comply with these requirements, the City may award the contract to the second or third lowest bidder and the bid security of the lowest bidder may be forfeited.

BUSINESS LICENSE

The prime contractor and all subcontractors are required to have and maintain a valid City of Carlsbad Business License for the duration of the contract.

Approved by the City Council of the City of Carlsbad, California, by **Resolution No. 2021-**_____, adopted on the ____27th____ day of July, 2021.

Date

Janean Hawney
Deputy Clerk



<u>Item No.</u>	<u>Description</u>	<u>Approximate Quantity and/or Unit</u>	<u>Unit Price (Figures)</u>	<u>Total Amount (Figures)</u>
A-4	Division 01; All other requirements <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-5	Division 03; Concrete <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-6	Division 04; Masonry <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-7	Division 05; Metals <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-8	Division 06; Wood, Plastics and composites <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-9	Division 07; Thermal and Moisture Protection <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-10	Division 08; Openings <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-11	Division 09; Finishes <u>(Price in Words)</u>	LS	\$ _____	\$ _____
A-12	Division 10; Furnishings <u>(Price in Words)</u>	LS	\$ _____	\$ _____



<u>Item No.</u>	<u>Description</u>	<u>Approximate Quantity and/or Unit</u>	<u>Unit Price (Figures)</u>	<u>Total Amount (Figures)</u>
A-22	Demobilization / Site Restoration	LS	\$ _____	\$ _____

	(Price in Words)			

ADD ALTERNATE SCHEDULE OF VALUES "B"

<u>Item No.</u>	<u>Description</u>	<u>Approximate Quantity and/or Unit</u>	<u>Unit Price (Figures)</u>	<u>Total Amount (Figures)</u>
B-1	In lieu of mechanically fastened board and 45 mil membrane roof, adhere ½ inch recover board on existing roof membrane set in low rise foam insulation adhesive, apply 60 mil fleece-backed membrane system per drawings	LS	\$ _____	\$ _____

	(Price in Words)			
B-2	Allowance for replacement of 300 square feet of wet roof insulation, plywood sheathing and framing should any be encountered	300 square feet	\$ _____	\$ _____

	(Price in Words)			
B-3	Allowance for 1,500 square feet of spline ceiling system and framing to be replaced with new acoustical ceiling tile and framing system approved for installation elsewhere per drawings	1,500 square feet	\$ _____	\$ _____

	(Price in Words)			

Total amount of bid in words for Schedule "A" Items No. 1-22: _____

Total amount of bid in numbers for Schedule "A" Items No. 1-22: _____



Total amount of bid in words for Schedule "B" Item No. 1-3: _____

Total amount of bid in numbers for Schedule "B" Item No. 1-3: _____

The City shall determine the low bid based on the calculated sum of the line Items in Schedules "A" and "B" above. Depending on total value, bid award may be based on either the Schedule "A" total, or the sum of Schedule "A" and Schedule "B". Price(s) given above are firm for 90 days after date of bid opening. Addendum(a) No(s). _____ has/have been received and is/are included in this bid.

The Undersigned has carefully checked all of the above figures and understands that the City will not be responsible for any error or omission on the part of the Undersigned in preparing this bid.

The Undersigned agrees that in case of default in executing the required Contract with necessary bonds and insurance policies within twenty (20) days from the date of award of Contract by the City Council of the City of Carlsbad, the City may administratively authorize award of the contract to the second or third lowest bidder and the bid security of the lowest bidder may be forfeited.

The Undersigned bidder declares, under penalty of perjury, that the undersigned is licensed to do business or act in the capacity of a contractor within the State of California, validly licensed under license number _____, classification _____ which expires on _____, and Department of Industrial Relations PWC registration number _____ which expires on _____, and that this statement is true and correct and has the legal effect of an affidavit.

A bid submitted to the City by a Contractor who is not licensed as a contractor pursuant to the Business and Professions Code shall be considered nonresponsive and shall be rejected by the City § 7028.15(e). In all contracts where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with California law. However, at the time the contract is awarded, the contractor shall be properly licensed.

The Undersigned bidder hereby represents as follows:

1. That no Council member, officer agent, or employee of the City of Carlsbad is personally interested, directly or indirectly, in this Contract, or the compensation to be paid hereunder; that no representation, oral or in writing, of the City Council, its officers, agents, or employees has inducted him/her to enter into this Contract, excepting only those contained in this form of Contract and the papers made a part hereof by its terms; and
2. That this bid is made without connection with any person, firm, or corporation making a bid for the same work, and is in all respects fair and without collusion or fraud.

Accompanying this proposal is _____ (Cash, Certified Check, Bond or Cashier's Check) for ten percent (10%) of the amount bid.

The Undersigned is aware of the provisions of section 3700 of the Labor Code 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 agrees to comply with such provisions before commencing the performance of the work of this Contract and continue to comply until the contract is complete. The Undersigned is aware of the provisions of the Labor Code, Part 7, Chapter 1, Article 2,



relative to the general prevailing rate of wages for each craft or type of worker needed to execute the Contract and agrees to comply with its provisions.

IF A SOLE OWNER OR SOLE CONTRACTOR SIGN HERE:

- (1) Name under which business is conducted _____
- (2) Signature (given and surname) of proprietor _____
- (3) Place of Business _____
(Street and Number)
City and State _____
- (4) Zip Code _____ Telephone No. _____
- (5) E-Mail _____

IF A PARTNERSHIP, SIGN HERE:

- (1) Name under which business is conducted _____
- (2) Signature (given and surname and character of partner) (Note: Signature must be made by a general partner)

- (3) Place of Business _____
(Street and Number)
City and State _____
- (4) Zip Code _____ Telephone No. _____
- (5) E-Mail _____



IF A CORPORATION, SIGN HERE:

(1) Name under which business is conducted _____

(2) _____

(Signature)

(Title)

Impress Corporate Seal here

(3) Incorporated under the laws of the State of _____

(4) Place of Business _____

(Street and Number)

City and State _____

(5) Zip Code _____ Telephone No. _____

(6) E-Mail _____

NOTARIAL ACKNOWLEDGMENT OF EXECUTION BY ALL SIGNATORIES MUST BE ATTACHED

List below names of president, vice president, secretary and assistant secretary, if a corporation; if a partnership, list names of all general partners, and managing partners:



BID SECURITY FORM

(Check to Accompany Bid)

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

(NOTE: The following form shall be used if check accompanies bid.)

Accompanying this proposal is a *Certified *Cashier's check payable to the order of CITY OF CARLSBAD, in the sum of _____

_____ dollars (\$_____), this amount being ten percent (10%) of the total amount of the bid. The proceeds of this check shall become the property of the City provided this proposal shall be accepted by the City through action of its legally constituted contracting authorities and the undersigned shall fail to execute a contract and furnish the required Performance, Warranty and Payment Bonds and proof of insurance coverage within the stipulated time; otherwise, the check shall be returned to the undersigned. The proceeds of this check shall also become the property of the City if the undersigned shall withdraw his or her bid within the period of fifteen (15) days after the date set for the opening thereof, unless otherwise required by law, and notwithstanding the award of the contract to another bidder.

BIDDER

*Delete the inapplicable word.

(NOTE: If the Bidder desires to use a bond instead of check, the Bid Bond form on the following pages shall be executed--the sum of this bond shall be not less than ten percent (10%) of the total amount of the bid.)



BIDDER'S BOND TO ACCOMPANY PROPOSAL

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____, as Principal, and _____, as Surety are held and firmly bound unto the City of Carlsbad, California, in an amount as follows: (must be at least ten percent (10%) of the bid amount) _____ for which payment, well and truly made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH that if the proposal of the above-bounden Principal for:

CARLSBAD SAFETY CENTER RENOVATION PROJECT Contract No. 4715

in the City of Carlsbad, is accepted by the City Council, and if the Principal shall duly enter into and execute a Contract including required bonds and insurance policies within twenty (20) days from the date of award of Contract by the City Council of the City of Carlsbad, being duly notified of said award, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect, and the amount specified herein shall be forfeited to the said City.

In the event Principal executed this bond as an individual, it is agreed that the death of Principal shall not exonerate the Surety from its obligations under this bond.

SIGNED AND SEALED, this _____ day of _____, 20____

_____(SEAL) _____(SEAL)
(Principal) (Surety)

By: _____
(Signature)

(Print Name/Title)

By: _____
(Signature)

(Print Name/Title)

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY – ATTACH ATTORNEY-IN-FACT CERTIFICATE)

APPROVED AS TO FORM:

CELIA A. BREWER
City Attorney

By: _____
Assistant City Attorney



GUIDE FOR COMPLETING THE “DESIGNATION OF SUBCONTRACTORS” FORM

REFERENCES Prior to preparation of the following “Subcontractor Disclosure Form” Bidders are urged to review the definitions in section 1-2 of the General Provisions to this Contract, especially, “Bid”, “Bidder”, “Contract”, “Contractor”, “Contract Price”, “Contract Unit Price”, “Engineer”, “Own Organization”, “Subcontractor”, and “Work”. Bidders are further urged to review sections 2-3 SUBCONTRACTS of the General Provisions.

CAUTIONS This form will be used by the Agency to determine the percentage of work that the Bidder proposes to perform. Bidders are cautioned that failure to provide complete and correct information may result in rejection of the bid as non-responsive. Any bid that proposes performance of more than 20 percent of the work by subcontractors or otherwise to be performed by forces other than the Bidder’s own organization will be rejected as non-responsive. Specialty items of work that may be so designated by the Engineer on the “Contractor’s Proposal” are not included in computing the percentage of work proposed to be performed by the Bidder.

INSTRUCTIONS The Bidder shall set forth the name and location of business of each and every subcontractor whom the Bidder proposes to perform work or labor or render service in or about the work or improvement, and every subcontractor licensed as a contractor by the State of California whom the Bidder proposes to specially fabricate and install any portion of the work or improvement according to detailed drawings contained in the plans and specifications in excess of one-half of one percent (0.5%) of the Bidder’s total bid or, in the case of bids or offers for the construction of streets and highways, including bridges, in excess of one-half of one percent (0.5%) or ten thousand dollars (\$10,000) whichever is greater. Said name(s) and location(s) of business of subcontractor(s) shall be set forth and included as an integral part of the bid offer.

The Designation of Subcontractors form must be submitted as a part of the Bidder’s sealed bid. Failure to provide complete and correct information may result in rejection of the bid as non-responsive.

Suppliers of materials from sources outside the limits of work are not subcontractors. The value of materials and transport of materials from sources outside the limits of work, as shown on the plans, shall be assigned to the Contractor or the Subcontractor as the case may be, that the Bidder proposes as installer of said materials. The value of material incorporated in any Subcontractor-installed bid item that is supplied by the Bidder shall be included as a part of the work that the Bidder proposes to be performed by the Subcontractor installing said item.

When a Subcontractor has a Carlsbad business license, the number must be entered on the proper form. If the Subcontractor does not have a valid business license, enter “NONE”.

When the Bidder proposes using a Subcontractor to construct or install less than 100 percent of a bid item, the Bidder shall attach an explanation sheet to the Designation of Subcontractor form. The explanation sheet shall clearly apprise the City of the specific facts that show the Bidder proposes to perform no less than twenty percent (20%) of the work with its own forces. Determination of the subcontract amounts for purposes of award of the contract shall be determined by the City Council in conformance with the provisions of the contract documents and the various supplemental provisions.

The decision of the City Council shall be final. Contractor is prohibited from performing any work on this project with a subcontractor who is ineligible to perform work on a public works project pursuant to Labor Code Sections 1771.1 or 1777.7. Bidders shall make any additional copies of the disclosure forms as may be necessary to provide the required information. The page number and total number of additional form pages shall be entered in the location provided on each type of form so duplicated.



(To Accompany Proposal)

The Bidder certifies that it has used the sub-bid of the following listed subcontractors in preparing this bid for the Work and that the listed subcontractors will be used to perform the portions of the Work as designated in this list in accordance with applicable provisions of the specifications and section 4100 et seq. of the Public Contract Code, "Subletting and Subcontracting Fair Practices Act." The Bidder further certifies that no additional subcontractor will be allowed to perform any portion of the Work in excess of one-half of one percent (0.5%) of the Bidder's total bid, or in the case of bids or offers for construction of streets and highways, including bridges, in excess of one-half of one percent (0.5%) or ten thousand dollars (\$10,000), whichever is greater, and that no changes in the subcontractors listed work will be made except upon the prior approval of the Agency.

SUBCONTRACTOR'S BID ITEMS

[illegible]

Page _____ of _____ pages of this Subcontractor Designation form

* Pursuant to section 4104 (a)(3)(A) California Public Contract Code, receipt of the information preceded by an asterisk may be submitted by the Bidder up to 24 hours after the deadline for submitting bids contained in the "Notice Inviting Bids."



BIDDER'S STATEMENT OF TECHNICAL ABILITY AND EXPERIENCE

(To Accompany Proposal)

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

The Bidder is required to state what work of a similar character to that included in the proposed Contract he/she has successfully performed and give references, with telephone numbers, which will enable the City to judge his/her responsibility, experience and skill. An attachment can be used.

Date Contract Completed	Name and Address of the Employer	Name and Phone No. of Person to Contract	Type of Work	Amount of Contract



BIDDER'S CERTIFICATE OF INSURANCE FOR GENERAL LIABILITY, EMPLOYERS' LIABILITY, AUTOMOTIVE LIABILITY AND WORKERS' COMPENSATION

(To Accompany Proposal)

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

As a required part of the Bidder's proposal the Bidder must attach either of the following to this page.

1) Certificates of insurance showing conformance with the requirements herein for each of:

- ☐ Comprehensive General Liability
- ☐ Automobile Liability
- ☐ Workers Compensation
- ☐ Employer's Liability

2) Statement with an insurance carrier's notarized signature stating that the carrier can, and upon payment of fees and/or premiums by the Bidder, will issue to the Bidder Policies of insurance for Comprehensive General Liability, Automobile Liability, Workers Compensation and Employer's Liability in conformance with the requirements herein and Certificates of insurance to the Agency showing conformance with the requirements herein.

All certificates of insurance and statements of willingness to issue insurance for auto policies offered to meet the specification of this contract must:

- 1) Meet the conditions stated in The Notice Inviting Bids and the General Provisions for this project for each insurance company that the Contractor proposes.
- 2) Cover any vehicle used in the performance of the contract, used onsite or offsite, whether owned, non-owned or hired, and whether scheduled or non-scheduled.



BIDDER'S STATEMENT RE DEBARMENT

(To Accompany Proposal)

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

- 1) Have you or any of your subcontractors ever been debarred as an irresponsible bidder by another jurisdiction in the State of California?

yes

no

- 2) If yes, what was/were the name(s) of the agency(ies) and what was/were the period(s) of debarment(s)? Attach additional copies of this page to accommodate more than two debarments.

party debarred

party debarred

agency

agency

period of debarment

period of debarment

BY CONTRACTOR:

(name of Contractor)

By: _____
(sign here)

(print name/title)

Page ____ of ____ pages of this Re Debarment form



BIDDER'S DISCLOSURE OF DISCIPLINE RECORD

(To Accompany Proposal)

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License board, P.O. Box 26000, Sacramento, California 95826.

- 1) Have you ever had your contractor's license suspended or revoked by the California Contractors' State license Board two or more times within an eight year period?

 yes

 no

- 2) Has the suspension or revocation of your contractor's license ever been stayed?

 yes

 no

- 3) Have any subcontractors that you propose to perform any portion of the Work ever had their contractor's license suspended or revoked by the California Contractors' State license Board two or more times within an eight year period?

 yes

 no

- 4) Has the suspension or revocation of the license of any subcontractor's that you propose to perform any portion of the Work ever been stayed?

 yes

 no

- 5) If the answer to either of 1. or 3. above is yes fully identify, in each and every case, the party disciplined, the date of and violation that the disciplinary action pertain to, describe the nature of the violation and the disciplinary action taken therefore.

(If needed attach additional sheets to provide full disclosure.)

Page _____ of _____ pages of this Disclosure of Discipline form



(To Accompany Proposal)

[illegible]

(name of Contractor)

(print name/title)

**NONCOLLUSION DECLARATION TO BE EXECUTED BY
BIDDER AND SUBMITTED WITH BID
PUBLIC CONTRACT CODE SECTION 7106**

**CARLSBAD SAFETY CENTER RENOVATION PROJECT
CONTRACT NO. 4715**

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

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 _____, 20____ at _____ [city], _____ [state].

Signature of Bidder



CONTRACT PUBLIC WORKS

This agreement is made this _____ day of _____, 2021, by and between the City of Carlsbad, California, a municipal corporation, (hereinafter called "City"), and _____ whose principal place of business is _____ (hereinafter called "Contractor").

City and Contractor agree as follows:

1. Description of Work. Contractor shall perform all work specified in the Contract documents for:

**CARLSBAD SAFETY CENTER RENOVATION PROJECT
CONTRACT NO. 4715**

(hereinafter called "project")

2. Provisions of Labor and Materials. Contractor shall provide all labor, materials, tools, equipment, and personnel to perform the work specified by the Contract Documents.

3. Contract Documents. The Contract Documents consist of this Contract, Notice Inviting Bids, Contractor's Proposal, Bidder's Bond, Non-collusion Declaration, Designation of Subcontractors, Technical Ability and Experience, Bidder's Statement Re Debarment, Escrow Agreement, Release Form, the Plans and Specifications, the General Provisions, addendum(s) to said Plans and Specifications and General Provisions, and all proper amendments and changes made thereto in accordance with this Contract or the Plans and Specifications, and all bonds for the project; all of which are incorporated herein by this reference.

Contractor, her/his subcontractors, and materials suppliers shall provide and install the work as indicated, specified, and implied by the Contract Documents. Any items of work not indicated or specified, but which are essential to the completion of the work, shall be provided at the Contractor's expense to fulfill the intent of said documents. In all instances through the life of the Contract, the City will be the interpreter of the intent of the Contract Documents, and the City's decision relative to said intent will be final and binding. Failure of the Contractor to apprise subcontractors and materials suppliers of this condition of the Contract will not relieve responsibility of compliance.

4. Payment. For all compensation for Contractor's performance of work under this Contract, City shall make payment to the Contractor per section 9-3 PAYMENT of the General Provisions section of this contract. The Engineer will close the estimate of work completed for progress payments on the last working day of each month. The City shall withhold retention as required by Public Contract Code Section 9203.

5. Independent Investigation. Contractor has made an independent investigation of the jobsite, the soil conditions at the jobsite, and all other conditions that might affect the progress of the work, and is aware of those conditions. The Contract price includes payment for all work that may be done by Contractor, whether anticipated or not, in order to overcome underground conditions. Any information that may have been furnished to Contractor by City about underground conditions or other job conditions is for Contractor's convenience only, and City does not warrant that the conditions are as thus indicated. Contractor is satisfied with all job conditions, including underground conditions and has not relied on information furnished by City.



6. Hazardous Waste or Other Unusual Conditions. If the contract involves digging trenches or other excavations that extend deeper than four feet below the surface Contractor shall promptly, and before the following conditions are disturbed, notify City, in writing, of any:

A. Hazardous Waste. Material that Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

B. Differing Conditions. Subsurface or latent physical conditions at the site differing from those indicated.

C. Unknown Physical Conditions. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in contractor's costs of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this contract.

In the event that a dispute arises between City and Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

7. Immigration Reform and Control Act. Contractor certifies it is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC sections 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Contract.

8. Prevailing Wage. Pursuant to the California Labor Code, the director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in accordance with California Labor Code, section 1773 and a copy of a schedule of said general prevailing wage rates is on file in the office of the City Engineer, and is incorporated by reference herein. Pursuant to California Labor Code, section 1775, Contractor shall pay prevailing wages. Contractor shall post copies of all applicable prevailing wages on the job site. Contractor shall comply with California Labor Code, section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require all subcontractors to comply with Section 1776.

9. Indemnification. Contractor shall assume the defense of, pay all expenses of defense, and indemnify and hold harmless the City, and its officers and employees, from all claims, loss, damage, injury and liability of every kind, nature and description, directly or indirectly arising from or in connection with the performance of the Contract or work; or from any failure or alleged failure of Contractor to comply with any applicable law, rules or regulations including those relating to safety and health; and from any and all claims, loss, damages, injury and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the Contract, except for loss or damage caused by the sole or active negligence or willful misconduct of the City. The expenses of defense include all costs and expenses including attorneys' fees for litigation, arbitration, or other dispute resolution method.



Contractor shall also defend and indemnify the City against any challenges to the award of the contract to Contractor, and Contractor will pay all costs, including defense costs for the City. Defense costs include the cost of separate counsel for City, if City requests separate counsel.

Contractor shall also defend and indemnify the City against any challenges to the award of the contract to Contractor, arising in whole or in part from alleged inaccuracies or misrepresentation by the Contractor, whether intentional or otherwise, and Contractor will pay all costs, including defense costs for the City. Defense costs include the cost of separate counsel for City, if City requests separate counsel.

10. Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his or her agents, representatives, employees or subcontractors. Said insurance shall meet the City's policy for insurance as stated in City Council Policy # 70.

(A) Coverages and Limits Contractor shall maintain the types of coverages and minimum limits indicated herein:

a. **Commercial General Liability (CGL) Insurance:** Insurance written on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b. **Business Automobile Liability Insurance:** \$2,000,000 combined single limit per accident for bodily injury and property damage. In addition, the auto policy must cover any vehicle used in the performance of the contract, used onsite or offsite, whether owned, non-owned or hired, and whether scheduled or non-scheduled.

c. **Workers' Compensation and Employers' Liability Insurance:** Workers' compensation limits as required by the Labor Code of the State of California and Employers' Liability limits of \$1,000,000 per incident. Workers' compensation offered by the State Compensation Insurance Fund is acceptable to the City.

(B) Additional Provisions: Contractor shall ensure that the policies of insurance required under this agreement with the exception of Workers' Compensation and Business Automobile Liability Insurance contain, or are endorsed to contain, the following provisions.

a. The City, its officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the contractor; premises owned, leased, hired or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers. All additional insured endorsements must be evidenced using separate documents attached to the certificate of insurance; one for each company affording general liability, and employers' liability coverage.



b. The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

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

d. Coverage shall state that the contractor's insurance shall 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.

(C) Notice Of Cancellation. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be nonrenewed, suspended, voided, canceled, or reduced in coverage or limits except after ten (10) days' prior written notice has been sent to the City by certified mail, return receipt requested.

(D) Deductibles and Self-Insured Retention (S.I.R.) Levels. Any deductibles or self-insured retention levels must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention levels as respects the City, its officials and employees; or the contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

(E) Waiver of Subrogation. All policies of insurance required under this agreement shall contain a waiver of all rights of subrogation the insurer may have or may acquire against the City or any of its officials or employees.

(F) Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. Coverages for subcontractors shall be subject to all of the requirements stated herein.

(G) Acceptability of Insurers. Insurance is to be placed with insurers that have a rating in Best's Key Rating Guide of at least A-:VII. Insurers must also be authorized to transact the business of insurance by the State of California Insurance Commissioner as admitted carriers as evidenced by a listing in the official publication of the Department of Insurance of the State of California and/or under the standards specified by City Council Policy # 70.

(H) Verification of Coverage. Contractor shall furnish the City with certificates of insurance and 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 in forms approved by the City and are to be received and approved by the City before the Contract is executed by the City.

(I) Cost of Insurance. The Cost of all insurance required under this agreement shall be included in the Contractor's bid.

11. Claims and Lawsuits. All claims by Contractor shall be resolved in accordance with Public Contract Code section 9204, which is incorporated by reference. A copy of Section 9204 is included in Section 3 of the General Provisions. In addition, all claims by Contractor for \$375,000 or less shall be resolved in accordance with the provisions in the Public Contract Code, Division 2, Part 3, Chapter 1, Article 1.5 (commencing with section 20104) which are incorporated by reference. A copy of Article 1.5 is included in Section 3 of the General Provisions. In the event of a conflict between Section 9204 and Article 1.5, Section 9204 shall apply. Notwithstanding the provisions of this section of the contract, all claims shall comply with the Government Tort Claim Act (section 900 et seq., of the California Government Code) for any claim or cause of action for money or damages prior to filing any lawsuit for breach of this agreement.



(A) Assertion of Claims. Contractor hereby agrees that any contract claim submitted to the City must be asserted as part of the contract process as set forth in this agreement and not in anticipation of litigation or in conjunction with litigation.

(B) False Claims. Contractor acknowledges that if a false claim is submitted to the City, it may be considered fraud and the Contractor may be subject to criminal prosecution.

(C) Government Code. Contractor acknowledges that California Government Code sections 12650 et seq., the False Claims Act, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information.

(D) Penalty Recovery. If the City of Carlsbad seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees.

(E) Debarment for False Claims. Contractor hereby acknowledges that the filing of a false claim may subject the Contractor to an administrative debarment proceeding wherein the Contractor may be prevented from further bidding on public contracts for a period of up to five years.

(F) Carlsbad Municipal Code. The provisions of Carlsbad Municipal Code sections 3.32.025, 3.32.026, 3.32.027 and 3.32.028 pertaining to false claims are incorporated herein by reference.

(G) Debarment from Other Jurisdictions. Contractor hereby acknowledges that debarment by another jurisdiction is grounds for the City of Carlsbad to disqualify the Contractor or subcontractor from participating in future contract bidding.

(H) Jurisdiction. Contractor agrees and hereby stipulates that the proper venue and jurisdiction for resolution of any disputes between the parties arising out of this agreement is San Diego County, California.

I have read and understand all provisions of Section 11 above. _____ init _____ init

12. Maintenance of Records. Contractor shall maintain and make available at no cost to the City, upon request, records in accordance with sections 1776 and 1812 of Part 7, Chapter 1, Article 2, of the Labor Code. If the Contractor does not maintain the records at Contractor's principal place of business as specified above, Contractor shall so inform the City by certified letter accompanying the return of this Contract. Contractor shall notify the City by certified mail of any change of address of such records.

13. Labor Code Provisions. The provisions of Part 7, Chapter 1, commencing with section 1720 of the Labor Code are incorporated herein by reference.

14. Security. Securities in the form of cash, cashier's check, or certified check may be substituted for any monies withheld by the City to secure performance of this contract for any obligation established by this contract. Any other security that is mutually agreed to by the Contractor and the City may be substituted for monies withheld to ensure performance under this Contract.



15. Unfair Business Practices. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

16. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and included herein, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

17. Additional Provisions. Any additional provisions of this agreement are set forth in the "General Provisions" or "Supplemental Provisions" attached hereto and made a part hereof.

NOTARIAL ACKNOWLEDGMENT OF EXECUTION BY ALL SIGNATORIES MUST BE ATTACHED

(CORPORATE SEAL)

CONTRACTOR:

CITY OF CARLSBAD a municipal corporation of
the State of California

(name of Contractor)

By: _____
Matt Hall, Mayor

By: _____
(sign here)

ATTEST:

(print name and title)

for Barbara Engleson, City Clerk

By: _____
(sign here)

(print name and title)

President or vice-president **and** secretary or assistant secretary must sign for corporations. If only one officer signs, the corporation must attach a resolution certified by the secretary or assistant secretary under the corporate seal empowering that officer to bind the corporation.

APPROVED AS TO FORM:

CELIA A. BREWER

City Attorney

By: _____
Assistant City Attorney



LABOR AND MATERIALS BOND

WHEREAS, the City of Carlsbad, State of California, has awarded to _____
(hereinafter designated as the "Principal"), a Contract for:

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

in the City of Carlsbad, in strict conformity with the drawings and specifications, and other Contract Documents now on file in the Office of the City Clerk of the City of Carlsbad and all of which are incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute said Contract and the terms thereof require the furnishing of a bond, providing that if Principal or any of their subcontractors shall fail to pay for any materials, provisions, provender or other supplies or teams used in, upon or about the performance of the work agreed to be done, or for any work or labor done thereon of any kind, the Surety on this bond will pay the same to the extent hereinafter set forth.

NOW, _____ THEREFORE, _____ WE,
_____, as Principal, (hereinafter
designated as the "Contractor"), and _____
_____ as Surety, are held firmly bound unto the City of Carls-
bad _____ in _____ the _____ sum _____ of

_____ Dollars
(\$ _____), said sum being an amount equal to: One hundred percent (100%) of the
total amount payable under the terms of the contract by the City of Carlsbad, and for which pay-
ment well and truly to be made we bind ourselves, our heirs, executors and administrators, suc-
cessors, or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Contractor or his/her subcontractors fail to pay for any materials, provisions, provender, supplies, or teams used in, upon, for, or about the performance of the work contracted to be done, or for any other work or labor thereon of any kind, consistent with California Civil Code section 9100, or for amounts due under the Unemployment Insurance Code with respect to the work or labor performed under this Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to section 13020 of the Unemployment Insurance Code with respect to the work and labor, that the Surety will pay for the same, and, also, in case suit is brought upon the bond, reasonable attorney's fees, to be fixed by the court consistent with California Civil Code section 9554.

This bond shall inure to the benefit of any of the persons named in California Civil Code section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon the bond.

Surety stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed hereunder or the specifications accompanying the same shall affect its obligations on this bond, and it does hereby waive notice of any change,



extension of time, alterations or addition to the terms of the contract or to the work or to the specifications.

In the event that Contractor is an individual, it is agreed that the death of any such Contractor shall not exonerate the Surety from its obligations under this bond.

SIGNED AND SEALED, this _____ day of _____, 2021

_____(SEAL)
(Principal)

_____(SEAL)
(Surety)

By: _____
(Signature)

By: _____
(Signature)

(Print Name & Title)

(Print Name & Title)

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY – ATTACH ATTORNEY-IN-FACT CERTIFICATE)

APPROVED AS TO FORM:

CELIA A. BREWER
City Attorney

By: _____
Assistant City Attorney



FAITHFUL PERFORMANCE/WARRANTY BOND

WHEREAS, the City Council of the City of Carlsbad, State of California, has awarded to _____, (hereinafter designated as the "Principal"), a Contract for:

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

in the City of Carlsbad, in strict conformity with the contract, the drawings and specifications, and other Contract Documents now on file in the Office of the City Clerk of the City of Carlsbad, all of which are incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute said Contract and the terms thereof require the furnishing of a bond for the faithful performance and warranty of said Contract;

NOW, THEREFORE, WE, _____, as Principal, (hereinafter designated as the "Contractor"), and _____ as Surety, are held firmly bound unto the City of Carlsbad in the sum of _____

Dollars (\$ _____), said sum being an amount equal to: One hundred percent (100%) of the total amount payable under the terms of the contract by the City of Carlsbad, and for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors, or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bounden Contractor, their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Contract and any alteration thereof made as therein provided on their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Carlsbad, its officers, employees and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Surety stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed there under or the specifications accompanying the same shall affect its obligations on this bond, and it does hereby waive notice of any change, extension of time, alterations or addition to the terms of the contract or to the work or to the specifications.



In the event that Contractor is an individual, it is agreed that the death of any such Contractor shall not exonerate the Surety from its obligations under this bond.

SIGNED AND SEALED, this _____ day of _____, 2021

_____(SEAL)
(Principal)

_____(SEAL)
(Surety)

By: _____
(Signature)

By: _____
(Signature)

(Print Name & Title)

(Print Name & Title)

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY – ATTACH ATTORNEY-IN-FACT CERTIFICATE)

APPROVED AS TO FORM:

CELIA A. BREWER
City Attorney

By: _____
Assistant City Attorney



OPTIONAL ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between the City of Carlsbad whose address is 1200 Carlsbad Village Drive, Carlsbad, California, 92008, hereinafter called "City" and

_____ whose address is
_____ hereinafter called
"Contractor" and _____ whose address is
_____ hereinafter
called "Escrow Agent."

For the consideration hereinafter set forth, the City, Contractor and Escrow Agent agree as follows:

1. Pursuant to section 22300 of the Public Contract Code of the State of California, the Contractor has the option to deposit securities with the Escrow Agent as a substitute for retention earnings required to be withheld by the City pursuant to the Construction Contract entered into between the City and Contractor for

CARLSBAD SAFETY CENTER RENOVATION PROJECT CONTRACT NO. 4715

in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the City shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the City within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the contract between the City and Contractor. Securities shall be held in the name of the City and shall designate the Contractor as the beneficial owner.

2. The City shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

3. When the City makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the City pays the Escrow Agent directly.

4. The Contractor shall be responsible for paying all fees for the expenses incurred by the Escrow Agent in administering the Escrow Account and all expenses of the City. These expenses and payment terms shall be determined by the City, Contractor and Escrow Agent.

5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the City.

6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from City to the Escrow Agent that City consents to the withdrawal of the amount sought to be withdrawn by Contractor.



7. The City shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the City of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the City.

8. Upon receipt of written notification from the City certifying that the Contract is final and complete and that the Contractor has complied with all requirements and procedures applicable to the Contract, the Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

9. The Escrow Agent shall rely on the written notifications from the City and the Contractor pursuant to sections (1) to (8), inclusive, of this agreement and the City and Contractor shall hold Escrow Agent harmless from Escrow Agent's release, conversion and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notices or to receive written notice on behalf of the City and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

For City: Title FINANCE DIRECTOR
Name _____
Signature _____
Address 1635 Faraday Avenue, Carlsbad, CA 92008

For Contractor: Title _____
Name _____
Signature _____
Address _____

For Escrow Agent: Title _____
Name _____
Signature _____
Address _____

At the time the Escrow Account is opened, the City and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.



IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

For City:

Title MAYOR

Name _____

Signature _____

Address 1200 Carlsbad Village Drive, Carlsbad, CA 92008

For Contractor:

Title _____

Name _____

Signature _____

Address _____

For Escrow Agent:

Title _____

Name _____

Signature _____

Address _____



ATTACHMENT A

CRIMINAL BACKGROUND CHECK



Attachment A

CARLSBAD POLICE DEPARTMENT

**SAFETY CENTER RENOVATION
CRIMINAL BACKGROUND CHECK**

COMPLETE ALL SECTIONS OF THIS FORM

Name _____ Date of Birth _____

Address _____

City _____ State _____ Zip Code _____

Telephone _____ E-mail _____

Emergency Contact _____ Relationship _____

Address _____ Telephone _____

City & Zip Code _____ Driver License Number _____

Social Security Number _____

Watch Commander approval signature _____

The undersigned understands that the above information will be used in a criminal background search. If illegal behavior is found for the above individual, the City of Carlsbad may deny individual access to the project site. The undersigned has read and understands the implications of this search for criminal background information.

Printed name of undersigned _____

Signed _____ Date _____

Department Use ONLY - Background Check Completed: ☐

☐ Application Denied/Reason: _____



ATTACHMENT B

CITY OF CARLSBAD INFORMATION TECHNOLOGY INFRASTRUCTURE REQUIREMENTS





Attachment B

City of Carlsbad Information Technology Infrastructure Requirements

DRAFT 2021 –v0.3

PART 1 - GENERAL

This guide was developed to assist City of Carlsbad departments in the selection of a appropriate IT infrastructure solutions and equipment for their specific needs or business objectives. All selected solutions need to be verified and approved by City of Carlsbad IT department.

1.1 GENERAL REQUIREMENTS

Tenderers shall propose and submit an Information Technology comprehensive solution to define the telecommunications infrastructure (patch panels, frames, patch cords, cables, faceplates and outlets) necessary to build a uniform premises distribution system, which will function for a multi-media communications solution to support up to 10,000Mbps (10GBE) and to provide a 20-year warranted system. This solution is to also include the following:

- A. Network Drop Naming Standards
- B. Room Dimensions and Backboard
- C. Power and cooling

PART 2 - PRODUCTS

2.1 STRUCTURED CABLING SYSTEM (SCS)

- A. All COMMScope products supplied under this tender shall be genuine.
- B. The following horizontal cable is required:
 - 1. Intrabuilding Cable Fiber – 24 strand single mode SMF28 terminated LC at both ends.
 - 2. Intrabuilding copper data cable (if needed) – 24 AWG OSP CAT6
 - 3. Inside copper data cable – Blue Jacket CAT6 24 AWG
- C. The communications channel shall be capable of supporting 10GBE (10000BASE-T) Ethernet. All copper products in the communications channel shall be capable of supporting the provision of power to the Data Terminal Equipment via the electrically conductive Media Dependent Interfaces as specified in the latest IEEE 802.3bt “Power over Ethernet” standard. All IDC connectors shall be COMMScope IDC technology for all systems and subsystems.
- D. Tenderers shall supply and install the wiring or interconnections that connect active terminal devices to the telecommunication outlets. This includes patch cords, patch panels, connectors, faceplates, as well as the work area patch cords (terminal fly leads) needed to make connections.



The faceplates offered shall have the following for Cat 6:

1. **A choice of 2 outlets unless otherwise specified.**
2. A clear label application of circuit identification. Each piece of equipment, patch panel and outgoing cable from the patch panels shall be labeled.

Corresponding labeling and numbering shall also be provided on the telecommunication outlets. Equipment racks/cabinets should be labeled from bottom to top, left to right, omitting the letters "I" and "O". Lettering on the label is to be machine typed. Telecommunication Outlets are to be labeled with an approved label secured to the outlet faceplate/cover in a prominent position, firmly affixed. Cable and TO numbering shall be the same and should be in the format of: "BUILDING-FLOOR-ROOM-NUMBER". The designations can be letters or numbers. Room is optional. NUMBERS must be in sequential numbers. Use a dash between each designation with no spaces. Example below:

Floor/IDF	Location	Port
1-	xxx-	A or B

- E. Telecommunication Outlets (TO)
 1. All copper telecommunication outlets supplied by the tenderer shall be modular 8-position / 8-contact outlets, accepting standard modular RJ45 plugs.
 2. The socket offered shall be marked to conform to the T568B wiring scheme.
- F. EQUIPMENT ROOM & TELECOMMUNICATIONS ROOM CABLE TERMINATIONS
The Equipment Room (ER) and Telecommunications Room (TR) shall contain 19" Lab Rack units 44 RU in height, fitted with glide cable management bays for vertical cable and patch cord management. All internal horizontal and/or backbone copper cables shall be terminated on rack mounted patch panels.

NO CAT6 wiring will be terminated on modular plugs. All wiring to be terminated on patch panels in cabinets or on CAT6 IDC RJ45 jack and box / faceplate.
- G. Patch cords shall be provided when patching of voice and/or data circuits is required at the cross-connections to facilitate Moves, Adds and Changes (MAC's). The patch cords supplied shall be able to support the designed application, like 10GBE applications.
- H. RACKS AND CABLE MANAGEMENT
 1. Utilize glide 19" racks, 44 RU high (product number 6460 1 141-00) for cable Termination panels and for equipment mounting as appropriate. Locked cabinets may be used if additional security is warranted.
 2. Hook and Loop (Velcro) straps are the only approved method of wrapping and bundling cables. **NYLON ZIP TIES ARE PROHIBITED.**
 3. Vertical cable and patch cord management on the 19" rack shall be by attaching either a glide 150mm front only cable manager, or a 200mm or 250mm front & rear cable manager. Hinged covers matching the vertical cable management shall be fitted to hide and protect the cables and patch cords.
 4. Horizontal cable and patch cord management between patch panels or equipment on the 19" glide cable management racks shall be 2 RU glide horizontal cable managers with front hinged-down cover. Horizontal cable and patch cord management at the top, middle or bottom of the 19" rack shall be either 2 RU or 4 RU horizontal crossover troughs.
- I. CROSS-CONNECT SYSTEM
 1. Supply appropriate patch cords.
 2. RJ45 Cat 6 patch panels for incoming voice and/or data services up to 10GBE.



- J. COPPER PATCH PANELS
 - 1. The modular outlet patch panel shall be Cat 6 panel with 8 pin modular sockets.
 - 2. The patch panel shall be available in 24 port configurations in one rack unit height or 48 ports in two-rack unit height and shall fit into a 19" rack.
 - 3. The socket offered shall be marked to conform to the T568B wiring scheme.
- K. OPTICAL FIBER TERMINATION UNIT, RACK AND CABINET-MOUNT
 - 1. 19" rack mount fiber termination unit shall provide cross-connect, interconnect or splicing capabilities.
 - 2. The 19" rack-mounting unit should be either 12 or 24 ports for one rack unit (1RU) and can be either a fixed position unit or have a slide or swing tray to improve access.
 - 3. The 19" rack-mounting unit should be either 12 or 24 ports for one rack unit (1RU) and can be either a fixed position unit or have a slide or swing tray to improve access.
 - 4. The adaptor plates shall be suitable Single Mode fiber LC duplex, and the adaptor plates should be installed to angle the through adaptors to the left or to the right of the panel to improve the patch cord management and provide eye safety due to accidental exposure to active fibers.
 - 5. Connectors on all single-mode fibers (SMF) shall be fusion spliced on site.
 - 6. **Deliverables to including complete mapping of all Network Locations and Drops**
- L. PATCH CORDS AND SYSTEM LEADS
 - 1. Tenderer shall supply Cat 6 patch cords and copper System Leads for cross-connection and/or inter-connection of termination modules, patch panels and network equipment.
 - 2. The type of patch cords and system leads shall match the termination module used, i.e. Cat 6 RJ45 patch panel.
 - 3. All Cat 6 patch cords shall be factory terminated 4-pair UTP cable with lengths of 1.2, 2.1, 3.0, 4.5, 7.5, and 15 meters.
 - 4. System Leads shall be supplied and installed to connect the network equipment to the cross-connect or interconnect modules. The system leads shall have 4-pair conductors with length and construction (stranded or solid) suited to the installation.

2.3 POWER REQUIREMENTS

- A. Server room (IDF/MDF) power needs for site. Power needs to be located under floor or inside back of cabinet (preferred) to prevent accidental disconnection of power. If server room cannot support power in floor, then power to be installed at top of rack on ladder rack.

The examples are dependent on capacity.

Over 200 Users – Qty 6 – 208 VAC / 30Amp Redundant Circuits
 Over 50 Users - Qty 3 – 208 VAC / 30Amp Redundant Circuits
 Under 50 Users Qty 2 – 120 VAC / 20Amp Redundant Circuits

- B. Cooling / HVAC for IT spaces is required.



ATTACHMENT C

CITY FACILITY MAINTENANCE DESIGN STANDARDS
(Version 7/12/21)



Attachment C

City Facility Maintenance Design Standards (7/12/21)

HVAC

Carrier manufacturer

Carrier i-Vu EMS controls

If VRF to be incorporated in the design, all refrigerant lines must be accessible (not enclosed in a gypsum wall).

Plumbing

Sloan flush valves

Chicago faucets

American Standard toilets and urinals (no waterless urinals. Pint flush.)

Floor drains in all restrooms and kitchens

Isolated shut off valves throughout

Mop sink for custodial (faucet must have automatic shutoff feature)

Roofing

City Standard specifications Tremco products and design

Tremco Rep – **Sten Johnson 1-858-531-5197**

Hardware

Schlage lock sets and 6 pin hardware (Keying to be done by City contracted locksmith)

ADA automatic entry when requested

Keyless entry when requested (Must be an AMAG system)

All exterior doors should have continuous hinge hardware

Prefer Von Duprin panic hardware

Paint

Sherwin Williams/

Prefer white shadow for white areas, no flat paints please, eggshell preferred

Epoxy paint for gym walls up to eight feet

Electrical

Siemens products – panels, switch gears, etc.

All exterior conduits (above ground) to be galvanized rigid.

All exterior enclosures, panel, transformers, disconnects, etc. to be NEMA 4X rated.

EMT electrical fittings to be compression type.

Galvanized rigid fittings to be threaded only.

LCD for low voltage (contractor/manufacturer)

LED's throughout

Limit can lights or accent lighting

Generators – Global Power (contractor)

Prefer Kohler generators and ATS.

ATS must include an integral maintenance bypass

UPS – Computer Protection Technology (contractor)

UPS installations must include a wraparound bypass.



Security

Currently – **Rancho Santa Fe Security 760-744-4014**

Security alarm system must be DMP.

Fire

Alarm – to be open source (i.e., not Simplex-Grinnell)

Prefer Notifier (with BACnet module).

Wall Protection

Koroguard products/chair rails/wall coverings

FRP walls in custodial deep sink area

Elevators

Equipment to be nonproprietary (i.e. not Schindler, Kone, Otis, or Thyssen Krup).

Prefer Motion Control.

EV Chargers

Prefer ChargePoint systems

Acoustics

Armstrong ceiling tile

Soundproofing where applicable (easy clean materials)

Floor coverings

Shaw carpets

Non-slick surfaces in all entry ways

No floating laminate floors (glue down only)

Restroom Hardware

Electric hand dryers preferred

Roll towels – Waxie 850919 (plastic) or Bobrick B-2860 (stainless - check towel will fit)

Refillable foam soap dispenser – Waxie 33598

TP/Seat cover - Bobrick B3579 or similar for women's

TP/Seat cover – Bobrick B3479 or similar for men's

TP – is a small core roll

In wall trash receptacle Bradley 334 (18 gal) *12-gallon Bobrick units fill up too quickly*

Free standing trash receptacle ASI 0812 (19 gal)

Waxie Representative – Rolando Felizola 858-354-6738

Miscellaneous Project Requests

Three sets of As-builts (showing specific locations of conduits, pipes, ducts, etc.)

Provide CAD drawing files

Blank floor plan for emergency exit plan, etc.

Two sets of Owners manuals

Periodic project job walks during construction

% of materials delivered at final (flooring, tile, paint, etc.)

Avoid landscape planters directly adjacent to the building



ATTACHMENT D

ELECTRONIC SUBMITTAL PROCEDURES

SUBMITTAL EXCHANGE



Attachment D

Electronic Submittal Procedures – Submittal Exchange

A. Summary:

1. Shop drawing and product data submittals shall be transmitted to Architect in electronic (PDF) format using Submittal Exchange, a website service designed specifically for transmitting submittals between construction team members.
2. The intent of electronic submittals is to expedite the construction process by reducing paperwork, improving information flow, and decreasing turnaround time.
3. The electronic submittal process is not intended for color samples, color charts, or physical material samples.

B. Procedures:

1. Submittal Preparation - Contractor may use any or all of the following options:
 - a. Subcontractors and Suppliers provide electronic (PDF) submittals to Contractor via the Submittal Exchange website.
 - b. Subcontractors and Suppliers provide paper submittals to General Contractor who electronically scans and converts to PDF format.
 - c. Subcontractors and Suppliers provide paper submittals to Scanning Service which electronically scans and converts to PDF format.
- a) Contractor shall review and apply electronic stamp certifying that the submittal complies with the requirements of the Contract Documents including verification of manufacturer / product, dimensions and coordination of information with other parts of the work.
- b) Contractor shall transmit each submittal to Architect using the Submittal Exchange website, www.submittalexchange.com.
- c) Architect / Engineer review comments will be made available on the Submittal Exchange website for downloading. Contractor will receive email notice of completed review.
- d) Distribution of reviewed submittals to subcontractors and suppliers is responsibility of the Contractor.
- e) Submit paper copies of reviewed submittals at project closeout for record purposes in accordance with city's specified Closeout Procedures

C. Costs:

1. The cost of Submittal Exchange services has been paid in full by the City.
2. At Contractor's option, training is available from Submittal Exchange regarding use of website and PDF submittals. Contact Submittal Exchange at 1-800-714-0024.
3. Internet Service and Equipment Requirements:
 - a. Email address and Internet access at Contractor's main office.
Adobe Acrobat (www.adobe.com), Bluebeam PDF Revu (www.bluebeam.com), or other similar PDF review software for applying electronic stamps and comments



ATTACHMENT E

PULL PLANNING AND LAST PLANNER PROCEDURES



Attachment E

Pull Planning and Last Planner Procedures

PART 1 GENERAL

1.1 COLLABORATIVE SCHEDULE OVERVIEW / BACKGROUND

- A. The purpose of the Collaborative Schedule process is to build a reliable project Master Schedule (Project Schedule) within a collaborative team environment. The primary goal is to 1) establish, solidify and maintain the Milestones within the Project Schedule, and 2) support the teams and workflow improvements necessary to produce safe, reliable and construction-interruption-free project delivery increasing the reliability of project production planning and improving project performance.
- B. The primary function of the Pull Planning and the Last Planner[®] System (LPS) is the collaborative planning process that involves Last Planners, the persons executing the work, for planning in greater detail as the team gets closer to doing the work. The LPS is an opposite way of thinking when compared to conventional push scheduling principles, where the work that *should* be done is planned in weekly meetings emphasizing adherence to the Project Schedule milestones. In contrast, the LPS incorporates pull planning principles where only the work that *can* and *will* be done is considered and promised by Last Planners themselves. Because at its core, LPS is a system view versus individual optimization, the Last Planners' active engagement in this systemic process is a fundamental requirement.

1.2 RELATED DOCUMENTS

Construction Drawings, Technical Specifications, Addenda, and general provisions of the Contract, including Contract General Provisions and RFP Documents and other Division 01 Specification Sections, apply to this Section.

1.3 DEFINITIONS

- A. Constraint – In the context of the Pull Planning, an input, directive, resource or other requirement that will prevent a task or an assignment from starting, advancing or completing as planned.
- B. Constraint Log – A list of constraints, each one with an identification of the individual or champion who promises to remove it by the agreed upon date.
- C. Last Planner[®] System – A system for project production planning and control aimed at creating a workflow for reliable execution.
- D. Last Planner – The person who conducts the final planning of a task or activity and makes the work resource assignments for those in production.
- E. Milestone Plan – A master plan scheduled developed collaboratively by a project team that identifies major milestones in the project as well as each team members' milestones and their timing.



- F. Pareto chart - A type of chart, named after Vilfredo Pareto, that contains both bars and a line graph, where individual values are represented in descending order by bars, and the cumulative total is represented by the line.
- G. Percent Planned Complete (PPC) – Metric used in the Last Planner® System to gauge plan reliability. Defined as the ratio of the number of actual activities completed in a given time period over the number of actual activities planned (typically weekly).

PART 2 - PRODUCTS

2.1 SECTION INCLUDES

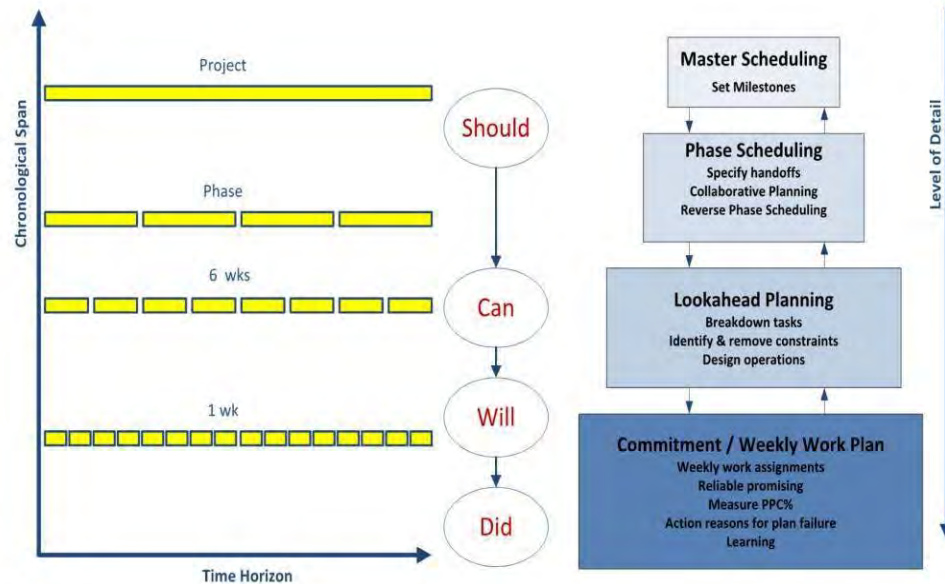
Section Includes (1) Basic Requirements of Prime Contractor's Scheduling System and (2) Last Planner® Facilitation/Coaching

2.2 BASIC REQUIREMENTS OF PRIME CONTRACTOR'S SCHEDULING SYSTEM

This Section specifies City expectations, administrative and procedural requirements for planning and scheduling, in addition to those defined in the General Provisions. The City requires that Lean Construction planning principles and techniques shall be utilized as described herein. This specification section requires the integrated and coordinated use of the Reliable Production plan based on the Last Planner® System and detailed conventional CPM scheduling. The City requires use of the Last Planner® system in concert with a detailed CPM schedule.

- A. The overall detailed Project Schedule shall be prepared, updated and maintained using Primavera Project Planner, Microsoft Project, or other platform as approved by the City.
- B. The Collaborative Schedule process is iterative and constantly measured with metrics against completed tasks. When executed successfully, Weekly Work Plans can be easily derived, and Monthly Schedule Updates are naturally produced.
- C. The Collaborative Schedule process makes detailed plans by those who execute and manage the work. The System promotes conversations between trade foremen and project management at appropriate levels of detail, and before issues become critical. It reviews the plan near its execution with collaborative planning to remove constraints as a team and verify that the promises made are tied to milestones, and that these commitments are firm, timely and without ambiguity.
- D. Use planning procedures described herein to create a Project Schedule, a Look-Ahead Schedule, and a commitment-based Weekly Work Plan schedule through front- end planning using Last Planner® System (LPS) and Lean Construction Planning techniques.





E. LPS Planning Process Overview

The key elements of LPS are:

- 1) **Project Schedule Planning:** Setting milestones and strategy for the entire project including identification of long-lead items and major constraints. Incorporates critical path method (CPM) logic at a high level to determine overall project duration, what project work should be done. The milestone plan is used to develop the overall sequencing and flow of the work on the project. This will be a CPM based schedule.
- 2) **Phase Pull Planning:** Strategically planning segments of work (typically 3 to 4 months in duration) in order to produce progressively detailed Weekly Work Plans. Collaborative reverse phase (pull) scheduling planning by those who will be doing the work at sufficient level of detail to specify handoffs, and identify and resolve operational conflicts, schedule activity durations, what project work can be done. Phase pull planning often results in modifications to the CPM logic.
- 3) **6 Week Make-Ready Planning:** Look-ahead scheduling and constraint removal (roadblock removal process) in support of the progressively tion, what project work will be done. The plan is updated weekly where constraints that threaten reliable workflow are identified. Identifying responsibilities and making assignments ready follows by analyzing resource management information.
- 4) **Weekly Work Planning:** Team collaboration to plan each day's work, conditions for handoff and acceptance, sequencing and synchronizing next week's work. Commitments are made to perform work in a certain manner and a certain sequence. What project work are we to do this week. Weekly work planning is the point of maximum progressive detailing to create reliable work plans. Plan reliability at this level is promoted by making only quality assignments and reliable promises so that the production unit will be shielded from upstream uncertainty.



- 5) **Daily Huddles:** Daily team check-ins, discussions based on the Weekly Work Plan. How are we doing? What do we need to maintain the plan in progress?
- 6) **Percent Plan Complete:** number of activities completed divided by the total number of planned activities. At the end of each week, assignments are reviewed for completeness in order to measure the reliability of the planning
- 7) **Learning** by measuring percent of promises complete (PPC), tracking reasons for variance, diving deep into reasons for plan failures, and developing/implementing lessons learned to improve future plan reliability. Analyzing reasons for plan failures and acting on these reasons is the basis of learning.
- 8) **Reliable Promising/Commitments:** Projects are essentially made up of an extensive set of reliable promises/commitments. LPS makes the planning processes and workflow highly reliable and builds necessary trust within a collaborative team environment.

2.3 LAST PLANNER FACILITATION/COACHING

- A. Pull Planning Facilitator (PPF) will be retained by the Contractor.
 - 1) The PPF will provide training and coaching through the Pull Planning Process. All trade contractors and Prime Contractor personnel responsible for executing the work of relevant specification sections shall attend the training. Initial training will be 6-8 hours.
 - 2) PPF shall facilitate the Pull Planning sessions as necessary to assure that all processes and requirements detailed herein are fully understood by the Prime Contractor and Trade Contractors. Contractor is advised that (3-4) facilitated sessions (2-4 hrs) at the beginning of the project are typically required for the project team to develop competency.
 - 3) Should the cumulative Percent Planned Complete (PPC) drop below 70 percent, The PPF will be readily available to assist the team in identifying why the plan is not reliable and assist in identifying and implementing appropriate countermeasures to improve reliability of the plan.

PART 3 - EXECUTION

3.1 SECTION INCLUDES

- A. Section includes:
 1. Collaborative Schedule Process
 - a) Required Participants
 - b) Last Planner[®] System Implementation Material and Tools
 - c) Preconstruction Meeting
 - d) Project Milestone Schedule
 - e) Phase Pull Scheduling
 - f) 6-Week Make Ready Planning
 - g) Weekly Work Plan



- h) Workable Backlog
- i) Daily Work Planning Huddles
- 2. Deliverables
- 3. Responsibility for Completion

3.2 COLLABORATIVE SCHEDULE PROCESS

A. Required Participants

1. Since LPS is a collaborative process, all those that have a planning role on the project need to participate in the in the scheduling process at the appropriate time. It is expected that there will be different participants required at different times in the project timeline depending on their respective scope of work and the timing of when it will be planned and performed. The right people need to participate at the right time for the plan to be informed and reliable. These individuals will be expected to participate in all phases of LPS as described in this section.
2. Required Project Stakeholders (the list is not exhaustive as there are others on a project whose participation may be required):
 - a) The General Contractor
 - b) All Subcontractors, and/or discipline-specific Trades
 - c) Project Manager from each trade and/or subcontractor
 - d) General Foremen and Superintendents from each tradesubcontractor
 - e) Key Project Engineers and/or Construction Coordinators
 - f) Vendor and/or Suppliers with key materials
 - g) Off Site Fabricators
 - h) Third-Party Support (testing, inspection, Commissioning Agents, LEED Certification Specialists, etc.
 - i) Architects and Engineers
 - j) City City's Construction Management Consultant

B. Last Planner[®] System Implementation Materials and Tools

1. These forms are included by reference:
 - a. Short-Term Production Plan
 - b. Constraint Log
2. Large Meeting Room – Job Site Trailer, large enough for 30 individuals, ideally from one single location “The Big Room”
3. Standard conference room white board (20’ horizontal length)
4. Walls dedicated to visual system aids
5. Standard size “sticky notes,” dedicated color for each Trade Contractor and/or design discipline
6. Weekly work boards for the 6-week make work ready plan that are freestanding and contain columns and rows for “sticky notes”. Boards should have 7



columns, one for each day of the day, and approximately 20 rows.

7. Microsoft Office Suite, for creation of Weekly Work Plans and other necessary Last Planner® System elements. Primavera scheduling software, for creation and documentation milestone schedule, milestone relationships and 6-week Look-Ahead schedules.
8. Display well-maintained outputs for the group to use at Daily Huddles and Weekly Coordination Meetings in the Big Room.
9. The four primary Visual Output tools of Last Planner® System are:
 - a) Weekly Work Plans (WWP) – see boards above
 - b) Percent Plan Complete (PPC) trend over time
 - c) Reasons for Variance Pareto, graph, or pie chart
 - d) Constraint Log

C. Preconstruction Meeting

1. Submit a Draft Project Schedule and an initial 6 Week Look-ahead Schedule at the Pre-construction Meeting which will include mobilization activities, fencing, first collaborative pull planning session, etc.

D. Project Schedule Milestone Schedule

1. Prior to the first pull planning Milestone session, the Prime Contractor will prepare a detailed Project milestone CPM schedule in advance of the session for the entire project to identify major project milestones and general sequence of how the project may be executed. These milestones should include required delivery dates for major long-lead equipment items like switch gear, transformers, chillers, etc.
2. As part of the Milestone Plan pull planning session, the major project milestones (e.g., foundation poured, topping out, weathered in, permanent power) developed through the CPM schedule will serve as the dates to work the Milestone Plan.
3. Milestones have zero duration and represent the completion or start of a particular activity or action.
4. Milestones used in the development of the Milestone Plan should be completion milestones for the most part. Select start milestones for critical activities may also be appropriate to include in the plan.
5. Milestones for trade contractors should represent completion of major trade activities and for completion of trade work in a specific area of the project (e.g., floor, gridline or elevation).
6. Each trade should have multiple milestones and with sufficient detail to identify interim trade milestones at least every 6 weeks to help develop more reliable make work ready planning.
 - a) The team works backward from the final project milestone to pull towards the milestone plan.



7. The collaboratively developed milestone plan is used to validate the required CPM schedule, and collaboratively inform necessary changes to the CPM schedule.
8. Include milestones for each trade contractor, each phase, key submittal approvals, key release dates for long-lead equipment and material, shipment/arrival of key materials and/or equipment, key inspections, occupancy, commissioning, project completion, etc.
9. Any constraints that are identified that will prevent a task or an assignment from starting, advancing, or completing as planned need to be captured in a Constraint Log. The log should clearly identify the constraint, by what date it needs to be removed to not impact project production, and the member of the project team that has been assigned responsibility to lead the efforts to remove the constraint. The constraint log should be maintained and updated throughout the project and displayed visually in the project Big Room so that all project team members can see it.
10. Project Schedule CPM Format
 - a) Activities shall be coded in a logical manner to allow for sorting and grouping of like characteristics, including but not limited to such items as: phase, work shift, project area, activity type (e.g., submittal, agency review, construction activity), trade, etc.
 - b) Include activities and milestones as requested for work completed by City under separate contract, City-furnished materials, move-in, etc.
 - c) The schedule duration shall be calculated using Critical Path Method for the Initial Construction Schedule, Contract Construction Schedule, and subsequent schedule updates.
 - d) Prime Contractor's Superintendent shall be integrally involved in production of the Initial Project Schedule and each subsequent update.
 - e) Failure by Prime Contractor to include any element of the work required for performance of the Contract shall not relieve Prime Contractor of the obligation to complete the entire Work of the Contract in accordance with the Contract Completion Date.

E. Phase Pull Scheduling

1. Phase Scheduling generates a detailed schedule magnifying the Project Schedule into more detailed project components strategically planning segments of work and activities in order to produce progressively detailed Weekly Work Plans.
2. The purpose of Phase Pull Scheduling is to produce a plan for completing a phase of work that everyone involved understands and supports; to produce a plan from which scheduled activities are drawn into the look-ahead process to be exploded into operational detail and made ready for assignment in weekly work plans.
 - a) The project milestones shall be placed at the top of the visual phase plan being developed at the wall.
 - b) The level of detail in the Phase Schedule is determined by the requirement that the Phase Schedule specify the handoffs between trade contractors involved in doing the work.



- 1) The phase plan will consist of activity tags completed for each trade by the Last Planner for that trade.
 - c) Activities should be no longer than 10 days in duration. Any task longer than 10 days can be broken down into smaller discrete activities which allow for better planning.
 - d) Identify the specific task to be completed with action verb, identify what is required to release the work (predecessor or constraint), location, crew size, and duration.
 - e) Each discipline or trade is responsible for completing and placing their own tags on the plan.
 - f) The phase will use pull starting from the completion of the interim milestone associated with the end of the phase and working backwards (right to left). After the pull backwards, then a forward pass (left to right) needs to be conducted to ensure the plan demonstrates a logical building sequence, the sum of the total activity durations is within the allowable time to meet the project milestone(s), and identify opportunities to resolve conflict and improve production flow. Do not double count durations for concurrent tasks.
 - g) The completion of a "phase" should be sequenced so that the "phase" completion releases new work.
 - h) Participants: All Team members involved in planning and execution of work during the Phase Schedule.
 - i) A Phase Pull schedule is produced for a typical duration of approximately 3 months using an appropriate interim milestone as the completion point of the phase.
 - j) After the initial Phase Pull plan, subsequent Phase Pull plans should be developed every 6 weeks to reflect the next 3 months of project production. This will allow for a fully informed rolling 6-week Make-Work Ready Plan on the project.
 - k) The Phase Pull plan should be visually displayed in the Big Room for all to see and to inform subsequent 6-week Make-Work Ready Plans.
3. Phase Pull Schedule Format
- a) Activities shall be organized in a logical manner to allow for grouping of like characteristics, including but not limited to such items as: phase, work shift, project area, activity work stream. This may include the use of swim lanes on the Phase Pull plan to designate different work areas, phases, or work streams.
 - b) An appropriate number of interim milestones will be used to help develop the Phase Pull schedule activities.
 - c) Identify work days and non-work days on the Phase Pull production schedule.
 - d) Prime Contractor shall work in conjunction with each trade contractor and supplier to ensure that all relevant submittal, procurement, delivery and installation dates for the various trades are accurately represented in the Phase Pull schedule
 - e) Include activities related to critical project submittals and approvals.

F. 6-Week Make Ready Planning

The 6-Week Make Ready / Look Ahead Plan is a visual plan of activities that need to



be accomplished over the upcoming six weeks. Sticky notes placed on 6 weekly activity boards are used to establish the rolling 6-week Make-Work Ready Plan.

1. Once an activity has entered into the Look Ahead Plan, it is the team's task to make that activity ready for execution by the scheduled time, remove constraints, and execute the work within the expected duration.
2. Lookahead week activities should be planned as a whole identifying operation to be planned jointly by multiple trades with respect to hand-offs and work areas.
3. The Last Planners create the make-work ready plan that consists of weekly work plans with daily tags for each crew on site identifying what and where they will be working for the next 6 weeks and the size of the respective crew.
4. The quality of the work assignments/activities needs to be in greater detail and accuracy for the upcoming two weeks of work.
5. After the initial 6-Week Make Ready Plan has been developed, the next 6th week of work is planned as part of the weekly schedule meeting in the Big Room to provide a rolling 6-week plan.
6. Any new constraints that are identified during the 6-Week Make Ready planning are identified need to be captured in the constraint log with an assigned champion to remove them and required completion date.
7. Participants: All Team members involved in planning and execution of work during the next 6 weeks.

G. Weekly Work Plan

1. Weekly Work Planning is tactical team collaboration to plan each day's work during the next week including defining work areas and zones, conditions for handoff and acceptance between trades and disciplines, and crew sizing.
 - a) Weekly Work Plan updates shall occur 1 day prior to the Weekly Owners Meeting.
 - b) The Weekly Work Plan needs to be highly reliable to produce effective workflow and production on the project.
 - c) Specify tasks planned to be done next week and on which days.
 - d) The five minimum requirements to control quality of input into the Weekly Work Plan are:
 - 1) What is the Task?
 - 2) What will be done (e.g. install electrical raceway section 1, 2,)?
 - 3) Where it will be done (e.g. Column A/1, above AC Box)?
 - 4) When it will be done (e.g. Tuesday and Wednesday)?
 - 5) Who will do it (e.g., company, crew size)?
 - e) Identify make ready actions by assessing their feasibility prior to making assignments in the weekly work plan so as to shield production workers from uncertainty.
 - f) Synchronize tasks made ready relative to the promises of the team members.
 - g) The conditions for hand off and acceptance are clearly communicated within the team and all constraints removed.
 - h) Optimization of the team capabilities to plan, synchronize, execute, learn and improve.
 - i) At the end of each week, assignments are reviewed for completeness to measure the reliability of the planning system. Analyzing reasons for plan failures and acting on these reasons is the basis of learning.
 - j) Participants: All Team members involved in planning and execution of work during the next 6 weeks.



2. Weekly Work Plan Meeting Typical Agenda.
 - a) Review constraint log and note any overdue constraints and impact (5 minutes)
 - b) Review 6-week look-ahead plan (15 minutes)
 - c) Review the new week – Note activities that are starting up in week 6.
 - d) Review weeks 2-5 only by new exceptions that pop up. (Team should have been looking at weeks 2-5 for the last 5 weeks.)
 - e) Review last week's performance (5 min.)
 - f) Last week's PPC: The number of activities completed since the last weekly meeting divided by the total number of planned activities which were supposed to occur.
 - g) Current week's PPC
 - h) The Percent Plan Complete Statistic shall be kept on a Project Log showing each week's Percent Plan Complete Statistic for each week of the project schedule until completion.
 - i) Trend chart
 - j) Variance chart, and reasons for variance: charted in Pareto or pie charts to see trends and facilitate learning, knowing what needs to be fixed in order to improve next week's PPC
 - k) Finalize next week's Weekly Work Plan (30 minutes)
 - l) Plus/Delta (2 minutes)

H. Workable Backlog

1. Capacity limitations of a production unit may prevent the Last Planner from assigning all work shown in the first week of the Look-ahead that satisfy the definition, soundness, and sequence criteria.
2. There may be more work made ready than a production unit can reasonably be expected to complete in any week.
3. Overloading a production unit is held against the performance of the Last Planner as assigned work that remains incomplete counts against the plan reliability measure.
4. Ready work that cannot be assigned is recorded as Workable Backlog on the Weekly Work Plan.
5. Should a production unit for any reason not be able to complete an assignment on their Weekly Work Plan, or should they complete assignments sooner than expected, the Workable Backlog will provide them with other work, so they need not be idle or wind up doing out-of-sequence work.
6. Items in workable backlog must meet the same quality criteria as do priority assignments for the week.

I. Daily Work Planning Huddles

1. Daily Huddles are meetings where team members quickly give the status of the previous shift's accomplishments and failures, plus the current shift's plan of work for that day.
2. Daily Huddle discussions must be directly connected to the team's Weekly



Work Plan.

3. Transparency and reliable commitments are measured in the Daily Huddles for the Last Planners themselves to see and interact with directly.
4. This is the rallying point for “our plan,” which has “my input” accurately reflected. This is the heart of LPS, it is of utmost importance for the team to establish and drive healthy Daily Huddle discipline.

3.3 DELIVERABLES

A. Schedule Deliverables:

1. Project Milestone Schedule / Baseline schedule – Due within 10 days after Notice to Proceed (NTP)
2. Initial Phase Pull Plan – Due within 30 days after NTP
3. Updated 6-Week Make Work Ready Look Ahead Schedule – Due every week
4. Weekly Metric Report (Percent Plan Complete for week, variance analysis for week’s missed commitments, Current Constraint Log)
 - a) If weekly PPC is less than 70%, specify what specific efforts the Prime Contractor will undertake to improve its weekly work plan reliability.
5. Monthly Project Schedule Updates – Due Every Month
 - a) The updated Contract Construction Schedule shall accurately represent the as-built condition of all completed and in-progress work activities as of the schedule data date.
 - b) The level of detail shall be sufficient to describe and forecast the scheduled completion dates for the phase milestones used in the Phase Pull Planning.
 - c) Planned percent complete (PPC) for the month and cumulative to date for the project on a weekly basis displayed in a graphical format.
 - d) If the average weekly PPC is less than 70%, specify what specific efforts the Prime Contractor will undertake to improve its weekly work plan reliability.
 - e) Variance analysis for missed commitments with bar chart, Pareto chart or pie chart that visually shows trends for the month and trends for the project- to-date.
 - f) The current status of the phase milestones as established in the Milestone Plan.
 - g) The reason phase milestones may not have been accomplished and their delaying factors.
 - h) What mitigation efforts the Prime Contractor will undertake to complete the phase milestones without adversely impacting the overall project milestones leading to successful completion of the project by the finish milestone.
 - i) Any changes made to the sequencing, durations, working time, etc. made to accomplish the phase milestones.
 - j) Current Constraint Log with items that may impact the production plan clearly identified with a required date for the constraint to be removed and a team member assigned to champion removal of the constraint.



- B. All schedule submittals including the updated progress schedules will be reviewed jointly by the City and the Prime Contractor. Review of the Prime Contractor schedules shall not constitute approval or acceptance of the Prime Contractor construction means, methods, or sequencing, or a positive determination by the City of the Prime Contractor's ability to complete the Work in a timely manner.

3.4 RESPONSIBILITY FOR COMPLETION

- A. Should any monthly or weekly update of the Contract Construction Schedule indicate that the Contract Completion Date has extended, Prime Contractor shall submit a written action plan to meet the Contract Completion Date. Prime Contractor shall initiate corrective actions, as approved by the Construction Administrator, at no additional cost. These actions shall include, but not be limited to, one or more of the following:
 - 1. Identify and remove constraints and barriers to flow of the project work flow production.
 - 2. Identify root causes for missed commitments and develop and implement countermeasures to address these.
 - 3. Re-sequence activities in order to improve work flow production and subsequent completion of these activities.
 - 4. Increase construction manpower in certain or all trades in order to bring the completion date into compliance with Contract requirements.
 - 5. Increase the number of labor shifts, working hours per shift, or working days per week as required to bring the completion date into compliance with Contract requirements.
 - 6. Arrange and pay for acceleration of fabrication schedules for long lead material items.
 - 7. Arrange and pay for alternate shipping or delivery methods in order to expedite material procurement.
- B. Comments provided by the Construction Administrator concerning the Initial Construction Schedule, Contract Construction Schedule, or any schedule update shall not relieve Prime Contractor from the responsibility for compliance with the entire requirements of the Contract Documents.



GENERAL PROVISIONS FOR

CARLSBAD SAFETY CENTER RENOVATION PROJECT

CONTRACT NO. 4715

CITY OF CARLSBAD

SECTION 1 -- TERMS, DEFINITIONS, ABBREVIATIONS, AND SYMBOLS

1-1 TERMS – Unless otherwise stated, the words *directed, required, permitted, ordered, instructed, designated, considered necessary, prescribed, approved, acceptable, satisfactory*, or words of like meaning, refer to actions, expressions, and prerogatives of the Engineer.

1-1.1 Reference to Drawings. Where words "shown", "indicated", "detailed", "noted", "scheduled", or words of similar import are used, it shall be understood that reference is made to the plans accompanying these provisions, unless stated otherwise.

1-1.2 Directions. Where words "directed", "designated", "selected", or words of similar import are used, it shall be understood that the direction, designation or selection of the Engineer is intended, unless stated otherwise. The word "required" and words of similar import shall be understood to mean "as required to properly complete the work as required and as approved by the Engineer," unless stated otherwise.

1-1.3 Equals and Approvals. Where the words "equal", "approved equal", "equivalent", and such words of similar import are used, it shall be understood such words are followed by the expression "in the opinion of the Engineer", unless otherwise stated. Where the words "approved", "approval", "acceptance", or words of similar import are used, it shall be understood that the approval, acceptance, or similar import of the Engineer is intended.

1-1.4 Perform. The word "perform" shall be understood to mean that the Contractor, at its expense, shall perform all operations, labor, tools and equipment, and further, including the furnishing and installing of materials that are indicated, specified or required to mean that the Contractor, at its expense, shall furnish and install the work, complete in place and ready to use, including furnishing of necessary labor, materials, tools, equipment, and transportation.



1-2 Definitions. The following words, or groups of words, shall be exclusively defined by the definitions assigned to them herein.

Addendum – Written or graphic instrument issued prior to the opening of Bids which clarifies, corrects, or changes the bidding or Contract Documents. The term Addendum shall include bulletins and all other types of written notices issued to potential bidders prior to opening of Bids.

Agency – The City of Carlsbad, California.

Agreement – See Contract.

Application for Payment – The term “Application for Payment” means the submittal from Contractor wherein payment for certain portions of the completed Work is requested in accordance with Article 9 of the General Provisions

Assessment Act Contract – A Contract financed by special assessments authorized under a State Act or procedural ordinance of a City or County.

Base – A layer of specified material of planned thickness placed immediately below the pavement or surfacing.

Beneficial Occupancy – A The term “Beneficial Occupancy” means the City of Carlsbad’s occupancy or use of any part of the Work in accordance with Article 9 of the General Provisions.

Bid – The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work.

Bidder – Any individual, firm, partnership, corporation, or combination thereof, submitting a Bid for the Work, acting directly or through a duly authorized representative.

Board – The officer or body constituting the awarding authority of the Agency, which is the City Council for the City of Carlsbad or the Board of Directors of Carlsbad Municipal Water City.

Bond – Bid, performance, and payment bond or other instrument of security.

City Council – the City Council of the City of Carlsbad.

City Manager – the City Manager of the City of Carlsbad or his/her approved representative.

Cash Contract – A Contract financed by means other than special assessments.

Change Order – A written order to the Contractor signed by the Agency directing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract time issued after the effective date of the Contract. A Change Order may or may not also be signed by the Contractor.

City’s Construction Management Consultant– the city’s agent on site and first level of appeal for informal dispute resolution.

Code – The terms *Government Code*, *Labor Code*, etc., refer to codes of the State of California.

Contract – The written agreement between the Agency and the Contractor covering the Work.



Contract Documents – Including but not limited to; the Contract, any Addendum (which pertain to the contract documents), Notice Inviting Bids, Instructions to Bidders; Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Contract, the Bonds, the General Provisions, permits from other agencies, the Technical Specifications, the Supplemental Provisions, the Plans, Standard Plans, Standard Specifications, Reference Specifications, and all Modifications issued after the execution of the Contract.

Contractor – The individual, partnership, corporation, joint venture, or other legal entity having a Contract with the Agency to perform the Work. In the case of work being done under permit issued by the Agency, the permittee shall be constructed to be the Contractor. The term “prime contractor” shall mean Contractor.

Contract Price – The total amount of money for which the Contract is awarded.

Contract Unit Price – The amount stated in the Bid for a single unit of an item of work.

County Sealer – The Sealer of Weights and Measures of the county in which the Contract is let.

Days – Days shall mean consecutive workday’s days unless otherwise specified.

Dispute Board – Persons designated by the City Manager of the City of Carlsbad, to hear and advise the City Manager on claims submitted by the Contractor. The City Manager for the City of Carlsbad is the last appeal level for informal dispute resolution.

Engineer – The City Engineer of the City of Carlsbad or his/her approved representative. The Engineer is the fourth level of appeal for informal dispute resolution.

Minor Bid Item – A single contract item constituting less than 10 percent (10%) of the original Contract Price bid.

Modification – Includes Change Orders and Supplemental Agreements. A Modification may only be used after the effective date of the Contract.

Municipal Projects Manager - The City’s Construction Management Consultant’s immediate supervisor and second level of appeal for informal dispute resolution.

Notice of Award – The written notice by the Agency to the successful Bidder stating that upon compliance by it with the required conditions, the Agency will execute the Contract.

Notice to Proceed – A written notice given by the Agency to the Contractor fixing the date on which the Contract time will start.

Own Organization - When used in Section 2-3.1 – Employees of the Contractor who are hired, directed, supervised and paid by the Contractor to accomplish the completion of the Work. Further, such employees have their employment taxes, State disability insurance payments, State and Federal income taxes paid and administered, as applicable, by the Contractor. When used in Section 2-3.1 “own organization” means construction equipment that the Contractor owns or leases and uses to accomplish the Work. Equipment that is owner operated or leased equipment with an operator is not part of the Contractor's Own Organization and will not be included for the purpose of compliance with Section 2-3.1.

Person – Any individual, firm, association, partnership, corporation, trust, joint venture, or other legal entity.

Phase 1 time, Phase 2 time and Phase 3 time – The terms “Phase 1 time,” “Phase 2 time” and “Phase 3 time” are defined in Article 6 of the General Provisions.



Plans – The drawings, profiles, cross sections, working drawings, and supplemental drawings, or reproductions thereof, approved by the Engineer, which show the location, character, dimensions, or details of the Work.

Pre-Construction Services – The term “Pre-Construction Services” means the services provided by the Contractor under Phase 1, Phase 2 and Phase 3 prior to commencing construction. The Pre-Construction Services shall continue through Design/Construction Overlap Duration, if any, of the construction phases.

Private Contract – Work subject to Agency inspection, control, and approval, involving private funds, not administered by the Agency.

Project – The term “Project” means the Work of the Contract for all exercised Phases and all other work, labor, equipment, and materials necessary to accomplish the Project. The Project may include construction by City of Carlsbad or by Separate Contractors.

Proposal – See Bid.

Public Works Manager, Fleet & Facilities – The Municipal Projects Manager’s immediate supervisor and third level of appeal for informal dispute resolution.

Reference Specifications – Those bulletins, standards, rules, methods of analysis or test, codes, and specifications of other agencies, engineering societies, or industrial associations referred to in the Contract Documents. These refer to the latest edition, including amendments in effect and published at the time of advertising the project or issuing the permit, unless specifically referred to by edition, volume, or date.

Roadway – The portion of a street reserved for vehicular use.

Service Connection – Service connections are all or any portion of the conduit, cable, or duct, including meter, between a utility distribution line and an individual consumer.

Sewer – Any conduit intended for the reception and transfer of sewage and fluid industrial waste.

Specifications – General Provisions, Standard Specifications, Technical Specifications, Reference Specifications, Supplemental Provisions, and specifications in Supplemental Agreements between the Contractor and the Board.

Standard – The shaft or pole used to support street lighting luminaire, traffic signal heads, mast arms, etc.

Standard Plans – Details of standard structures, devices, or instructions referred to on the Plans or in Specifications by title or number.

State – State of California.

Storm Drain – Any conduit and appurtenances intended for the reception and transfer of storm water.

Street – Any road, highway, parkway, freeway, alley, walk, or way.

Subbase – A layer of specified material of planned thickness between a base and the subgrade.

Subcontractor – An individual, firm, or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work.



Subgrade – For roadways, that portion of the roadbed on which pavement, surfacing, base, subbase, or a layer of other material is placed. For structures, the soil prepared to support a structure.

Substantial Completion – The term “Substantial Completion” is defined in Section 9.7 of the General Provisions.

Superintendent – The term “Superintendent” means the person designated by Contractor to represent Contractor at the Project site in accordance with Article 3 of the General Provisions.

Supervision – Supervision, where used to indicate supervision by the Engineer, shall mean the performance of obligations, and the exercise of rights, specifically imposed upon and granted to the Agency in becoming a party to the Contract. Except as specifically stated herein, supervision by the Agency shall not mean active and direct superintendence of details of the Work.

Supplemental Agreement – A written amendment of the Contract Documents signed by both parties.

Supplemental Provisions – Additions and revisions to the Standard Specifications setting forth conditions and requirements peculiar to the work.

Surety – Any individual, firm, or corporation, bound with and for the Contractor for the acceptable performance, execution, and completion of the Work, and for the satisfaction of all obligations incurred.

Utility – Tracks, overhead or underground wires, pipeline, conduits, ducts, or structures, sewers, or storm drains owned, operated, or maintained in or across a public right of way or private easement.

Work – The term “Work” means the Pre-Construction Services, all Construction Work, all Work directed by City of Carlsbad pursuant to the Additional Improvements Allowance, and other requirements of the Contract Documents as modified by Change Order, whether completed or partially completed, and includes all labor, materials, equipment, tools, and services provided, or to be provided by, Contractor to fulfill Contractor's obligations without limitation. The Work may constitute the whole or a part of the Project.

1-3 ABBREVIATIONS

1-3.1 General. The abbreviation herein, together with others in general use, are applicable to these Standard Specifications and to project Plans or other Contract Documents.

All abbreviations and symbols used on Plans for structural steel construction shall conform to those given by the “Manual of Steel Construction” published by the American Institute of Steel Construction, Inc.

1-3.2 Common Usage

Abbreviation

Word or Words

ABAN Abandon
ABAND Abandoned
ABS Acrylonitrile – butadiene – styrene
AC Asphalt Concrete
ACP Asbestos cement pipe
ACWS Asphalt concrete wearing surface
ALT Alternate
APTS Apartment and Apartments
AMER STD American Standard
AWG American Wire Gage (nonferrous wire)

BC Beginning of curve
BCR Beginning of curb return
BDRY Boundary
BF Bottom of footing
BLDG Building and Buildings
BM Bench mark
BVC Beginning of vertical curve
B/W Back of wall
C/C Center to center
CAB Crushed aggregate base



CAL/OSHA California Occupational Safety and Health Administration
 CalTrans.....California Department of Transportation
 CAP.....Corrugated aluminum pipe
 CB.....Catch Basin
 Cb.....Curb
 CBP..... Catch Basin Connection Pipe
 CBR..... California Bearing Ratio
 CCR..... California Code of Regulations
 CCTV Closed Circuit TV
 CES..... Carlsbad Engineering Standards
 CF..... Curb face
 CF..... Cubic foot
 C&G..... Curb and gutter
 CFR..... Code of Federal Regulations
 CFS..... Cubic Feet per Second
 CIP..... Cast iron pipe
 CIPP..... Cast-in place pipe
 CL..... Clearance, center line
 CLF..... Chain link fence
 CMB..... Crushed miscellaneous base
 CMC..... Cement mortar-coated
 CML..... Cement mortar-lined
 CMWD..... Carlsbad Municipal Water City
 CO..... Cleanout (Sewer)
 COL..... Column
 COMM..... Commercial
 CONC..... Concrete
 CONN..... Connection
 CONST..... Construct, Construction
 COORD..... Coordinate
 CSP..... Corrugated steel pipe
 CSD..... Carlsbad Standard Drawings
 CTB..... Cement treated base
 CV..... Check valve
 CY..... Cubic yard
 D..... Load of pipe
 dB..... Decibels
 DBL..... Double
 DF..... Douglas fir
 DIA..... Diameter
 DIP..... Ductile iron pipe
 DL..... Dead load
 DR..... Dimension Ratio
 DT..... Drain Tile
 DWG..... Drawing
 DWY..... Driveway
 DWY APPR..... Driveway approach
 E..... Electric
 EA..... Each
 EC..... End of curve
 ECR..... End of curb return
 EF..... Each face
 EG..... Edge of gutter
 EGL..... Energy grade line
 EI..... Elevation
 ELC..... Electrolier lighting conduit
 ELT..... Extra long ton
 ENGR..... Engineer, Engineering
 EP..... Edge of pavement
 ESMT..... Easement
 ETB..... Emulsion-treated base

EVC.....End of vertical curb
 EWA..... Encina Wastewater Authority
 EXC..... Excavation
 EXP JT..... Expansion joint
 EXST..... Existing
 F..... Fahrenheit
 F&C..... Frame and cover
 F&I..... Furnish and install
 FAB..... Fabricate
 FAS..... Flashing arrow sign
 FD..... Floor drain
 FDN..... Foundation
 FED SPEC..... Federal Specification
 FG..... Finished grade
 FH..... Fire hydrant
 FL..... Flow line
 FS..... Finished surface
 FT-LB..... Foot-pound
 FTG..... Footing
 FW..... Face of wall
 G..... Gas
 GA..... Gauge
 GAL..... Gallon and Gallons
 GALV..... Galvanized
 GAR..... Garage and Garages
 GIP..... Galvanized iron pipe
 GL..... Ground line or grade line
 GM..... Gas meter
 GNV..... Ground Not Visible
 GP..... Guy pole
 GPM..... gallons per minute
 GR..... Grade
 GRTG..... Grating
 GSP..... Galvanized steel pipe
 H..... High or height
 HB..... Hose bib
 HC..... House connection
 HDWL..... Headwall
 HGL..... Hydraulic grade line
 HORIZ..... Horizontal
 HP..... Horsepower
 HPG..... High pressure gas
 HPS..... High pressure sodium (Light)
 HYDR..... Hydraulic
 IE..... Invert Elevation
 ID..... Inside diameter
 INCL..... Including
 INSP..... Inspection
 INV..... Invert
 IP..... Iron pipe
 JC..... Junction chamber
 JCT..... Junction
 JS..... Junction structure
 JT..... Joint
 L..... Length
 LAB..... Laboratory
 LAT..... Lateral
 LB..... Pound
 LD..... Local depression
 LF..... Linear foot
 LH..... Lamp hole
 LL..... Live load
 LOL..... Layout line



REF	Reference
REINF	Reinforced or reinforcement
RES	Reservoir
RGE	Registered geotechnical engineer
ROW	Right-of-Way
RR	Railroad
RSE	Registered structural engineer
RTE	Registered traffic engineer
S	Sewer or Slope, as applicable
SCCP	Steel cylinder concrete pipe
SD	Storm drain
SDNR	San Diego Northern Railway
SDR	Standard thermoplastic pipe dimension ratio (ratio of pipe O.D. to minimum wall thickness)
SDRSD	San Diego Regional Standard Drawings
SE	Sand Equivalent
SEC	Section
SF	Square foot
SFM	Sewer Force Main
SI	International System of Units (Metric)
SPEC	Specifications
SPPWC	Standard Plans for Public Works Construction
SSPWC	Standard Specifications for Public Works Construction
ST HWY	State highway
STA	Station
STD	Standard
STR	Straight
STR GR	Straight grade
STRUC	Structural/Structure
SW	Sidewalk
SWD	Sidewalk drain
SY	Square yard
T	Telephone
TAN	Tangent
TC	Top of curb
TEL	Telephone
TF	Top of footing
TOPO	Topography
TR	Tract
TRANS	Transition
TS	Traffic signal or transition structure
TSC	Traffic signal conduit
TSS	Traffic signal standard
TW	Top of wall
TYP	Typical
UE	Underground Electric
USA	Underground Service Alert
VAR	Varies, Variable
VB	Valve box
VC	Vertical curve
VCP	Vitrified clay pipe
VERT	Vertical
VOL	Volume
VWD	Vallecitos Water City
W	Water, Wider or Width, as applicable
WATCH	Work Area Traffic Control Handbook
WI	Wrought iron
WM	Water meter
WPJ	Weakened plane joint
XCONN	Cross connection
XSEC	Cross section



1-3.3 Institutions.

<u>Abbreviation</u>	<u>Word or Words</u>
AASHTO	American Association of State Highway and Transportation Officials
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
API	American Petroleum Institute
AREA	American Railway Engineering Association
ASTM	American Society for Testing and Materials
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
FHWA	Federal Highway Administration
GRI	Geosynthetic Research Institute
NEMA	National Electrical Manufacturers Association
NOAA	National Oceanic and Atmospheric Administration (Dept. of Commerce)
UL	Underwriters' Laboratories Inc.
USGS	United States Geological Survey

1-4 UNITS OF MEASURE.

1-4.1 General. U.S. Standard Measures, also called U.S. Customary System, are the principal measurement system in these specifications. However, certain material specifications and test requirements contained herein use SI units specifically and conversions to U.S. Standard Measures may or may not have been included in these circumstances. When U.S. Standard Measures are not included in parenthesis, then the SI units shall control. S.I. units and U.S. Standard Measures in parenthesis may or may not be exactly equivalent.

Reference is also made to ASTM E 380 for definitions of various units of the SI system and a more extensive set of conversion factors.

1-4.2 Units of Measure and Their Abbreviations. Not Used.

1-5 SYMBOLS – Not Used.



SECTION 2 – SCOPE AND CONTROL OF WORK

2-1 AWARD AND EXECUTION OF CONTRACT. Award and execution of Contract will be as provided for in the Specifications, Instruction to Bidders, or Notice Inviting Bids.

2-2 ASSIGNMENT. No Contract or portion thereof may be assigned without consent of the Board, except that the Contractor may assign money due or which will accrue to it under the Contract. If given written notice, such assignment will be recognized by the Board to the extent permitted by law. Any assignment of money shall be subject to all proper withholdings in favor of the Agency and to all deductions provided for in the Contract. All money withheld, whether assigned or not, shall be subject to being used by the Agency for completion of the Work, should the Contractor be in default.

2-3 SUBCONTRACTS.

2-3.1 General. Each Bidder shall comply with the Chapter of the Public Contract Code including Sections 4100 through 4113. The following excerpts or summaries of some of the requirements of this Chapter are included below for information:

The Bidder shall set forth in the Bid, as provided in 4104:

“(a) The name and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvements, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor’s total bid, or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor’s total bid or ten thousand dollars (\$10,000), whichever is greater.”

“(b) The portion of the work which will be done by each such subcontractor under this act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in his bid.”

If the Contractor fails to specify a Subcontractor, or specifies more than one Subcontractor for the same portion of the work to be performed under the Contract (in excess of one-half of 1 percent of the Contractor’s total Bid), the Contractor shall be qualified to perform that portion itself, and shall perform that portion itself, except as otherwise provided in the Code.

As provided in Section 4107, no Contractor whose Bid is accepted shall substitute any person as Subcontractor in place of the Subcontractor listed in the original Bid, except for causes and by procedures established in Section 4107.5. This section provides procedures to correct a clerical error in the listing of a Subcontractor.

Section 4110 provides that a Contractor violating any of the provisions of the Chapter violates the Contract and the Board may exercise the option either to cancel the Contract or assess the Contractor a penalty in an amount of not more than 10 percent of the subcontract involved, after a public hearing.

Should the Contractor fail to adhere to the provisions requiring the Contractor to complete **25 percent** of the contract price with its own organization, the Agency may at its sole discretion elect to cancel the contract or deduct an amount equal to 10 percent of the value of the work performed in excess of **75**



percent of the contract price by other than the Contractor's own organization. The Board shall be the sole body for determination of a violation of these provisions. In any proceedings under this section, the prime contractor shall be entitled to a public hearing before the Board and shall be notified ten (10) days in advance of the time and location of said hearing. The determination of the City Council shall be final.

2-3.2 Additional Responsibility. The Contractor shall give personal attention to the fulfillment of the Contract and shall keep the Work under its control.

The Contractor shall perform, with its own organization, Contract work amounting to at least 25 percent of the Contract Price except that any designated "Specialty Items" may be performed by subcontract, and the amount of any such "Specialty Items" so performed may be deducted from the Contract Price before computing the amount required to be performed by the Contractor with its own organization. "Specialty Items" will be identified by the Agency in the Bid or Proposal. Where an entire item is subcontracted, the value of work subcontracted will be based on the Contract Unit Price. When a portion of an item is subcontracted, the value of work subcontracted will be based on the estimated percentage of the Contract Unit Price. This will be determined from information submitted by the Contractor, and subject to approval by the Engineer.

Before the work of any Subcontractor is started, the Contractor shall submit to the Engineer for approval a written statement showing the work to be subcontracted giving the name and business of each Subcontractor and description and value of each portion of the work to be so subcontracted.

2-3.3 Status of Subcontractors. Subcontractors shall be considered employees of the Contractor, and the Contractor shall be responsible for their work.

2-4 CONTRACT BONDS. Before execution of the Contract, the Bidder shall file surety bonds with the Agency to be approved by the Board in the amounts and for the purposes noted below. Bonds issued by a surety, who is authorized to issue bonds in California, and whose bonding limitation shown in said circular is sufficient to provide bonds in the amount required by the Contract shall be deemed to be approved unless specifically rejected by the Agency. Bonds from all other sureties shall be accompanied by all of the documents enumerated in Code of Civil Procedure 995.660 (a). The Bidder shall pay all bond premiums, costs, and incidentals.

Each bond shall incorporate, by reference, the Contract and be signed by both the Bidder and Surety and the signature of the authorized agent of the Surety shall be notarized.

The Contractor shall provide a faithful performance/warranty bond and payment bond (labor and materials bond) for this contract. The faithful performance/warranty bond shall be in a sum not less than one hundred percent of the total amount payable by the terms of this contract. The Contractor shall provide bonds to secure payment of laborers and materials suppliers in a sum not less than one hundred percent of the total amount payable by the terms of this contract. Both bonds shall extend in full force and effect and be retained by the Agency during this project until they are released according to the provisions of this section.

The faithful performance/warranty bond will be reduced to 25 percent of the original amount 30 days after recordation of the Notice of Completion and will remain in full force and effect for the one-year warranty period and until all warranty repairs are completed to the satisfaction of the Engineer. The bonds to secure payment of laborers and materials suppliers shall be released six months plus 30 days after recordation of the Notice of Completion if all claims have been paid.

All bonds are to be placed with a surety insurance carrier admitted and authorized to transact the business of insurance in California and whose assets exceed their liabilities in an amount equal to or



in excess of the amount of the bond. The bonds are to contain the following documents:

1. An original, or a certified copy, of the un-revoked appointment, power of attorney, by laws, or other instrument entitling or authorizing the person who executed the bond to do so.
2. A certified copy of the certificate of authority of the insurer issued by the insurance commissioner.

If the bid is accepted, the Agency may require a financial statement of the assets and liabilities of the insurer at the end of the quarter calendar year prior to 30 days next preceding the date of the execution of the bond. The financial statement shall be made by an officer's certificate as defined in Section 173 of the Corporations Code. In the case of a foreign insurer, the financial statement may be verified by the oath of the principal officer or manager residing within the United States.

Should any bond become insufficient, the Contractor shall renew the bond within 10 days after receiving notice from the Agency.

Should any Surety at any time be unsatisfactory to the Board, notice will be given the Contractor to that effect. No further payments shall be deemed due or will be made under the contract until a new Surety shall qualify and be accepted by the Board.

Changes in the Work or extensions of time, made pursuant to the Contract, shall in no way release the Contractor or Surety from its obligations. Notice of such changes or extensions shall be waived by the Surety.

2-5 PLANS AND SPECIFICATIONS

2-5.1 General. The plans and specifications for this project include the (1) Project Drawings, dated September 11, 2020, volumes 1 and 2, and titled Carlsbad Safety Center Renovation Project, (2) Project Drawings, dated April 14, 2021, volumes 1 and 2, and titled Carlsbad Safety Center / EOC Wing Renovation, and the (3) Specifications for Construction dated April 14, 2021, volumes 1 and 2, and titled City of Carlsbad Safety Center Renovation Project, Construction Change 01 and (4) Standard Specifications for Public Works Construction, (SSPWC), Part 2 & 3, and the latest supplements thereto, current edition at the time of bid opening as published by the "Greenbook" Committee of Public Works Standards, Inc., hereinafter designated "SSPWC", as amended.

The Plans, Specifications, and other Contract Documents shall govern the Work. The Contract Documents are intended to be complementary and cooperative. Anything specified in the Specifications and not shown on the Plans, or shown on the Plans and not specified in the Specifications shall be as though shown on or specified in both.

The Plans shall be supplemented by such working drawings and shop drawings as are necessary to adequately control the Work. The Contractor shall ascertain the existence of any conditions affecting the cost of the Work through a reasonable examination of the Work site prior to submitting the Bid.

Existing improvements visible at the Work site, for which no specific disposition is made on the Plans, but which interfere with the completion of the Work, shall be removed and disposed of by the Contractor.

The Contractor shall, upon discovering any error or omission in the Plans or Specifications, immediately call it to the attention of the Engineer.

2-5.2 Precedence of Contract Documents.

If there is a conflict between Contract Documents, the document highest in precedence shall control. The precedence shall be the most recent edition of the following documents listed in order of highest to lowest precedence:



- a) Permits from other agencies as may be required by law.
- b) Change orders, whichever occurs last.
- c) Contract addenda, whichever occurs last.
- d) Contract
- e) Carlsbad General Provisions and Technical Specifications
- f) Plans/drawings for this project.
- g) Standards plans.
 - 1) City of Carlsbad Standard Drawings.
 - 2) Carlsbad Municipal Water City Standard Drawings.
 - 3) City of Carlsbad modifications to the San Diego Area Regional Standard Drawings.
 - 4) San Diego Area Regional Standard Drawings.
- h) Standard Specifications for Public Works Construction, as amended.
- i) Reference Specifications.
- j) Manufacturer's Installation Recommendations

Detail drawings shall take precedence over general drawings.

Change Orders, Supplemental Agreements and approved revisions to Plans and Specifications will take precedence over items b) through f) above. Detailed plans and plan views shall have precedence over general plans.

Organization of the Specifications into various subdivisions and the arrangement of the Drawings shall not control Contractor in dividing the Construction Work among Subcontractors or in establishing the extent of work to be performed by any trade.

Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings, and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement.

Whenever the context so requires, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only for reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

2-5.3 Submittals

2-5.3.1 General. Submittals shall be provided, at the Contractor's expense, as required in 2-5.3.2, 2-5.3.3 and 2-5.3.4, when required by the Plans or General Provisions, or requested by the Engineer. Materials shall neither be furnished nor fabricated, nor shall any work for which submittals are



required be performed, before the required submittals have been reviewed and accepted by the Engineer. Neither review nor acceptance of submittals by the Engineer shall relieve the Contractor from responsibility for errors, omissions, or deviations from the Contract Documents, unless such deviations were specifically called to the attention of the Engineer in the letter of transmittal. The Contractor shall be responsible for the correctness of the submittals.

The Contractor shall allow a minimum of 20 working days for review of submittals unless otherwise specified in the General Provisions. Each submittal shall be accompanied by a letter of transmittal.

Each submittal shall be consecutively numbered. Resubmittals shall be labeled with the number of the original submittal followed by an ascending alphabetical designation (e.g. The label '4-C' would indicate the third instance that the fourth submittal had been given to the Engineer). Each sheet of each submittal shall be consecutively numbered. Each set of shop drawings and submittals shall be accompanied by a letter of transmittal on the Contractor's letterhead. The Letter of Transmittal shall contain the following:

- a) Project title and Agency contract number.
- b) Number of complete sets.
- c) Contractor's certification statement.
- d) Specification section number(s) pertaining to material submitted for review.
- e) Submittal number (Submittal numbers shall be consecutive including subsequent submittals for the same materials.)
- f) Description of the contents of the submittal.
- g) Identification of deviations from the contract documents.

When submitted for the Engineer's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked, and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents. The Contractor shall subscribe to and shall place the following certification on all submittals:

"I hereby certify that the (equipment, material) shown and marked in this submittal is that proposed to be incorporated into this Project, is in compliance with the Contract Documents, can be installed in the allocated spaces, and is submitted for approval."

By: _____ Title: _____

Date: _____

Company Name: _____

2-5.3.2 Working Drawings. Working drawings are drawings showing details not shown on the Plans which are required to be designed by the Contractor. Working drawings shall be of a size and scale to clearly show all necessary details.

Six copies and one reproducible shall be submitted. If no revisions are required, three of the copies will be returned to the Contractor. If revisions are required, the Engineer will return one copy along with the reproducible for resubmission. Upon acceptance, the Engineer will return two of the copies to the Contractor and retain the remaining copies and the reproducible.

2-5.3.3 Shop Drawings. Shop drawings are drawings showing details of manufactured or assembled products proposed to be incorporated into the Work. See section 6.-2.11.



2-5.3.4 Supporting Information. Supporting information is information required by the Specification for the purposes of administration of the Contract, analysis for verification of conformance with the Specifications, the operation and maintenance of a manufactured product or system to be constructed as part of the Work, and other information as may be required by the Engineer. Six copies of the supporting information shall be submitted to the Engineer prior to the start of the Work unless otherwise specified in the General Provisions or directed by the Engineer. Supporting information for systems shall be bound together and include all manufactured items for the system. If resubmittal is not required, three copies will be returned to the Contractor. Supporting information shall consist of the following and is required unless otherwise specified in the General Provisions:

- a) List of Subcontractors per 2-3
- b) List of Materials
- c) Certifications
- d) Construction Schedule per 6-1.
- e) Confined Space Entry Program per 7-10.4.4.
- f) Concrete mix designs
- g) Asphalt concrete mix designs
- h) Data, including, but not limited to, catalog sheets, manufacturer's brochures, technical bulletins, specifications, diagrams, product samples, and other information necessary to describe a system, product or item. This information is required for irrigation systems, street lighting systems, and traffic signals, and may also be required for any product, manufactured item, or system.

2-5.3.5 Electronic Submittal Procedure (In coordination with Attachment D)

1. Summary:
 - a) Shop drawing and product data submittals shall be transmitted to Architect in electronic (PDF) format using Submittal Exchange, a website service designed specifically for transmitting submittals between construction team members.
 - b) The intent of electronic submittals is to expedite the construction process by reducing paperwork improving information flow and decreasing turnaround time.
 - c) The electronic submittal process is not intended for color samples, color charts, or physical material samples.
2. Procedures:
 - a.) Submittal Preparation - Contractor may use any or all of the following options:
 - 1) Subcontractors and Suppliers provide electronic (PDF) submittals to Contractor via the Submittal Exchange website.
 - 2) Subcontractors and Suppliers provide paper submittals to General Contractor who electronically scans and converts to PDF format.
 - 3) Subcontractors and Suppliers provide paper submittals to Scanning Service which electronically scans and converts to PDF format.
 - b.) Contractor shall review and apply electronic stamp certifying that the submittal complies with the requirements of the Contract Documents including verification of manufacturer / product, dimensions and coordination of information with other parts of the work.
 - c.) Contractor shall transmit each submittal to Architect using the Submittal Exchange website, www.submittalexchange.com.
 - d.) Architect / Engineer review comments will be made available on the Submittal Exchange website for downloading. Contractor will receive email notice of completed review.
 - e.) Distribution of reviewed submittals to subcontractors and suppliers is the responsibility of the Contractor.
 - f.) Submit paper copies of reviewed submittals at project closeout for record purposes in ac-



cordance with Closeout Procedures

3. Costs:
 - a.) The cost of Submittal Exchange services has been paid in full by the Owner.
 - b.) At Contractor's option, training is available from Submittal Exchange regarding use of web-site and PDF submittals. Contact Submittal Exchange at 1-800-714-0024.
 - c.) Internet Service and Equipment Requirements:
 - 1) Email address and Internet access at Contractor's main office.
 - 2) Adobe Acrobat (www.adobe.com), Bluebeam PDF Revu (www.bluebeam.com), or other similar PDF review software for applying electronic stamps and comments.

2-5.4 RECORD DRAWINGS. The Contractor shall provide and keep up-to-date a complete "as-built" record set of blue-line prints, which shall be corrected in red daily and show every change from the original drawings and specifications and the exact "as-built" locations, sizes and kinds of equipment, underground piping, valves, and all other work not visible at surface grade. Prints for this purpose may be obtained from the Agency at cost. This set of drawings shall be kept on the job and shall be used only as a record set and shall be delivered to the Engineer within ten (10) days of completion of the work. Payment for performing the work required by Section 2-5.4 shall be included in the various bid items and no additional payment will be made therefore.

2-6 WORK TO BE DONE. The Contractor shall perform all work necessary to complete the Contract in a satisfactory manner. Unless otherwise provided, the Contractor shall furnish all materials, equipment, tools, labor, and incidentals necessary to complete the Work.

2-7 SUBSURFACE DATA. Not used.

2-8 RIGHT-OF-WAY. Rights-of-way, easements, or rights-of-entry for the Work will be provided by the Agency. Unless otherwise provided, the Contractor shall make arrangements, pay for, and assume all responsibility for acquiring, using, and disposing of additional work areas and facilities temporarily required. The Contractor shall indemnify and hold the Agency harmless from all claims for damages caused by such actions.

2-9 SURVEYING.

2-9.1 Permanent Survey Markers. Not used.

2-9.2 Survey Service. Not used.

2-9.2.1 Submittal of Surveying Data. Not used.

2-9.2.2 Survey Requirements. Not used.

2-10 AUTHORITY OF BOARD AND ENGINEER. The Board has the final authority in all matters affecting the Work. Within the scope of the Contract, the Engineer has the authority to enforce compliance with the Plans and Specifications. The Contractor shall promptly comply with instructions from the Engineer or an authorized representative.

The decision of the Engineer is final and binding on all questions relating to: quantities; acceptability of material, equipment, or work; execution, progress or sequence of work; and interpretation of the Plans, Specifications, or other drawings. This shall be precedent to any payment under the Contract, unless otherwise ordered by the Board.



2-10.1 Availability of Records, The Contractor shall, at no charge to the Agency, provide copies of all records in the Contractor's or subcontractor's possession pertaining to the work that the Engineer may request.

2-10.2 Audit and Inspection, Contractor agrees to maintain and/or make available, to the Engineer, within San Diego County, accurate books and accounting records relative to all its activities and to contractually require all subcontractors to this Contract to do the same. The Engineer shall have the right to monitor, assess, and evaluate Contractor's and its subcontractors performance pursuant to this Agreement, said monitoring, assessments, and evaluations to include, but not be limited to, audits, inspection of premises, reports, contracts, subcontracts and interviews of Contractor's staff and the staff of all subcontractors to this contract. At any time during normal business hours and as often as the Engineer may deem necessary, upon reasonable advance notice, Contractor shall make available to the Engineer for examination, all of its, and all subcontractors to this contract, records with respect to all matters covered by this Contract and will permit the Engineer to audit, examine, copy and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, pay-rolls, records of personnel, and other data relating to all matters covered by this Contract. However, any such activities shall be carried out in a manner so as to not unreasonably interfere with Contractor's ongoing business operations. Contractor and all subcontractors to this contract shall maintain such data and records for as long as may be required by applicable laws and regulations.

2-11 INSPECTION. The Work is subject to inspection and approval by the Engineer. The Contractor shall notify the Engineer before noon of the working day before inspection is required. Work shall be done only in the presence of the Engineer, unless otherwise authorized. Any work done without proper inspection will be subject to rejection. The Engineer and any authorized representatives shall at all times have access to the Work during its construction at shops and yards as well as the project site. The Contractor shall provide every reasonable facility for ascertaining that the materials and workmanship are in accordance with these specifications. Inspection of the Work shall not relieve the Contractor of the obligation to fulfill all conditions of the Contract.



SECTION 3 – CHANGES IN WORK

3-1 CHANGES REQUESTED BY THE CONTRACTOR.

3-1.1 General. Changes in the Plans and Specifications, requested in writing by the Contractor, which do not materially affect the Work and which are not detrimental to the Work or to the interests of the Agency, may be granted by the Engineer. Nothing herein shall be construed as granting a right to the Contractor to demand acceptance of such changes.

3-1.2 Payment for Changes Requested by the Contractor. If such changes are granted, they shall be made at a reduction in cost or no additional cost to the Agency.

3-2 CHANGES INITIATED BY THE AGENCY.

3-2.1 General. The Agency may change the Plans, Specifications, character of the work, or quantity of work provided the total arithmetic dollar value of all such changes, both additive and deductive, does not exceed 25 percent of the Contract Price. Should it become necessary to exceed this limitation, the change shall be by written Supplemental Agreement between the Contractor and Agency, unless both parties agree to proceed with the change by Change Order.

Change Orders shall be in writing and state the dollar value of the change or established method of payment, any adjustment in contract time of completion, and when negotiated prices are involved, shall provide for the Contractor's signature indicating acceptance.

3-2.2 Payment.

3-2.2.1 Contract Unit Prices. If a change is ordered in an item of work covered by a Contract Unit Price, and such change does not involve substantial change in character of the work from that shown on the Plans or specified in the Specifications, then an adjustment in payment will be made. This adjustment will be based upon the increase or decrease in quantity and the Contract Unit Price.

If the actual quantity of an item of work covered by a Contract Unit Price and constructed in conformance with the Plans and Specifications varies from the Bid quantity by 50 percent or less, payment will be made at the Contract Unit Price. If the actual quantity of said item of work varies from the Bid quantity by more than 50 percent, payment will be made per Section 3-2.2.2 or 3-2.2.3 as appropriate.

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does involve a substantial change in the character of the work from that shown on the Plans or specified in the Specifications, an adjustment in payment will be made per Section 3-2.4.

3-2.2.2 Increases of More Than 50 Percent. Should the actual quantity of an item of work covered by a Contract Unit Price and constructed in conformance with the Plans and Specifications, exceed the Bid quantity by more than 50 percent, payment for the quantity in excess of 150 percent of the Bid quantity will be made on the basis of an adjustment in the Contract Unit Price mutually agreed to by the Contractor and the Agency, or at the option of the Engineer, on the basis of Extra Work per Section 3-3. The Extra Work per Section 3-3, basis of payment, shall not include fixed costs. Fixed costs shall be deemed to have been recovered by the Contractor through payment for 150 percent of the Bid quantity at the Contract Unit Price.

3-2.2.3 Decreases of More Than 50 Percent. Should the actual quantity of an item of work covered by a Contract Unit Price, and constructed in conformance with the Plans and Specifications, be less



than 50 percent of the Bid quantity, an adjustment in payment will not be made unless so requested in writing by the Contractor. If the Contractor so requests, payment will be made on the basis of an adjustment in the Contract Unit Price mutually agreed to by the Contractor and the Agency, or at the option of the Engineer, on the basis of Extra Work per Section 3-3; however, in no case will payment be less than would be made for the actual quantity at the Contract Unit Price nor more than would be made for 50 percent of the Bid quantity at the Contract Unit Price.

3-2.3 Stipulated Unit Prices. Not Used.

3-2.4 Agreed Prices. Agreed Prices are prices for new or unforeseen work, or adjustments in Contract Unit Prices per Section 3-2.2, established by mutual agreement between the Contractor and the Agency. If mutual agreement cannot be reached, the Engineer may direct the Contractor to proceed on the basis of Extra Work in accordance per Section 3-3, except as otherwise specified in Sections 3-2.2.2 and 3-2.2.3.

3.2.4.1 Schedule of Values. Prior to construction, Contractor shall provide a schedule of values for all lump sum bid items in the Contractor's Proposal. The Contractor's Proposal shall be used for the purpose of progress payments, though some line items may require further breakdown if requested by City's Construction Management Consultant. The proposal prices shall be valid for the purpose of change orders to the project.

3.2.5 Eliminated Items. Should any Bid item be eliminated in its entirety, payment will be made to the Contractor for its actual costs incurred in connection with the eliminated item prior to notification in writing from the Engineer so stating its elimination. If material conforming to the Plans and Specifications is ordered by the Contractor for use in the eliminated item prior to the date of notification of elimination by the Engineer, and if the order for that material cannot be canceled, payment will be made to the Contractor for the actual cost of the material. In this case, the material shall become the property of the Agency. Payment will be made to the Contractor for its actual costs for any further handling. If the material is returnable, the material shall be returned and payment will be made to the Contractor for the actual cost of charges made by the supplier for returning the material and for handling by the Contractor. Actual costs, as used herein, shall be computed on the basis of Extra Work per Section 3-3.

3-3 EXTRA WORK.

3-3.1 General. New or unforeseen work will be classified as "extra work" when the Engineer determines that it is not covered by Contract Unit Prices or stipulated unit prices.

3-3.2 Payment.

3-3.2.1 General. When the price for the extra work cannot be agreed upon, the Agency will pay for the extra work based on the accumulation of costs as provided herein.

3-3.2.2 Basis for Establishing Costs.

- a.) **Labor.** The costs of labor will be the actual cost for wages of workers performing the extra work at the time the extra work is done, plus employer payments of payroll taxes, workers compensation insurance, liability insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs, resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements.



The use of a labor classification which would increase the extra work cost will not be permitted unless the Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental. The labor cost for foremen shall be proportioned to all of their assigned work and only that applicable to extra work will be paid.

Non-direct labor costs, including superintendence, shall be considered part of the markup of Section 3-3.2.3 (a).

- b.) **Materials.** The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the job site in the quantities involved, plus sales tax, freight, and delivery.

The Agency reserves the right to approve materials and sources of supply, or to supply materials to the Contractor if necessary, for the progress of the Work. No markup shall be applied to any material provided by the Agency.

- c.) **Tool and Equipment Rental.** No payment will be made for the use of tools which have a replacement value of \$200 or less.

Regardless of ownership, the rates and right-of-way delay factors to be used in determining rental and delay costs shall be the edition of the, "Labor Surcharge and Equipment Rental Rates" published by CALTRANS, current at the time of the actual use of the tool or equipment. The right-of-way delay factors therein shall be used as multipliers of the rental rates for determining the value of costs for delay to the Contractor and subcontractors, if any. The labor surcharge rates published therein are not a part of this contract.

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included.

If during the project contract time the work is stopped by an unforeseen reason, then the Contractor may be due compensation for idled equipment. The Contractor shall use idle time rates (delay factors) in the Caltrans's latest Labor Surcharge and Equipment Rental Rate Manual for pricing equipment that was idled due to the changed condition that caused the work stoppage of that same equipment. The specified idle time rate in the manual is to be multiplied by the Caltrans's equipment rate for that same piece of equipment to determine the product, which will be considered the allowable idle time dollar amount acceptable to the City. (Example: delay factor = .10, equipment hourly rate = \$50, allowable idle time dollar amount = \$5/hr).

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Agency than holding it at the Work site, it shall be returned, unless the Contractor elects to keep it at the Work site, at no expense to the Agency.

All equipment shall be acceptable to the Engineer, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.



The reported rental time for equipment already at the Work site shall be the duration of its use on the extra work. This time begins when equipment is first put into actual operation on the extra work, plus the time required to move it from its previous site and back, or to a closer site.

- d.) **Other Items.** The Agency may authorize other items which may be required on the extra work, including labor, services, material, and equipment. These items must be different in their nature from those required for the Work and be of a type not ordinarily available from the Contractor or Subcontractors.

Invoices covering all such items in detail shall be submitted with the request for payment. Vendors' invoices for material, equipment rental and other expenditures shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, the Agency may establish the cost of the item involved at the lowest price which was current at the time of the report.

- e.) **Sales Tax.** No markup will be allowed on sales and/or other taxes.

3-3.2.3 Markup.

- a) **Work by Contractor.** The following percentages shall be added to the Contractor's costs and shall constitute the markup for all overhead and profits:
- | | |
|-----------------------------------|----|
| 1) Labor | 15 |
| 2) Materials..... | 15 |
| 3) Tools and Equipment Rental ... | 15 |
| 4) Other Items | 15 |
| 5) Sales and other taxes | 0 |

To the sum of the costs and markups provided for in this section, 1 percent shall be added as compensation for bonding.

- (b) **Work by Subcontractor.** When all or any part of the extra work is performed by a Subcontractor, the markup established in Section 3-3.2.3(a) shall be applied to the Subcontractor's actual cost of such work. A markup of 5 percent of the subcontracted portion of the extra work may be added by the Contractor. Contractor markup shall fully compensate Contractor for all General Conditions expenses, direct and indirect Overhead, and Profit. No additional charges will be made for project management, estimating, or supervision.

3-3.3 Daily Reports by Contractor. When the price for the extra work cannot be agreed upon, the Contractor shall submit a daily report to the Engineer on forms approved by the Agency. Included are applicable delivery tickets, listing all labor, materials, and equipment involved for that day, and other services and expenditures when authorized. Payment for extra work will not be made until such time that the Contractor submits completed daily reports and all supporting documents to the Engineer. Failure to submit the daily report by the close of the next working day may waive any rights for that day. An attempt shall be made to reconcile the report daily, and it shall be signed by the Engineer and the Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through the Contractor.

The report shall:

1. Show names of workers, classifications, and hours worked.



2. Describe and list quantities of materials used.
3. Show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable.
4. Describe other services and expenditures in such detail as the Agency may require.

3-4 CHANGED CONDITIONS. The Contractor shall promptly notify the Engineer of the following Work site conditions (hereinafter called changed conditions), in writing, upon their discovery and before they are disturbed:

1. Subsurface or latent physical conditions differing materially from those represented in the Contract;
2. Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character being performed; and
3. Material differing from that represented in the Contract which the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. Regarding suspect hazardous waste, see section 6.2.18

The Engineer will promptly investigate conditions which appear to be changed conditions. If the Engineer determines that conditions are changed conditions and they will materially affect performance time, the Contractor, upon submitting a written request, will be granted an extension of time subject to the provisions of 6-6.

If the Engineer determines that the conditions do not justify an adjustment in compensation, the Contractor will be notified in writing. This notice will also advise the Contractor of its obligation to notify the Engineer in writing if the Contractor disagrees.

The Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

The Contractor shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the Engineer, including failure or refusal to issue a change order, or for the happening of any event, thing, occurrence, or other cause, unless the Contractor shall have first given the Engineer due written notice of potential claim as hereinafter specified. Compliance with this section shall not be required as a prerequisite to notice provisions in Section 6-7.3 Contract Time Accounting, nor to any claim that is based on differences in measurement or errors of computation as to contract quantities. The written notice of potential claim for changed conditions shall be submitted by the Contractor to the Engineer upon their discovery and prior to the time that the Contractor performs the work giving rise to the potential claim. The Contractor's failure to give written notice of potential claim for changed conditions to the agency upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

The Contractor shall provide the City with a written document containing a description of the particular circumstances giving rise to the potential claim, the reasons for which the Contractor believes additional compensation may be due and nature of any and all costs involved within 20 working days of the date of service of the written notice of potential claim for changed conditions. Verbal notifications are disallowed



The potential claim shall include the following certification relative to the California False Claims Act, Government Code Sections 12650-12655.

"The undersigned certifies that the above statements are made in full cognizance of the California False Claims Act, Government Code Sections 12650-12655. The undersigned further understands and agrees that this potential claim, unless resolved, must be restated as a claim in response to the City's proposed final estimate in order for it to be further considered."

By: _____ Title: _____

Date: _____

Company Name: _____

The Contractor's estimate of costs may be updated when actual costs are known. The Contractor shall submit substantiation of its actual costs to the Engineer within 20 working days after the affected work is completed. Failure to do so shall be sufficient cause for denial of any claim subsequently filed on the basis of said notice of potential claim.

It is the intention of this section that differences between the parties arising under and by virtue of the contract be brought to the attention of the Engineer at the earliest possible time in order that such matters be settled, if possible, or other appropriate action promptly taken.

3-5 DISPUTED WORK. The Contractor shall give the agency written notice of potential claim prior to commencing any disputed work. Failure to give said notice shall constitute a waiver of all claims in connection therewith. If the contractor and the agency are unable to reach agreement on disputed work, the Agency may direct the contractor to proceed with the work.

Prior to proceeding with dispute resolution pursuant to Public Contract Code provisions specified hereinafter, the contractor shall attempt to resolve all disputes informally through the following dispute resolution chain of command:

1. City's Construction Management Consultant
2. City Municipal Projects Manager
3. Public Works Manager, Fleet & Facilities
4. City Engineer
5. City Manager

The Contractor shall submit a complete report within 20 working days after completion of the disputed work stating its position on the claim, the contractual basis for the claim, along with all documentation supporting the costs and all other evidentiary materials. At each level of claim or appeal of claim the City will, within 10 working days of receipt of said claim or appeal of claim, review the Contractor's report and respond with a position, request additional information or request that the Contractor meet and present its report. When additional information or a meeting is requested the City will provide its position within 10 working days of receipt of said additional information or Contractor's presentation of its report. The Contractor may appeal each level's position up to the City Manager after which the Contractor may proceed under the provisions of the Public Contract Code.

The authority within the dispute resolution chain of command is limited to recommending a resolution to a claim to the City Manager. Actual approval of the claim is subject to the change order provisions in the contract.



All claims by the Contractor shall be resolved in accordance with Public Contract Code section 9204, which is set forth below:

9204. (a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, City, special City, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks & Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.



(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. 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. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall



furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date. In addition, all claims by Contractor for \$375,000 or less shall be resolved in accordance with the procedures in the Public Contract Code, Division 2, Part 3, Chapter 1, Article 1.5 (commencing with Section 20104) which is set forth below

ARTICLE 1.5 RESOLUTION OF CONSTRUCTION CLAIMS

20104. (a)(1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b)(1) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

20104.2. For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b)(1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the



claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c)(1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b)(1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil procedure) shall apply to any proceeding brought under the subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed



their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

20104.6. (a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

Although not to be construed as proceeding under extra work provisions, the Contractor shall keep and furnish records of disputed work in accordance with Section 3-3.



SECTION 4 – CONTROL OF MATERIALS

4-1 MATERIALS AND WORKMANSHIP

4-1.1. General. All materials, parts, and equipment furnished by the Contractor in the Work shall be new, high grade, and free from defects. Quality of work shall be in accordance with the generally accepted standards. Material and work quality shall be subject to the Engineer's approval.

Materials and work quality not conforming to the requirements of the Specifications shall be considered defective and will be subject to rejection. Defective work or material, whether in place or not, shall be removed immediately from the site by the Contractor, at its expense, when so directed by the Engineer.

If the Contractor fails to replace any defective or damaged work or material after reasonable notice, the Engineer may cause such work or materials to be replaced. The replacement expense will be deducted from the amount to be paid to the Contractor. Used or secondhand materials, parts, and equipment may be used only if permitted by the Specifications.

4-1.2 Protection of Work and Materials. The Contractor shall provide and maintain storage facilities and employ such measures as will preserve the specified quality and fitness of materials to be used in the Work. Stored materials shall be reasonably accessible for inspection. The Contractor shall also adequately protect new and existing work and all items of equipment for duration of Contract.

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

4-1.3 Inspection Requirements

4-1.3.1 General. Unless otherwise specified, inspection is required at the source for such typical materials and fabricated items as bituminous paving mixtures, structural concrete, metal fabrication, metal casting, welding, concrete pipe manufacture, protective coating application, and similar shop or plant operations.

Steel pipe in sizes less than 18 inches and vitrified clay and cast iron pipe in all sizes are acceptable upon certification as to compliance with the Specifications, subject to sampling and testing by the Agency. Standard items of equipment such as electric motors, conveyors, elevators, plumbing fixtures, etc., are subject to inspection at the job site only. Special items of equipment such as designed electrical panel boards, large pumps, sewage plant equipment, etc., are subject to inspection at the source, normally only for performance testing. The Specifications may require inspection at the source for other items not typical of those listed in this section.

The Contractor shall provide the Engineer free and safe access to any and all parts of work at any time. Such free and safe access shall include means of safe access and egress, ventilation, lighting, shoring, dewatering and all elements pertaining to the safety of persons as contained in the State of California, California Code of Regulations, Title 8, Industrial Relations, Chapter 4, Division of Industrial Safety, Subchapter 4, Construction Safety Orders and such other safety regulations as may apply. Contractor shall furnish Engineer with such information as may be necessary to keep the Engineer fully informed regarding progress and manner of work and character of materials. Inspection or testing of the whole or any portion of the work or materials incorporated in the work shall not relieve Contractor from any obligation to fulfill this Contract.



4-1.3.2 Inspection of Materials Not Locally Produced. When the Contractor intends to purchase materials, fabricated products, or equipment from sources located more than 50 miles outside the geographical limits of the Agency, an inspector or accredited testing laboratory (approved by the Engineer), shall be engaged by the Contractor at its expense, to inspect the materials, equipment or process. This approval shall be obtained before producing any material or equipment. The inspector or representative of the testing laboratory shall judge the materials by the requirements of the Plans and Specifications. The Contractor shall forward reports required by the Engineer. No material or equipment shall be shipped nor shall any processing, fabrication or treatment of such materials be done without proper inspection by the approved agent. Approval by said agent shall not relieve the Contractor of responsibility for complying with the Contract requirements.

4-1.3.3 Inspection by the Agency. The Agency will provide all inspection and testing laboratory services within 50 miles of the geographical limits of the Agency. For private contracts, all costs of inspection at the source, including salaries and mileage costs, shall be paid by the permittee.

4-1.4 Test of Material. Before incorporation in the Work, the Contractor shall submit samples of materials, as the Engineer may require, at no cost to the Agency. The Contractor, at its expense, shall deliver the materials for testing to the place and at the time designated by the Engineer. Unless otherwise provided, all initial testing will be performed under the direction of the Engineer, and at no expense to the Contractor. If the Contractor is to provide and pay for testing, it will be stated in the Specifications. For private contracts, the testing expense shall be borne by the permittee.

The Contractor shall notify the Engineer in writing, at least 15 days in advance, of its intention to use materials for which tests are specified, to allow sufficient time to perform the tests. The notice shall name the proposed supplier and source of material.

If the notice of intent to use is sent before the materials are available for testing or inspection, or is sent so far in advance that the materials on hand at the time will not last but will be replaced by a new lot prior to use on the Work, it will be the Contractor's responsibility to renotify the Engineer when samples which are representative may be obtained.

Except as specified in these Provisions, the Agency will bear the cost of testing of locally produced materials and/or on-site workmanship where the results of such tests meet or exceed the requirements indicated in the Standard Specifications, Technical Specification, and any Supplemental Provisions. The cost of all other tests shall be borne by the Contractor.

At the option of the Engineer, the source of supply of each of the materials shall be approved by the Engineer before the delivery is started. All materials proposed for use may be inspected or tested at any time during their preparation and use. If, after incorporating such materials into the Work, it is found that sources of supply that have been approved do not furnish a uniform product, or if the product from any source proves unacceptable at any time, the Contractor shall furnish approved material from other approved sources. If any product proves unacceptable after improper storage, handling or for any other reason it shall be rejected, not incorporated into the work and shall be removed from the project site all at the Contractor's expense.

Compaction tests may be made by the Engineer and all costs for tests that meet or exceed the requirements of the specifications shall be borne by the Agency. Said tests may be made at any place along the work as deemed necessary by the Engineer. The costs of any retests made necessary by noncompliance with the specifications shall be borne by the Contractor.

4-1.5 Certification. The Engineer may waive materials testing requirements of the Specifications and accept the manufacturer's written certification that the materials to be supplied meet those



requirements. Material test data may be required as part of the certification.

4-1.6 Trade Names or Equals. The Contractor may supply any of the materials specified or offer an equivalent. The Engineer shall determine whether the material offered is equivalent to that specified. Adequate time shall be allowed for the Engineer to make this determination.

Whenever any particular material, process, or equipment is indicated by patent, proprietary or brand name, or by name of manufacturer, such wording is used for the purpose of facilitating its description and shall be deemed to be followed by the words **or equal**. A listing of materials is not intended to be comprehensive, or in order of preference. The Contractor may offer any material, process, or equipment considered to be equivalent to that indicated. The substantiation of offers shall be submitted as provided in the contract documents.

The Contractor shall, at its expense, furnish data concerning items offered by it as equivalent to those specified. The Contractor shall have the material tested as required by the Engineer to determine that the quality, strength, physical, chemical, or other characteristics, including durability, finish, efficiency, dimensions, service, and suitability are such that the item will fulfill its intended function.

Test methods shall be subject to the approval of the Engineer. Test results shall be reported promptly to the Engineer, who will evaluate the results and determine if the substitute item is equivalent. The Engineer's findings shall be final. Installation and use of a substitute item shall not be made until approved by the Engineer.

If a substitute offered by the Contractor is not found to be equal to the specified material, the Contractor shall furnish and install the specified material.

The specified Contract completion time shall not be affected by any circumstance developing from the provisions of this section.

The Contractor is responsible for the satisfactory performance of substituted items. If, in the sole opinion of the Engineer, the substitution is determined to be unsatisfactory in performance, appearance, durability, compatibility with associated items, availability of repair parts and suitability of application the Contractor shall remove the substituted item and replace it with the originally specified item at no cost to the Agency.

4-1.7 Weighing and Metering Equipment. All scales and metering equipment used for proportioning materials shall be inspected for accuracy and certified within the past 12 months by the State of California Bureau of Weights and Measures, by the County Director or Sealer of Weights and Measures, or by a scale mechanic registered with or licensed by the County.

The accuracy of the work of a scale service agency, except as stated herein, shall meet the standards of the California Business and Professions Code and the California Code of Regulations pertaining to weighing devices. A certificate of compliance shall be presented, prior to operation, to the Engineer for approval and shall be renewed whenever required by the Engineer at no cost to the Agency.

All scales shall be arranged so they may be read easily from the operator's platform or area. They shall indicate the true net weight without the application of any factor. The figures of the scales shall be clearly legible. Scales shall be accurate to within 1 percent when tested with the plant shut down. Weighing equipment shall be so insulated against vibration or moving of other operating equipment in the plant area that the error in weighing with the entire plant running will not exceed 2 percent for any setting nor 1.5 percent for any batch.



4-1.8 Calibration of Testing Equipment. Testing equipment, such as, but not limited to pressure gages, metering devices, hydraulic systems, force (load) measuring instruments, and strain-measuring devices shall be calibrated by a testing agency acceptable to the Engineer at intervals not to exceed 12 months and following repairs, modification, or relocation of the equipment. Calibration certificates shall be provided when requested by the Engineer.

4-1.9 Construction Materials Dispute Resolution (Soils, Rock Materials, Concrete, Mortar and Related Materials, Masonry Materials, Bituminous Materials, Rock Products, and Modified Asphalts). In the interest of safety and public value, whenever credible evidence arises to contradict the test values of materials, the Agency and the Contractor will initiate an immediate and cooperative investigation. Test values of materials are results of the materials' tests, as defined by these Specifications or by the General provisions, required to accept the Work. Credible evidence is process observations or test values gathered using industry accepted practices. A contradiction exists whenever test values or process observations of the same or similar materials are diverse enough such that the work acceptance or performance becomes suspect. The investigation shall allow access to all test results, procedures, and facilities relevant to the disputed work and consider all available information and, when necessary, gather new and additional information in an attempt to determine the validity, the cause, and if necessary, the remedy to the contradiction. If the cooperative investigation reaches any resolution mechanism acceptable to both the Agency and the Contractor, the contradiction shall be considered resolved and the cooperative investigation concluded. Whenever the cooperative investigation is unable to reach resolution, the investigation may then either conclude without resolution or continue by written notification of one party to the other requesting the implementation of a resolution process by committee. The continuance of the investigation shall be contingent upon recipient's agreement and acknowledged in writing within 3 calendar days after receiving a request. Without acknowledgement, the investigation shall conclude without resolution.

The committee shall consist of three State of California Registered Civil Engineers. Within 7 calendar days after the written request notification, the Agency and the Contractor will each select one engineer. Within 14 calendar days of the written request notification, the two selected engineers will select a third engineer. The goal in selection of the third member is to complement the professional experience of the first two engineers. Should the two engineers fail to select the third engineer, the Agency and the Contractor shall each propose 2 engineers to be the third member within 21 calendar days after the written request notification. The first two engineers previously selected shall then select one of the four proposed engineers in a blind draw. The committee shall be a continuance of the cooperative investigation and will re-consider all available information and if necessary, gather new and additional information to determine the validity, the cause, and if necessary, the remedy to the contradiction. The committee will focus upon the performance adequacy of the material(s) using standard engineering principles and practices and to ensure public value, the committee may provide engineering recommendations as necessary. Unless otherwise agreed, the committee will have 30 calendar days from its formation to complete their review and submit their findings. The final resolution of the committee shall be by majority opinion, in writing, stamped and signed. Should the final resolution not be unanimous, the dissenter may attach a written, stamped, and signed minority opinion. Once started, the resolution process by committee shall continue to full conclusion unless:

1. Within 7 days of the formation of the committee, the Agency and the Contractor reach an acceptable resolution mechanism; or
2. Within 14 days of the formation of the committee, the initiating party withdraws its written notification and agrees to bear all investigative related costs thus far incurred; or
3. At any point by the mutual agreement of the Agency and the Contractor. Unless otherwise agreed, the Contractor shall bear and maintain a record for all the investigative costs until resolution.



Should the investigation discover assignable causes for the contradiction, the assignable party, the Agency or the Contractor, shall bear all costs associated with the investigation. Should assignable causes for the contradiction extended to both parties, the investigation will assign costs cooperatively with each party or when necessary, equally. Should the investigation substantiate a contradiction without assignable cause, the investigation will assign costs cooperatively with each party or when necessary, equally. Should the investigation be unable to substantiate a contradiction, the initiator of the investigation shall bear all investigative costs. All claim notification requirements of the contract pertaining to the contradiction shall be suspended until the investigation is concluded.

4-2 MATERIAL TRANSPORTATION, HANDLING AND STORAGE. The Contractor shall order, purchase, transport, coordinate delivery, accept delivery, confirm the quantity and quality received, prepare storage area(s), store, handle, protect, move, relocate, remove and dispose excess of all materials used to accomplish the Work. Materials shall be delivered to the site of the work only during working hours, as defined in Section 6-7.2, and shall be accompanied by bills of lading that shall clearly state for each delivery: the name of the Contractor as consignee, the project name and number, address of delivery and name of consignor and a description of the material(s) shipped. Prior to storage of any materials which have been shipped to or by the Contractor to any location within the Agency's boundaries the Contractor shall provide the Engineer a copy of lease agreements for each property where such materials are stored. The lease agreement shall clearly state the term of the lease, the description of materials allowed to be stored and shall provide for the removal of the materials and restoration of the storage site within the time allowed for the Work.

All such storage shall conform to all laws and ordinances that may pertain to the materials stored and to preparation of the storage site and the location of the site on which the materials are stored. Loss, damage or deterioration of all stored materials shall be the Contractor's responsibility. Conformance to the requirements of this section, both within and outside the limits of work are a part of the Work. The Engineer shall have the right to verify the suitability of materials and their proper storage at any time during the Work.



SECTION 5 – UTILITIES

5-1 LOCATION. The Agency and affected utility companies have, by a search of known records, endeavored to locate and indicate on the Plans, all utilities which exist within the limits of the work. However, the accuracy and/or completeness of the nature, size and/or location of utilities indicated on the Plans is not guaranteed.

Where underground main distribution conduits such as water, gas, sewer, electric power, telephone, or cable television are shown on the Plans, the Contractor shall assume that every property parcel will be served by a service connection for each type of utility.

As provided in Section 4216 of the California Government Code, at least 2 working days prior to commencing any excavation, the Contractor shall contact the regional notification center (Underground Service Alert of Southern California) and obtain an inquiry identification number.

The California Department of Transportation is not required by Section 4216 to become a member of the regional notification center. The Contractor shall contact it for location of its subsurface installations.

The Contractor shall determine the location and depth of all utilities, including service connections, which have been marked by the respective owners and which may affect or be affected by its operations. If no pay item is provided in the Contract for this work, full compensation for such work shall be considered as included in the prices bid for other items of work.

5-2 PROTECTION. The Contractor shall not interrupt the service function or disturb the support of any utility without authority from the owner or order from the Agency. All valves, switches, vaults, and meters shall be maintained readily accessible for emergency shutoff.

Where protection is required to ensure support of utilities located as shown on the Plans or in accordance with Section 5-1, the Contractor shall, unless otherwise provided, furnish and place the necessary protection at its expense.

Upon learning of the existence and location of any utility omitted from or shown incorrectly on the Plans, the Contractor shall immediately notify the Engineer in writing. When authorized by the Engineer, support or protection of the utility will be paid for as provided in Section 3-2.2.3 or 3-3.

The Contractor shall immediately notify the Engineer and the utility owner if any utility is disturbed or damaged. The Contractor shall bear the costs of repair or replacement of any utility damaged if located as noted in Section 5-1.

When placing concrete around or contiguous to any non-metallic utility installation, the Contractor shall at its expense:

1. Furnish and install a 2-inch cushion of expansion joint material or other similar resilient material; or
2. Provide a sleeve or other opening which will result in a 2 inch minimum-clear annular space between the concrete and the utility; or
3. Provide other acceptable means to prevent embedment in or bonding to the concrete.



Where concrete is used for backfill or for structures which would result in embedment, or partial embedment, of a metallic utility installation; or where the coating, bedding or other cathodic protection system is exposed or damaged by the Contractor's operations, the Contractor shall notify the Engineer and arrange to secure the advice of the affected utility owner regarding the procedures required to maintain or restore the integrity of the system.

5-3 REMOVAL. Unless otherwise specified, the Contractor shall remove all interfering portions of utilities shown on the Plans or indicated in the Bid documents as "abandoned" or "to be abandoned in place". Before starting removal operations, the Contractor shall ascertain from the Agency whether the abandonment is complete, and the costs involved in the removal and disposal shall be included in the Bid for the items of work necessitating such removals.

5-4 RELOCATION. When feasible, the owners responsible for utilities within the area affected by the Work will complete their necessary installations, relocations, repairs, or replacements before commencement of work by the Contractor. When the Plans or Specifications indicate that a utility installation is to be relocated, altered, or constructed by others, the Agency will conduct all negotiations with the owners and work will be done at no cost to the Contractor, except for manhole frame and cover sets to be brought to grade.

Utilities which are relocated in order to avoid interference shall be protected in their position and the cost of such protection shall be included in the Bid for the items of work necessitating such relocation.

After award of the Contract, portions of utilities which are found to interfere with the Work will be relocated, altered or reconstructed by the owners, or the Engineer may order changes in the Work to avoid interference. Such changes will be paid for in accordance with Section 3-2.

When the Plans or Specifications provide for the Contractor to alter, relocate, or reconstruct a utility, all costs for such work shall be included in the Bid for the items of work necessitating such work. Temporary or permanent relocation or alteration of utilities requested by the Contractor for its convenience shall be its responsibility and it shall make all arrangements and bear all costs.

The utility owner will relocate service connections as necessary within the limits of the Work or within temporary construction or slope easements. When directed by the Engineer, the Contractor shall arrange for the relocation of service connections as necessary between the meter and property line, or between a meter and the limits of temporary construction or slope easements. The relocation of such service connections will be paid for in accordance with provisions of Section 3-3. Payment will include the restoration of all existing improvements which may be affected thereby. The Contractor may agree with the owner of any utility to disconnect and reconnect interfering service connections. The Agency will not be involved in any such agreement.

In conformance with Section 5-6 the Contractor shall coordinate the work with utility agencies and companies. Prior to the installation of any and all utility structures within the limits of work by any utility agency or company, or its contractor, the Contractor shall place all curb or curb and gutter that is a part of the work and adjacent to the location where such utility structures are shown on the plans and are noted as being located, relocated or are otherwise shown as installed by others. In order to minimize delays to the Contractor caused by the failure of other parties to relocate utilities that interfere with the construction, the Contractor, upon the Engineer's approval, may be permitted to temporarily omit the portion of work affected by the utility. If such temporary omission is approved by the Engineer the Contractor shall place survey or other physical control markers sufficient to locate the curb or curb and gutter to the satisfaction of the utility agency or company. Such temporary omission shall be for the Contractor's convenience and no additional compensation will be allowed therefore or for additional work, materials or delay associated with the temporary omission. The portion thus omitted shall



be constructed by the Contractor immediately following the relocation of the utility involved unless otherwise directed by the Engineer.

5-5 DELAYS. The Contractor shall notify the Engineer of its construction schedule insofar as it affects the protection, removal, or relocation of utilities. Said notification shall be included as a part of the construction schedule required in Section 6-1. The Contractor shall notify the Engineer in writing of any subsequent changes in the construction schedule which will affect the time available for protection, removal, or relocation of utilities.

The Contractor will not be entitled to damages or additional payment for delays attributable to utility relocations or alterations if correctly located, noted, and completed in accordance with Section 5-1.

The Contractor may be given an extension of time for unforeseen delays attributable to unreasonably protracted interference by utilities in performing work correctly shown on the Plans.

The Agency will assume responsibility for the timely removal, relocation, or protection of existing main or trunk line utility facilities within the area affected by the Work if such utilities are not identified in the Contract Documents. The Contractor will not be assessed liquidated damages for any delay caused by failure of Agency to provide for the timely removal, relocation, or protection of such existing facilities.

If the Contractor sustains loss due to delays attributable to interferences, relocations, or alterations not covered by Section 5-1, which could not have been avoided by the judicious handling of forces, equipment, or plant, there shall be paid to the Contractor such amount as the Engineer may find to be fair and reasonable compensation for such part of the Contractor's actual loss as was unavoidable and the Contractor may be granted an extension of time.

5-6 COOPERATION. It is the Contractor's responsibility to be aware of all existing field conditions prior to bidding.

Contractor shall cooperate and coordinate all construction activities with utility companies, special agencies, city departments, homeowner's associations, or other entities of any kind as may be required to facilitate the work herein. No additional compensation shall be requested by the Contractor, nor shall any be approved by the City related to this clause.

When necessary, the Contractor shall so conduct its operations as to permit access to the Work site and provide time for utility work to be accomplished during the progress of the Work.



SECTION 6 – PROSECUTION, PROGRESS, AND ACCEPTANCE OF THE WORK

6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK. Except as otherwise provided herein and unless otherwise prohibited by permits from other agencies as may be required by law the Contractor shall begin work within 5 calendar days after receipt of the "Notice to Proceed".

6-1.1 Pre-Construction Meeting. After, or upon, notification of contract award, the Engineer will set the time and location for the Preconstruction Meeting. Attendance of the Contractor's management personnel responsible for the management, administration, and execution of the project is mandatory for the meeting to be convened. Failure of the Contractor to have the Contractor's responsible project personnel attend the Preconstruction Meeting will be grounds for default by Contractor per Section 6-4. No separate payment will be made for the Contractor's attendance at the meeting. The notice to proceed will only be issued on or after the completion of the preconstruction meeting.

6-1.1.1 Baseline Construction Schedule Submittal. The Contractor shall submit the Baseline Construction Schedule per the submittal requirements of Section 2-5.3. The submittal of the Baseline Construction Schedule shall be on hard (paper) copy and electronic media conforming to Section 6-1.3.3 Electronic Media.

6-1.2 Preparation and Review of the Baseline Construction Schedule. The Contractor shall prepare the Baseline Construction Schedule as a Critical Path Method (CPM) Schedule in the precedence diagram method (activity-on-node) format. The Baseline Construction Schedule shall depict a workable plan showing the sequence, duration, and interdependence of all activities required to represent the complete performance of all project work as well as periods where work is precluded. The Baseline Construction Schedule shall begin with the projected date of issuance of the notice to proceed and conclude with the date of final completion per the contract duration. The Baseline Construction Schedule shall include detail of all project phasing, staging, and sequencing, including all milestones necessary to define beginning and ending of each phase or stage.

6-1.2.1 Time-Scaled Network Diagram. As a part of the Baseline Construction Schedule the Contractor shall prepare and submit to the Engineer a complete time-scaled network diagram showing all of the activities, logic relationships, and milestones comprising the schedule.

6-1.2.2 Tabular Listing. As a part of the Baseline Construction Schedule the Contractor shall prepare and submit to the Engineer a tabular listing of all of the activities, showing for each activity the identification number, the description, the duration, the early start, the early finish, the late start, the late finish, the total float, and all predecessor and successor activities for the activity described.

6-1.2.3 Bar Chart. As a part of the Baseline Construction Schedule the Contractor shall prepare and submit to the Engineer a chart showing individual tasks and their durations arranged with the tasks on the vertical axis and duration on the horizontal axis. The bar chart shall use differing texture patterns or distinctive line types to show the critical path.

6-1.2.4 Schedule Software. The Contractor shall use commercially available software equal to the Windows compatible Primavera "P6" or Microsoft "Project" to prepare the Baseline Construction Schedule and all updates thereto. The City will also use Submittal Exchange project management software for these projects. The Contractor shall submit to the Agency all schedule and data files via Submittal Exchange with all network information contained thereon, in a format readable by Windows 10 software programs and/or Microsoft Project. The Agency will coordinate one Submittal Exchange training session for the Contractor if requested prior to submittal of the first baseline schedule. Any



classes shall be presented on Mondays through Thursdays between the hours of 8:00 a.m. and 5:00 p.m. The on-site training shall be held at 1635 Faraday Avenue, Carlsbad, California. The dates and times of the on-site training shall be submitted to the Engineer for approval five working days before the start of the on-site training. The on-site training shall be completed prior to the submittal of the first Baseline Construction Schedule.

6-1.2.5 Schedule Activities. Except for submittal activities, activity durations shall not be shorter than 1 working day nor longer than 15 working days, unless specifically and individually allowed by the Engineer. The Baseline Construction Schedule shall include between 100 and 300 activities, including submittals, interfaces between utility companies and other agencies, project milestones and equipment and material deliveries. The number of activities will be sufficient, in the judgment of the City's Construction Management Consultant, to communicate the Contractor's plan for project execution, to accurately describe the project work, and to allow monitoring and evaluation of progress and of time impacts. Each activity's description shall accurately define the work planned for the activity and each activity shall have recognizable beginning and end points.

6-1.2.6 Float. Float or slack time within the schedule is available without charge or compensation to whatever party or contingency first exhausts it.

6-1.2.7 Restraints to Activities. Any submittals, utility interfaces, or any furnishing of Agency supplied materials, equipment, or services, which may impact any activity's construction shall be shown as a restraint to those activities. Time periods to accommodate the review and correction of submittals shall be included in the schedule.

6-1.2.8 Late Completion. The Baseline Construction Schedule shall not show a project duration longer than the specified contract duration.

6-1.2.9 Early Completion. The Baseline Construction Schedule will show the Contractor's plan to support and maintain the project for the entire contractual time span of the project. Should the Contractor propose a project duration shorter than contract duration, a complete Baseline Construction Schedule must be submitted, reflecting the shorter duration, in complete accordance with all schedule requirements of Section 6-1. The Engineer may choose to accept the Contractor's proposal of a project duration shorter than the duration specified; provided the Agency is satisfied the shortened Baseline Construction Schedule is reasonable and the Agency and all other entities, public and private, which interface with the project are able to support the provisions of the shortened Baseline Construction Schedule. The Agency's acceptance of a shortened duration project will be confirmed through the execution of a contract change order revising the project duration and implementing all contractual requirements including liquidated damages in accordance with the revised duration.

6-1.2.10 Engineer's Review. The Construction Schedule is subject to the review of the Engineer. The Engineer's determination that the Baseline Construction Schedule proposed by the Contractor complies with the requirements of these supplemental provisions shall be a condition precedent to issuance of the Notice to Proceed by the Engineer. If the Engineer determines that the Construction Schedule does not meet the requirements of these specifications the Contractor shall correct the Construction Schedule to meet these specifications and resubmit it to the Engineer. Failure of the Contractor to obtain the Engineer's determination that the initial Construction Schedule proposed by the Contractor complies with the requirements of these supplemental provisions within thirty (30) working days after the date of the preconstruction meeting shall be grounds for termination of the contract per Section 6-4. Days used by the Engineer to review the initial Construction Schedule will not be included in the 30 working days.

The Engineer will review and return to the Contractor, with any comments, the Baseline Construction



Schedule within 15 working days of submittal. The Baseline Construction Schedule will be returned marked as per Sections 6-1.2.10.1 through 6-1.2.10.3.

6-1.2.10.1 “Accepted.” The Contractor may proceed with the project work upon issuance of the Notice to Proceed and will receive payment for the schedule in accordance with Section 6-1.8.1.

6-1.2.10.2 “Accepted with Comments.” The Contractor may proceed with the project work upon issuance of the Notice to Proceed. The Contractor must resubmit the schedule incorporating the comments prior to receipt of payment per Section 6-1.8.1.

6-1.2.10.3 “Not Accepted.” The Contractor must resubmit the schedule incorporating the corrections and changes of the comments prior to receipt of payment per Section 6-1.8.1. The Notice to Proceed will not be issued by the Engineer if the changes of the comments are not submitted as required hereinbefore and marked “Accepted” or “Accepted with Comments” by the Engineer. The Contractor, at the sole option of the Engineer, may be considered as having defaulted the contract under the provisions of Section 6-4 DEFAULT BY CONTRACTOR if the changes of the comments are not submitted as required hereinbefore and marked “Accepted” by the Engineer.

6-1.3 Preparation of Schedule Updates and Revisions. The Contractor shall meet with the Engineer during the last week of each month to agree upon each activity’s schedule status and shall submit monthly updates of the Baseline Construction Schedule confirming the agreements no later than the fifth working day of the following month. The monthly update will be submitted on hard (paper) copy and electronic media conforming to Section 6-1.3.3 Electronic Media per the submittal requirements of Section 2-5.3 and will include each item and element of Sections 6-1.2 through 6-1.2.9 and 6-1.3.1 through 6-1.3.7.

6-1.3.1 Actual Activity Dates. The actual dates each activity was started and/or completed during the month. After first reporting an actual date, the Contractor shall not change that actual date in later updates without specific notification to the Engineer with the update.

6-1.3.2 Activity Percent Complete. For each activity underway at the end of the month, the Contractor shall report the percentage determined by the Engineer as complete for the activity.

6-1.3.3 Electronic Media. The schedule data shall be submitted on a thumb-drive, labeled with the project name and number, the Contractor’s name and the date of preparation of the schedule data disk. The schedule data disk shall be readable by the software specified in Section 6-1.2.4 “Schedule Software” and shall be free of file locking, encryption or any other protocol that would impede full access of all data stored on it.

6-1.3.4 List of Changes. A list of all changes made to the activities or to the interconnecting logic, with an explanation for each change.

6-1.3.5 Change Orders. Each monthly update will include the addition of the network revisions reflecting the change orders approved in the previous month. The network revisions will be as agreed upon during the review and acceptance of the Contractor’s change orders.

6-1.3.6 Bar Chart. Each monthly update will include a chart showing individual tasks and their durations arranged with the tasks on the vertical axis and duration on the horizontal axis. The bar chart shall use differing texture patterns or distinctive line types to show the critical path.

6-1.4 Engineer’s Review of Updated Construction Schedule. The Engineer will review and return the Updated Construction Schedule to the Contractor, with any comments, within 5 working days of



submittal. The Updated Construction Schedule will be returned marked as per Sections 6-1.4.1 through 6-1.4.3. Any Updated Construction Schedule marked “Accepted with Comments” or “Not Accepted” by the Engineer will be returned to the Contractor for correction. Upon resubmittal the Engineer will review and return the resubmitted Updated Construction Schedule to the Contractor, with any comments, within 5 working days. Failure of the Contractor to submit a monthly updated construction schedule will invoke the same consequences as the Engineer returning a monthly updated construction schedule marked “Not Accepted”.

6-1.4.1 “Accepted.” The Contractor may proceed with the project work, and will receive payment for the schedule in accordance with Section 6-1.8.2.

6-1.4.2 “Accepted with Comments.” The Contractor may proceed with the project work. The Contractor must resubmit the Updated Construction Schedule to the Engineer incorporating the corrections and changes noted in the Engineer’s comments prior to receipt of payment per Section 6-1.8.2.

6-1.4.3 “Not Accepted.” The Contractor must resubmit the Updated Construction Schedule to the Engineer incorporating the corrections and changes noted in the Engineer’s comments prior to receipt of payment per Section 6-1.8.2. The Contractor, at the sole option of the Engineer, may be considered as having defaulted the contract under the provisions of Section 6-4 DEFAULT BY CONTRACTOR if the changes of the comments are not submitted and marked “Accepted” by the Engineer before the last day of the month in which the Updated Construction Schedule is due. If the Contractor fails to submit the corrected Updated Construction Schedule as required herein the Contractor may elect to proceed with the project at its own risk. Should the Contractor elect not to proceed with the project, any resulting delay, impact, or disruption to the project will be the Contractor’s responsibility.

6-1.5 Late Completion or Milestone Dates. Should the Schedule Update indicate a completion or contractually required milestone date later than the properly adjusted contract or milestone duration, the Agency may withhold Liquidated Damages for the number of days late. Should a subsequent “Accepted” Schedule Update remove all or a portion of the delay, all or the allocated portion of the previously held Liquidated Damages shall be released in the monthly payment to the Contractor immediately following the “Accepted” schedule.

6-1.6 Interim Revisions. Should the actual or projected progress of the work become substantially different from that depicted in the Project Schedule, independently of and prior to the next monthly update, the Contractor will submit a revised Baseline Construction Schedule, with a list and explanation of each change made to the schedule. The Revised Construction Schedule will be submitted per the submittal requirements of Section 2-5.3 and per the schedule review and acceptance requirements of Section 6-1, including but not limited to the acceptance and payment provisions. As used in this section “substantially different” means a time variance greater than 5 percent of the number of days of duration for the project.

6-1.7 Final Schedule Update. The Contractor shall prepare and submit a final schedule update when one hundred percent of the construction work is completed. The Contractor’s Final Schedule Update must accurately represent the actual dates for all activities. The final schedule update shall be prepared and reviewed per Sections 6-1.3 Preparation of Schedule Updates and Revisions and 6-1.4 Engineer’s Review of Updated Construction Schedule. Acceptance of the final schedule update is required for completion of the project and release of any and all funds retained per Section 9-3.2.

6-1.8 Measurement and Payment of Construction Schedule. The Contractor’s preparation, revision and maintenance of the Construction Schedule is incidental to the work and no separate payment will be made therefore.



6-2 PROSECUTION OF WORK. To minimize public inconvenience and possible hazard and to restore work areas to their original state of usefulness as soon as practicable, the Contractor shall diligently prosecute the Work to completion. If the Engineer determines that the Contractor is failing to prosecute the Work to the proper extent, the Contractor shall, upon orders from the Engineer, immediately take steps to remedy the situation. All costs of prosecuting the Work as described herein shall be included in the Contractor's Bid. Should the Contractor fail to take the necessary steps to fully accomplish said purposes, after orders of the Engineer, the Engineer may suspend the work in whole or part, until the Contractor takes said steps.

If Work is suspended through no fault of the City, all expenses and losses incurred by the Contractor during such suspensions shall be borne by the Contractor. If the Contractor fails to properly provide for public safety, traffic, and protection of the Work during periods of suspension, the City may elect to do so and deduct the cost thereof from monies due the Contractor. Such actions will not relieve the Contractor from liability.

6-2.1 Review of Contract Documents and Field Conditions by Contractor

1. Contractor and its Subcontractors shall carefully study and compare each of the Contract Documents with the others and with information furnished or made available by City of Carlsbad and shall promptly report in writing to City's Construction Management Consultant any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with Legal Requirements observed by Contractor or its Subcontractors.
2. Contractor and its Subcontractors shall take field measurements, verify field conditions, and carefully compare with the Contract Documents such field measurements, conditions, and other information known to Contractor before commencing any item of Construction Work. Errors, inconsistencies, or omissions discovered at any time shall be promptly reported in writing to City's Construction Management Consultant.
3. If Contractor and its Subcontractors performs any construction activity involving an error, inconsistency, or omission referred to in the General Provisions, without giving the notice required to the City's Construction Management Consultant and obtaining the written consent of the City's Construction Management Consultant, Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting Defective Work.
4. Contractor shall be responsible for all Losses attributable to the errors or omissions of the Contractor in the performance of Pre-Construction Services. Prior to the issuance of a notice to proceed for Phase 1, Phase 2 and Phase 3, Contractor shall certify and warrant that the plans for that Phase are constructible and constructible within the applicable Phase Time.

6-2.2 Supervision and Construction Procedures

1. Contractor shall supervise, coordinate, and direct the Construction Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Construction Work. Contractor shall manage and administer all phases of construction activities to achieve the completion of the Construction Work within the requirements of the Contract Documents. The Contractor shall coordinate the work of its Subcontractors to optimize efficiency and minimize conflict and interference between the various Subcontractors on-site.
2. Contractor shall be responsible to City of Carlsbad for acts and omissions of Contractor's agents, employees, and Subcontractors, and their respective agents and employees.



3. Contractor shall not be relieved of its obligation to perform the Construction Work in accordance with the Contract Documents either by acts or omissions of City of Carlsbad or City's Construction Management Consultant in the administration of the Contract, or by tests, inspections, or approvals required or performed by persons or firms other than Contractor.
4. Contractor shall be responsible for inspection of all portions of the Construction Work, including those portions already performed under this Contract, to determine that such portions conform to the requirements of the Contract Documents and are ready to receive subsequent Construction Work.
5. Contractor shall at all times maintain good discipline and order among its employees and Subcontractors. Contractor shall provide competent, fully qualified personnel to perform the Work and all employees/subcontractors working on site shall have passed a criminal background check with the city per the requirements of **Attachment A**.
6. Contractor's responsibility shall include assuring that its Subcontractors are meeting all the terms of the Contract Documents. Contractor shall provide on-site quality control and inspection to ensure compliance with documents, drawings and contract specifications, schedule coordination and information coordination for all construction activities on the construction site including all General Provisions Work. Contractor shall schedule and coordinate testing and inspection services. This will include coordination with the Subcontractors and the City's Construction Management Consultant, and scheduling of all Inspections, Fire Marshall, Test Labs, Materials Inspectors and other inspections as required. Prior to close-up of concealed areas, the Contractor shall coordinate all applicable inspections with the City's Construction Management Consultant and create a punch list and distribute to all affected Subcontractors.
7. Contractor shall coordinate all required utility shutdowns, road closures, traffic closures, and the like. This coordination shall follow procedures at the Facility, and or direction as provided by the City's Construction Management Consultant.

6-2.3 Labor and Materials. Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, services, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Final Completion of the Construction Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Construction Work.

6-2.4 Contractor's Warranty

1. Contractor warrants to City of Carlsbad that all materials and equipment used in or incorporated into the Construction Work will be of good quality, new, and free of liens, claims, and security interests of third parties; that the Construction Work will be of good quality and free from defects; and that the Construction Work will conform with the requirements of the Contract Documents. If required by City's Construction Management Consultant, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
2. The Contractor shall assure that there is no damage of existing utilities; and protect trees and root systems both during demolition and construction.

6-2.5 Taxes. Contractor shall pay all sales, consumer, use, and similar taxes for the Work or portions thereof provided by Contractor.



6-2.6 Permits, Fees and Notices. Except for the permits and approvals which are to be obtained by City of Carlsbad or the requirements with respect to which City of Carlsbad is not subject, Contractor shall secure and pay for all permits, approvals, government fees, licenses, and inspections necessary for the proper execution and performance of the Construction Work. Contractor shall deliver to City of Carlsbad all original licenses, permits, and approvals obtained by Contractor in connection with the Construction Work prior to the final payment or upon termination of the Contract, whichever is earlier.

6-2.7 Compliance with Laws

1. Contractor shall keep fully informed of and shall comply with all statutes, laws, ordinances, codes, rules, regulations and orders of any properly constituted authority affecting the Work and persons connected with Work, and shall protect and indemnify the City of Carlsbad and its elected officials, officers, employees, consultants and agents against any claim or liability, including attorney's fees, arising from or based on violation of any statutes, laws, ordinances, codes, rules, regulations or orders, whether by Contractor or by Subcontractors, employees or agents. Authorized persons may at any time enter upon any part of the Work to ascertain compliance of all applicable statutes, laws, ordinances, codes, rules, regulations and orders.
2. Contractor's Permits and License. Contractor certifies that it possesses and shall continue to maintain or shall cause to be obtained and maintained, at no cost to the City of Carlsbad, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all applicable statutes, ordinances, and regulations, or other laws, that may apply to performance of work hereunder. City of Carlsbad may reasonably request and review all such applications, permits, and licenses.
3. Equal Opportunity. Contractor shall comply with the provisions of Title VII of the Civil Rights Act of 1964 in that Contractor shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Contractor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.
4. Drug and Alcohol-Free Workplace. In Board of Supervisors' Policy C-25, City of Carlsbad Drug and Alcohol Use Policy, the Board of Supervisors recognized that those who perform services or work for City of Carlsbad under contract should perform the services or work as safely, effectively and efficiently as possible.
 - a) Contractor and Contractor's employees, while performing work for the City, or while using City equipment:
 - 1) Shall not be in any way impaired because of being under the influence of alcohol or a drug.
 - 2) Shall not possess, consume or be under the influence of alcohol and/or an illegal drug.
 - 3) Shall not sell, offer, or provide alcohol or an illegal drug to another person.
 - b) Section 1.7.5 is a material condition of this Contract. If the City's Construction Management Consultant determines that Contractor and/or Contractor's employee(s) has not complied with Section 1.7.5, City may terminate this Contract for default and may also terminate any other contract Contractor has with City.
5. Cartwright Act. Following receipt of final payment under the Contract, Contractor assigns to City of Carlsbad all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 1 of Part 2 of Division



7 of the Business and Professions Code, commencing with section 16700), arising from purchases of goods, materials, or work by the Contractor for sale to City under this Contract.

6. Hazardous Materials. Contractor shall comply with all Environmental Laws and all other laws, rules, regulations, and requirements regarding Hazardous Materials, health and safety, notices, and training. Contractor shall not store any Hazardous Materials on any City property for more than 90 days or in violation of the applicable site storage limitations imposed by Environmental Law. At its sole expense, Contractor shall take all actions necessary to protect third parties, including, without limitation, employees and agents of City, from any exposure to Hazardous Materials generated or utilized in Contractor's performance under this Contract. Contractor shall report to the appropriate governmental agencies all discharges, releases, and spills of Hazardous Materials that are required to be reported by any Environmental Law and to immediately notify the City of it. Contractor shall not be liable to the City for City's failure to comply with, or for City's violation of, any Environmental Law. As used in this section, the term "Environmental Laws" means any and all federal, State and local laws, ordinances, rules, decrees, orders, regulations or court decisions (including the "common law"), relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions or other similar substances or conditions. One such law is the Resource Conservation and Recovery Act. As used in this section, the term "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (a) is a flammable, explosive, asbestos, radioactive nuclear medicine, vaccine, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (b) is controlled, referred to, designated in or governed by any Environmental Laws; (c) gives rise to any reporting, notice or publication requirements under any Environmental Laws; or (d) is any other material or substance for which there may be any liability, responsibility or duty on City or Contractor with respect to any third person under any Environmental Laws.
7. Debarment and Suspension. Contractor certifies that it, its principals, its employees and its Sub-contractors:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any State or federal department or agency.
 - b) Have not within a 3-year period preceding this Contract been convicted of, or had a civil judgment rendered against them for, the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction; violation of federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and
 - d) Have not within a 3-year period preceding this Contract had one or more public transactions (federal, State, or local) terminated for cause or default.
8. To the extent applicable, whenever the Drawings and Specifications require larger sizes or higher standards than are required by any applicable law, ordinance, regulation or order, the Drawings and Specifications shall govern. Whenever the Drawings and Specifications require something, which would violate such laws, ordinances, regulations or orders, then such laws, ordinances, regulations or orders shall govern.
9. During excavation or at any other time that evidence of any archaeological artifacts, human burial remains, or unique paleontology is found, the Contractor shall immediately cease work and notify the City of Carlsbad orally and in writing.



- a) The Contractor shall grant the City forty-eight (48) hours to evaluate the archaeological evidence. The Contractor will be granted an extension of time and will not be assessed with liquidated damages or any penalties for the forty- eight (48) hour period of this provision. The Contractor shall have no claim for any additional damage or compensation due to this delay.
10. For additional time, beyond the forty-eight (48) hours, required by the City to pursue any action relative to the archaeological aspects of the site, the Contractor will be granted an appropriate time extension as provided in this Contract.

6-2.8 Superintendent and Key Personnel

1. Contractor shall employ a competent Superintendent satisfactory to City who shall be in attendance at the Project site at all times during the performance of the Construction Work. Superintendent shall represent Contractor, and communications given to and received from Superintendent shall be binding on Contractor. Failure to maintain a Superintendent on the Project site at all times Construction Work is in progress shall be considered a material breach of this Contract, entitling City of Carlsbad to terminate the Contract or alternatively, issue a Stop Work Order until the Superintendent is on the Project site. If, by virtue of issuance of said Stop Work Order, Contractor fails to complete the Contract on time, Contractor will be assessed Liquidated Damages in accordance with the Agreement.
2. The Superintendent approved for the Project must be able to read, write and orally communicate in English. The Superintendent may not perform the Construction Work of any trade, pick-up materials, or perform any Construction Work not directly related to the supervision and coordination of the Construction Work at the Project site when Construction Work is in progress.
3. Contractor shall provide the Key Personnel, in addition to the Superintendent. Substitution or replacement of any named individual requires the written approval of the City's Construction Management Consultant, which approval will be at the sole discretion of City of Carlsbad. Failure to provide the listed individuals at all times Work is in progress shall be considered a material breach of this Contract unless the named individuals are no longer employed or retained by Contractor, a company Contractor has a financial interest in, or a parent company of Contractor; such material breach shall entitle City of Carlsbad to terminate the Contract or alternatively, issue a Stop Work Order until the individual or an acceptable replacement is provided. If, by virtue of issuance of said Stop Work Order, Contractor fails to complete the Contract on time, Contractor will be subject to Liquidated Damages in accordance with the Contract.

6-2.9 As-Built Documents. Contractor shall maintain one set of as-built drawings and specifications on site, which shall be kept up to date during the Construction Work of the Contract. All changes incorporated into the Construction Work that differ from the documents as drawn and written shall be noted on the as-built set. Notations shall reflect the actual materials, equipment and installation methods used for the Construction Work and each revision shall be initialed and dated by Superintendent. Prior to filing of the Notice of Completion, each drawing and the specification cover shall be signed by Contractor and dated attesting to the completeness of the information noted therein. As-built Documents shall be turned over to the City's Construction Management Consultant and shall become part of the Record Documents.

6-2.10 Documents and Samples at Project Site

1. Contractor shall maintain the following at the Project site
 - a) One as-built copy of the Contract Documents, in good order and marked to record current changes and selections made during construction



- b) The current accepted Contract Schedule
 - c) Shop Drawings, Product Data, and Samples
 - d) All other required submittals
2. These documents shall be available to City's Construction Management Consultant and shall be delivered to City's Construction Management Consultant for submittal to City of Carlsbad upon the earlier of Final Completion or termination of the Contract.

6-2.11 Shop Drawings, Product Data and Samples

1. Definitions:
 - a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Construction Work by Contractor or a Subcontractor to illustrate some portion of the Construction Work.
 - b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Contractor to illustrate or describe materials or equipment for some portion of the Construction Work.
 - c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Construction Work will be judged.
2. Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate, for those portions of the Construction Work for which submittals are required, how Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.
3. Contractor shall review, approve, and submit to City's Construction Management Consultant Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Construction Work or in the activities of City of Carlsbad or of Separate Contractors. Submittals made by Contractor that are not required by the Contract Documents may be returned without action by City's Construction Management Consultant.
4. Contractor shall perform no portion of the Construction Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been reviewed by City's Construction Management Consultant and no exceptions have been taken by City's Construction Management Consultant. Such Construction Work shall be in accordance with approved submittals and the Contract Documents.
5. By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, Contractor represents that it has determined or verified materials and field measurements and conditions related thereto, and that it has checked and coordinated the information contained within such submittals with the requirements of the Contract Documents and Shop Drawings for related Construction Work.
6. If Contractor discovers any conflicts, omissions, or errors in Shop Drawings or other submittals, Contractor shall notify City's Construction Management Consultant and receive instruction before proceeding with the affected Work.
7. Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by City's Construction Management Consultant's review of Shop Drawings, Product Data, Samples, or similar submittals, unless Contractor has specifically informed City's Construction Management Consultant in writing of such deviation at the time of submittal and City's Con-



struction Management Consultant has given written approval of the specific deviation. Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by City's Construction Management Consultant's review, acceptance, comment, or approval thereof.

8. Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by City's Construction Management Consultant on previous submittals.

6-2.12 Use of Site and Clean Up

1. Contractor shall confine operations at the Project site to areas affected by the applicable Work exercised and to those areas permitted by law, ordinances, permits, and the Contract Documents. Contractor shall not unreasonably encumber the Project site with materials or equipment.
2. Contractor shall, during performance of the Construction Work, keep the Project site and surrounding area free from the accumulation of excess dirt, waste materials, and rubbish caused by Contractor. Contractor shall remove all dirt, waste material, and rubbish caused by the Contractor; tools; equipment; machinery; and surplus materials from the Project site and surrounding area at the completion of the Construction Work.
3. Personnel of Contractor and Subcontractors shall not occupy, live upon, or otherwise make use of any portion of the Project site during any time that Work is not being performed at that portion the Project site, except as otherwise provided in the Contract Documents.

6-2.13 Cutting, Fitting and Patching

1. Contractor shall do all cutting, fitting, or patching of the Construction Work required to make all parts of the Construction Work come together properly and to allow the Construction Work to receive or be received by work of Separate Contractors shown upon, or reasonably implied by, the Contract Documents.
2. Contractor shall not endanger the Construction Work, the Project, or adjacent property by cutting, digging, or otherwise. Contractor shall not cut or alter the work of any Separate Contractor without the prior consent of City's Construction Management Consultant.

6-2.14 Access to Construction Work. City representative, their consultants, and other persons authorized by City shall at all times have access to the Construction Work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access and for inspection.

6-2.15 Royalties and Patents. Contractor shall pay all royalties and license fees required for the performance of the Work, which are included in the Contract Sum. Contractor shall defend suits or claims resulting from Contractor's or any Subcontractor's infringement of patent rights, and Contractor's indemnification obligations per the General Provisions of the contract shall specifically apply to any losses on account thereof.

6-2.16 Differing Site Conditions

1. If Contractor encounters any of the following conditions at the site, Contractor shall immediately notify the City's Construction Management Consultant in writing of the specific differing conditions before they are disturbed and before any affected Work is performed, and permit investigation of the conditions:



- a) Subsurface or latent physical conditions at the site (including Hazardous Materials) that differ materially from those indicated in this Contract, or if not indicated in this Contract, in the Information Available to Bidders; or
 - b) Unknown physical conditions at the site, of an unusual nature, that differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.
2. Contractor shall be entitled to an adjustment to the Contract Sum and/or Contract Time as the result of extra costs and/or delays resulting from a materially differing site condition, if and only if Contractor fulfills the following conditions:
 - a) Contractor fully complies with the contract documents (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).
 3. Adjustments to the Contract Sum and/or Contract Time shall be subject to the procedures and limitations set forth in the contract documents.

6-2.17 Concealed, Unforeseen or Unknown Conditions or Events

1. Except as and only to the extent provided otherwise in the contract documents, by signing the contract agreement, Contractor agrees:
 - a) To bear the risk of concealed, unforeseen or unknown conditions and events, if any, which may be encountered in performing the Contract; and
 - b) That Contractor's bid for the Contract was made with full knowledge of this risk.
2. In agreeing to bear the risk of concealed, unforeseen or unknown conditions and events, Contractor understands that concealed, unforeseen or unknown conditions or events shall not excuse Contractor from its obligation to achieve Final Completion of the Work within the Contract Time, and shall not entitle the Contractor to an adjustment of the Contract Sum.
3. If Contractor encounters concealed, unforeseen or unknown conditions or events that may require a change to the design shown in the Contract Documents, Contractor shall immediately notify City's Construction Management Consultant in writing such that City's Construction Management Consultant can determine if a change to the design is required. Contractor shall be liable to City of Carlsbad for any extra costs incurred as the result of Contractor's failure to immediately give such notice.
4. If, as the result of concealed, unforeseen or unknown conditions or events, the City of Carlsbad issues a Change Order or Field Change that changes the design from the design depicted in the Contract Documents, Contractor shall be entitled, subject to compliance with all the provisions of the Contract, to an adjustment of the Contract Sum and/or Contract Time, for the cost and delay resulting from implementing the changes to the design.
5. Contractor shall, as a condition precedent to any adjustment in Contract Sum or Contract Time above, fully comply with the General Provisions (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

6-2.18 Notice of Hazardous Waste or Materials Conditions

1. Written notice of hazardous materials condition by Contractor shall be given to the City of Carlsbad promptly, before any of the following conditions are disturbed (except in an emergency as required by Section 10.3 of these General Provisions), and in no event later than twenty-four



(24) hours after first observance, of any (a) material that Contractor believes may be material that is hazardous waste or hazardous material, as defined in Section 25117 of the Health and Safety Code (including, without limitation, asbestos, lead, PCBs, petroleum and related hydrocarbons, and radioactive material) that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law ("hazardous materials"); (b) other material which may present a substantial danger to persons or property exposed thereto in connection with Work at the Site ("other materials").

2. Except as otherwise provided in the Contract or as required by applicable law, Contractor shall not be required to give any notice for the disturbance or observation of any such hazardous materials or other materials where such matter is disturbed or observed as part of the scope of Work under the Contract (such as hazardous waste or hazardous material investigation, remediation or disposal activities which are identified as the subject of Work under the Contract), where Contractor complies with all requirements in the Contract and applicable law respecting such materials.
3. Contractor's written notice of hazardous materials conditions under Section 3.19.1 above shall indicate whether the hazardous materials or other materials were shown or indicated in the Contract to be within the scope of Work, and whether the hazardous materials or other materials were brought to the Site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible.
4. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed hazardous waste or materials if (1) Contractor knew of the existence of such hazardous materials or other materials at the time Contractor submitted its proposal; or (2) Contractor should have known of the existence of such hazardous materials or other materials pursuant to Contractor's due diligence required under Article 10 of the Agreement or Section 3.1 of these General Provisions; or (3) Contractor failed to give the written Notice of Hazardous Materials Conditions within the time required by Section 3.19.1 of these General Provisions. Notwithstanding (1) and (2) above, Contractor may (subject to (3) above) be entitled to adjustment in the Contract Sum or Time regarding claimed hazardous waste or materials if not reasonably discernible from the reports and information provided by City of Carlsbad, other information reasonably available to Contractor, visual observation or reasonable investigation. If the City of Carlsbad determines that conditions do involve hazardous materials or other materials or that change in Contract terms is justified, then the City of Carlsbad will either issue a Request for Proposal or an appropriate Change Order under the procedures described in the Contract.
5. If the City of Carlsbad determines that conditions do not involve hazardous materials or other materials or that no change in Contract terms is justified, the City of Carlsbad shall notify Contractor in writing, stating the reasons for its determination. If the City of Carlsbad and Contractor cannot agree on any claimed adjustment in Contract Sum or Contract Time, Contractor shall proceed with the Work and as directed by the City of Carlsbad and may file a claim as provided for in these General Provisions.
6. If the Contractor does not agree to resume work based on a reasonable belief that it is unsafe, or does not agree to resume work under special conditions, the City of Carlsbad may order the disputed portion of work deleted from the Work, or performed by others, or the City of Carlsbad may invoke its right to terminate Contractor's right to proceed under the Contract in whole or in part for convenience or for cause as the facts may warrant. If Contractor does not agree with the City of Carlsbad's determination of any adjustment in the Contract Sum or Times as a result, Contractor may make a claim as provided in Section 4.3 of these General Provisions.



6-2.19 Subcontractor Procurement

1. Contractor is responsible to competitively procure all Subcontracted Work in accordance with the applicable provisions of the California Public Contract Code, including, without limitation, Section 20146 and the protections afforded subcontractors by Section 4100, et seq.

6-2.20 Order of Work. The work to be done shall consist of furnishing all labor, equipment and materials, and performing all operations necessary to complete the Project Work as shown on the Project Plans and as specified in the Specifications. The work includes but is not limited to:

1. **Phase 1.** In coordination with City staff and the City's Construction Management Consultant on site, Phase 1 includes:
 - a) Establishing temporary power as needed for contractor's site trailer(s) and temporary HVAC and electrical service in the building as needed with supplementary air handler and ductwork for work on HVAC and electrical systems in the building throughout the project,
 - b) Isolation of HVAC and electrical distribution systems between east and west sides of the building, including the installation of HVAC dampers and valves as may be required to maintain service to Phase 2 area during Phase 1 work,
 - c) Existing furniture removal and disposal,
 - d) Temporary partitions to separate work area from occupied area,
 - e) Selective demolition,
 - f) Structural, mechanical-electrical-plumbing infrastructure and finish work as shown on drawings,
 - g) Installation of systems furniture using vendors that are "Russell Bassett factory-trained technicians" for the Russell Bassett furniture that may need to be unpacked and relocated prior to its installation in the renovated Dispatch Room, and "Herman Miller factory-trained technicians" for the Herman Miller furniture that may need to be unpacked and relocated prior to its installation in the other renovated areas of the building at the end of Phase 1 and Phase 2,
 - h) General cleaning throughout sequence of work and fine cleaning upon completion of work,
 - i) Standard building inspections throughout progress of work,
 - j) Receipt of a temporary occupancy permit upon completion of Phase 1 work.
2. **Phase 2.** In coordination with City staff and the City's Construction Management Consultant on site, Phase 2 includes:
 - a) Existing furniture removal and disposal,
 - b) Temporary partitions to separate work area from occupied area,
 - c) Switching temporary HVAC materials to connect to ductwork for re-occupancy of Phase 1 area,
 - d) Isolation of HVAC and electrical distribution systems between east and west sides of the building, including the installation of HVAC dampers and valves as may be required,
 - e) Selective demolition,
 - f) Structural, concrete, mechanical-electrical-plumbing infrastructure and finish work as shown on drawings,
 - g) Installation of systems furniture using vendors that are "Russell Bassett factory-trained technicians" for the Russell Bassett furniture that may need to be unpacked and relocated prior to its installation in the renovated Dispatch Room, and "Herman Miller factory-trained technicians" for the Herman Miller furniture that may need to be unpacked and relocated prior to its installation in the other renovated areas of the building at the end of Phase 1 and Phase 2,
 - h) General cleaning throughout sequence of work and fine cleaning upon completion of work,
 - i) Standard building inspections throughout progress of work,
 - j) Receipt of a temporary occupancy permit upon completion of Phase 2 work.



- 3. Phase 3.** In coordination with City staff and the City's Construction Management Consultant on site, Phase 3 includes:
- Selective demolition,
 - Structural, mechanical-electrical-plumbing infrastructure and finish work as shown on drawings,
 - General cleaning throughout sequence of work and fine cleaning upon completion of work,
 - Standard building inspections throughout progress of work,
 - Receipt of an occupancy permit for the entire building upon completion of Phase 3.

6-2.21 Project Meetings. The City's Construction Management Consultant will establish the time and location of Project Meetings. The Contractor's Representative shall attend each Project Meeting. The Project Representative shall be the individual determined under Section 7-6, "The Contractor's Representative". No separate payment for attendance of the Contractor, the Contractor's Representative or any other employee or subcontractor or subcontractor's employee at these meetings will be made.

6-2.22 Daily Reporting During Prosecution of Work.

- Prepare a daily construction report recording the following information concerning events at Project site:
 - List of subcontractors at Project site.
 - List of separate contractors at Project site.
 - Approximate count of personnel at Project site.
 - Equipment at Project site.
 - Material deliveries.
 - High and low temperatures and general weather conditions, including presence of rain or Snow
 - Accidents.
 - Meetings and significant decisions.
 - Unusual events (see special reports).
 - Stoppages, delays, shortages, and losses.
 - Meter readings and similar recordings.
 - Emergency procedures.
 - Orders and requests of authorities having jurisdiction.
 - Change Orders received and implemented.
 - Construction Change Directives received and implemented.
 - Services connected and disconnected.
 - Equipment or system tests and startups.
 - Partial completions and occupancies.
 - Substantial Completions authorized.
- Daily labor sign in sheet logs and construction progress report shall be submitted to the Construction Manager on a daily basis. Copies of the previous day's reports must be submitted by 9 am of the following Workday. In the event the Contractor fails to provide a daily sign in log and/or construction progress report, the City may impose damages against the Contractor in the amount of fifty dollars (\$50.00) for each log/report and deduct from the Contractor's payment request, for each Day the Contractor does not provide the documentation.
- Material Location Reports:** At weekly intervals, prepare and submit a comprehensive list of materials delivered to and stored at Project site. List shall be cumulative, showing materials previously reported plus items recently delivered. Include with list a statement of progress on and delivery dates for materials or items of equipment fabricated or stored away from Project site. Indicate the following categories for stored materials:
 - Material stored prior to previous report and remaining in storage.



- b) Material stored prior to previous report and since removed from storage and installed.
 - c) Material stored following previous report and remaining in storage.
4. Site Condition Reports: Immediately on discovery of a difference between site conditions and the Contract Documents, prepare and submit a detailed report. Submit with a Request for Information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.

6-2.23 Special Reports

1. General: Submit special reports directly to Owner within one day(s) of an occurrence. Distribute copies of report to parties affected by the occurrence.
2. Reporting Unusual Events: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, response by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise Owner in advance when these events are known or predictable.

6-3 SUSPENSION OF WORK.

6-3.1 General. The Work may be suspended in whole or in part when determined by the Engineer that the suspension is necessary in the interest of the Agency. The Contractor shall comply immediately with any written order of the Engineer. Such suspension shall be without liability to the Contractor on the part of the Agency except as otherwise specified in Section 6-6.3.

6-3.2 Archaeological and Paleontological Discoveries. If discovery is made of items of archaeological or paleontological interest, the Contractor shall immediately cease excavation in the area of discovery and shall not continue until ordered by the Engineer. When resumed, excavation operations within the area of discovery shall be as directed by the Engineer.

Discoveries which may be encountered may include, but are not limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones, and fossils. If such an event occurs, the Contractor shall be entitled to an extension of time and may also be entitled to compensation in accordance with the provisions of Section 6-6.

6-4 DEFAULT BY CONTRACTOR. If the 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 fails to maintain the Work schedule which will insure the Agency's interest, or, if the Contractor is not carrying out the intent of the Contract, the Agency may serve written notice upon the Contractor and the Surety on its Faithful Performance Bond demanding satisfactory compliance with the Contract.

The Contract may be canceled by the Board without liability for damage, when in the Board's opinion the Contractor is not complying in good faith, has become insolvent, or has assigned or subcontracted any part of the Work without the Board's consent. In the event of such cancellation, the Contractor will be paid the actual amount due based on Contract Unit Prices or lump sums bid and the quantity of the Work completed at the time of cancellation, less damages caused to the Agency by acts of the Contractor. The Contractor, in having tendered a Bid, shall be deemed to have waived any and all claims for damages because of cancellation of Contract for any such reason. If the Agency declares the Contract canceled for any of the above reasons, written notice to that effect shall be served upon the



Surety. The Surety shall, within five (5) days, assume control and perform the Work as successor to the Contractor.

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

If the Surety does not assume control and perform the Work within 5 days after receiving notice of cancellation, or fails to continue to comply, the Agency may exclude the Surety from the premises. The Agency may then take possession of all material and equipment and complete the Work by Agency forces, by letting the unfinished Work to another Contractor, or by a combination of such methods. In any event, the cost of completing the Work shall be charged against the Contractor and its Surety and may be deducted from any money due or becoming due from the Agency. If the sums due under the Contract are insufficient for completion, the Contractor or Surety shall pay to the Agency within 5 days after the completion, all costs in excess of the sums due.

The provisions of this section shall be in addition to all other rights and remedies available to the Agency under law.

6-5 TERMINATION OF CONTRACT. The Board may terminate the Contract at its own discretion or when conditions encountered during the Work make it impossible or impracticable to proceed, or when the Agency is prevented from proceeding with the Contract by act of God, by law, or by official action of a public authority.

6-6 DELAYS AND EXTENSIONS OF TIME.

6-6.1 General. If delays are caused by unforeseen events beyond the control of the Contractor, such delays will entitle the Contractor to an extension of time as provided herein, but the Contractor will not be entitled to damages or additional payment due to such delays, except as provided in 6-6.3. Such unforeseen events may include war, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of work, inability to obtain materials, labor or equipment, required extra work, or other specific events as may be further described in the Specifications. No extension of time will be granted for a delay caused by the Contractor's inability to obtain materials unless the Contractor furnishes to the Engineer documentary proof. the proof must be provided in a timely manner in accordance with the sequence of the Contractor's operations and the approved construction schedule.

If delays beyond the Contractor's control are caused by events other than those mentioned above, the Engineer may deem an extension of time to be in the best interests of the Agency. The Contractor will not be entitled to damages or additional payment due to such delays, except as provided in Section 6-6.3.

If delays beyond the Contractor's control are caused solely by action or inaction by the Agency, such delays will entitle the Contractor to an extension of time as provided in Section 6-6.2.

6-6.2 Extensions of Time. Extensions of time, when granted, will be based upon the effect of delays to the Work. They will not be granted for noncontrolling delays to minor portions of the Work unless it can be shown that such delays did or will delay the progress of the Work.

6-6.3 Payment for Delays to Contractor. The Contractor will be compensated for damages incurred due to delays for which the Agency is responsible. Such actual costs will be determined by the



Engineer. The Agency will not be liable for damages which the Contractor could have avoided by any reasonable means, such as judicious handling of forces, equipment, or plant. The determination of what damages the Contractor could have avoided will be made by the Engineer.

6-6.4 Written Notice and Report. The Contractor shall provide written notice to the Engineer within two hours of the beginning of any period that the Contractor has placed any workers or equipment on standby for any reason that the Contractor has determined to be caused by the Agency or by any organization that the Agency may otherwise be obligated by. The Contractor shall provide continuing daily written notice to the Engineer, each working day, throughout the duration of such period of delay. The initial and continuing written notices shall include the classification of each workman and supervisor and the make and model of each piece of equipment placed on standby, the cumulative duration of the standby, the Contractor's opinion of the cause of the delay and a cogent explanation of why the Contractor could not avoid the delay by reasonable means. Should the Contractor fail to provide the notice(s) required by this section the Contractor agrees that no delay has occurred and that it will not submit any claim(s) therefore.

6-7 TIME OF COMPLETION.

6-7.1 General. The Contractor shall complete the Work within the time set forth in the Contract. The Contractor shall complete each portion of the Work within such time as set forth in the Contract for such portion. The time of completion of the Contract shall be expressed in working days. The Contractor shall diligently prosecute the work to completion within 21 months (440 working days) after the starting date specified in the Notice to Proceed. The sequence of work anticipated is:

1. Notice to Proceed to building permit for Phase 1 temporary occupancy – 8 months.
2. Staff and material relocations and commissioning (by others) – 1 month.
3. Start of construction for Phase 2 to building occupancy permit for building – 8 months.
4. Staff and material relocations and commissioning (by others) – 1 month.
5. Start of construction for Phase 3 to building occupancy permit – 6 months.
6. Commissioning (by others) – 1 month

Total contract duration – 24 months (495 working days)

6-7.2 Working Day. A working day is any day within the period between the start of the Contract time as defined in Section 6-1 and the date provided for completion, or upon field acceptance by the Engineer for all work provided for in the Contract, whichever occurs first, other than:

1. Saturday,
2. Sunday,
3. any day designated as a holiday by the Agency,
4. any other day designated as a holiday in a Master Labor Agreement entered into by the Contractor or on behalf of the Contractor as an eligible member of a contractor association,



5. any day the Contractor is prevented from working at the beginning of the workday for cause as defined in Section 6-6.1,
6. any day the Contractor is prevented from working during the first 5 hours with at least 60 percent of the normal work force for cause as defined in Section 6-6.1.

Unless otherwise approved in writing by the Engineer, the hours of work shall be between the hours of 7:00 a.m. and 4:00 p.m. on Mondays through Fridays, excluding Agency holidays. The Contractor shall obtain the written approval of the Engineer if the Contractor desires to work outside said hours or at any time during weekends and/or holidays. This written permission must be obtained at least 48 hours prior to such work. The Engineer may approve work outside the hours and/or days stated herein when, in his/her sole opinion, such work conducted by the Contractor is beneficial to the best interests of the Agency. The Contractor shall pay the inspection costs of such work.

The Contractor shall incorporate the dates, areas and types of work prohibited in this section in the Construction Schedule required by Section 6.1. No additional payment, adjustment of bid prices or adjustment of contract time of completion will be allowed as a consequence of the prohibition of work being performed within the dates, areas and/or types of work prohibited in this section.

6-7.3 Contract Time Accounting. The Engineer will make a daily determination of each working day to be charged against the Contract time. These determinations will be discussed and the Contractor will be furnished a periodic statement showing allowable number of working days of Contract time, as adjusted, at the beginning of the reporting period. The statement will also indicate the number of working days charged during the reporting period and the number of working days of Contract time remaining. If the Contractor does not agree with the statement, it shall file a written protest within 15 days after receipt, setting forth the facts of the protest. Otherwise, the statement will be deemed to have been accepted.

6-8 COMPLETION, ACCEPTANCE, AND WARRANTY. The Work will be inspected by the City for acceptance upon receipt of the Contractor's written assertion that the Work has been completed.

The City will not accept the Work or any portion of the Work before all of the Work is completed and all outstanding deficiencies that may exist are corrected by the Contractor and the City is satisfied that all the materials and workmanship, and all other features of the Work, meet the requirements of all of the specifications for the Work. The only exception to this requirement is some unfinished work may be provisionally accepted if it still allows a temporary certificate of occupancy to be issued for Phase 1, 2 or 3.

6-8.1 Beneficial Occupancy

The City reserves the right, at its option and convenience, to occupy or otherwise make use of any part of the Construction Work at any time prior to Substantial Completion or Final Completion upon ten (10) days' notice to Contractor. Such occupancy or use is herein referred to as "Beneficial Occupancy." Beneficial Occupancy or Temporary Occupancy, shall be subject to the following conditions:

1. City's Construction Management Consultant will make an inspection of the portion of the Project to be beneficially occupied and prepare a list of items to be completed or corrected. Contractor shall obtain approval from City Building Inspector for Beneficial Occupancy.
2. Beneficial Occupancy by City of Carlsbad shall not be construed by Contractor as an acceptance by City of Carlsbad of that portion of the Construction Work which is to be occupied.



3. Beneficial Occupancy by City of Carlsbad shall not constitute a waiver of existing claims of City of Carlsbad or Contractor against each other.
4. Contractor shall provide, in the areas beneficially occupied and on a twenty-four (24) hour and seven (7) day a week basis as required, utility services, heating, and cooling for systems which are in operable condition at the time of Beneficial Occupancy. All responsibility for the operation and maintenance of equipment shall remain with Contractor while the equipment is so operated. Contractor shall submit to City of Carlsbad an itemized list of each piece of equipment so operated with the date operation commences.
5. The Contractor's guarantee to repair will commence upon the date approved by the City for Beneficial Occupancy except that the guarantee to repair periods for that part of equipment or systems that serve portions of the Work for which City has not taken Beneficial Occupancy shall not commence until the City has taken Beneficial Occupancy for that portion of the Work or has issued a Certificate of Substantial Completion with respect to the entire Project. The City will pay all normal operating and maintenance costs resulting from its use of equipment in areas beneficially occupied.
6. The City will pay all utility costs that arise out of the Beneficial Occupancy.
7. Contractor shall not be responsible for providing security in areas beneficially occupied.
8. The City will use its best efforts to prevent its Beneficial Occupancy from interfering with the conduct of Contractor's remaining Construction Work.
9. Contractor shall not be required to repair damage caused by the City in its Beneficial Occupancy.
10. There shall be no added cost to the City due to Beneficial Occupancy.
11. Contractor shall continue to maintain all insurance required by the Contract in full force and effect.

6-8.2 Substantial Completion

1. "Substantial Completion" means the stage in the progress of the Construction Work, as determined by City's Construction Management Consultant, when the Construction Work is complete and in accordance with the Contract Documents except only for completion of minor items that do not impair City's ability to occupy and fully utilize the Construction Work for its intended purpose and a Certificate of Occupancy for the Work has been issued by the City's Building Official.
2. When Contractor gives notice to City's Construction Management Consultant that the Construction Work is substantially complete, unless City's Construction Management Consultant determines that the Construction Work is not sufficiently complete to warrant an inspection to determine Substantial Completion, City's Construction Management Consultant will inspect the Construction Work. If the City's Construction Management Consultant determines that the Work is not substantially complete the City's Construction Management Consultant will prepare and give to Contractor a comprehensive list of items to be completed or corrected before establishing Substantial Completion. Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of Contractor to complete all Construction Work in accordance with the Contract Documents. City's Construction Management Consultant will make an inspection to determine whether the Construction Work is substantially complete. Costs for additional inspection by City's Construction Management Consultant shall be deducted from any monies due and payable to Contractor.



3. When City's Construction Management Consultant determines that the Construction Work is substantially complete, City's Construction Management Consultant will arrange for inspection by the City's Building Official and other officials, as appropriate, for the purpose of issuing a Certificate of Occupancy. After a Certificate of Occupancy has been issued by the City's Building Official, the City's Construction Management Consultant will prepare a Certificate of Substantial Completion, which, when signed by the City, shall establish the date of Substantial Completion and the responsibilities of City and Contractor for security, maintenance, utilities, insurance, and damage to the Construction Work. The City's Construction Management Consultant will prepare and furnish to the Contractor a comprehensive "punch list" of items to be completed or corrected prior to Final Completion.
4. Unless otherwise provided in the Certificate of Substantial Completion, the guarantee to repair period for the Construction Work covered by the Certificate of Substantial Completion, shall commence on the date of Substantial Completion of the Construction Work except that Substantial Completion shall not commence the guarantee to repair period for any equipment or systems that:
 - a) Are not operational (equipment or systems shall not be considered operational if they cannot be used to provide the intended service);
 - b) Are not accepted by the City; or
 - c) Are part of the Construction Work that is not yet Substantially Complete.

The guarantee to repair period for equipment or systems which become operational and accepted subsequent to Substantial Completion will begin on the date of their written acceptance by the City.

5. The daily rate included in the Agreement and specifically identified as the rate to be paid to Contractor for Compensable Delays shall not apply to any delays occurring after the Construction Work is substantially completed.

6-8.3 Final Completion, Final Payment and Release of Retention

1. Upon receipt of notice from Contractor that the Work is ready for final inspection, City's Construction Management Consultant will make such inspection. Final Completion shall be when City's Construction Management Consultant determines that the Work is fully completed and in accordance with the Contract Documents, including without limitation, satisfaction of all "punch list" items, and determines that a Certificate of Occupancy has been issued by the City's Building Official. The City will file a Notice of Completion within fifteen (15) days after Final Completion. After receipt of the final Application for Payment, if City's Construction Management Consultant determines that Final Completion has occurred, City's Construction Management Consultant will issue the final Certificate for Payment.
2. Final payment and retention shall be released to Contractor, as set forth above, after:
 - a) Contractor submits the final Application for Payment and all submittals required above;
 - b) Contractor submits all guarantees and warranties procured by Contractor from Subcontractors, all operating manuals for equipment installed in the Project, as-built documents, and all other submittals required by the Contract Documents; and
 - c) City's Construction Management Consultant issues the final Certificate for Payment.
3. Final payment shall be paid not more than ten (10) days after City's Construction Management Consultant issues the final Certificate for Payment. Retention shall be released to Contractor thirty-five (35) days after the Notice of Completion is filed by the county.
4. Acceptance of final payment by Contractor shall constitute a waiver of all claims related to the



Work, except claims for retention and claims previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment.

5. Upon project completion and notice by the Engineer, the City may accept the completed project Work. Upon the City's acceptance of the Work the Engineer will cause a "Notice of Completion" to be filed in the office of the San Diego County Recorder. The date of recordation shall be the date of completion of the Work.
6. The completed project work shall be warranted for one (1) year after receipt of an occupancy permit for the building and conference room wing. Given the staged re-occupancy of the building, the warranties for the Phase 1 and Phase 2 areas will be longer. The warranty for Phase 1 will be approximately 29 months (as it will be occupied during Phases 2 and 3 before the 1 year project warranty begins), the warranty for Phase 2 will be approximately 20 months (as it will be occupied during Phase 3 before the 1 year project warranty begins) and the warranty for Phase 3 will be 12 months, or (1) year following receipt of occupancy permit. Any faulty work or materials discovered during the warranty periods shall be repaired or replaced by the Contractor, at its expense. Twenty-five percent of the faithful performance bond shall be retained as a warranty bond for the warranty periods. The Contractor shall replace or repair any such defective work in a manner satisfactory to the Engineer, after notice to do so from the Engineer, and within the time specified in the notice. If the Contractor fails to make such replacement or repairs within the time specified in the notice, the Agency may perform this work and the Contractor's sureties shall be liable for the cost thereof.

6-9 LIQUIDATED DAMAGES. Failure of the Contractor to complete the Work within the time allowed will result in damages being sustained by the Agency. For each consecutive calendar day in excess of the time specified for completion of Work, as adjusted in accordance with Section 6-6, the Contractor shall pay the Agency, or have withheld monies due it, the sum of one thousand dollars (\$1,000.00) Such sum is liquidated damages and shall not be construed as a penalty, and may be deducted from payments due the Contractor if such delay occurs.

Execution of the Contract shall constitute agreement by the Agency and Contractor that \$500 per day is the minimum value of costs and actual damages caused by the Contractor to complete the Work within the allotted time. Any progress payments made after the specified completion date shall not constitute a waiver of this paragraph or of any damages.

6-10 USE OF IMPROVEMENT DURING CONSTRUCTION. The Agency reserves the right to take over and utilize all or part of any completed facility or appurtenance. The Contractor will be notified in writing in advance of such action. Such action by the Agency will relieve the Contractor of responsibility for injury or damage to said completed portions of the improvement resulting from use by public traffic or from the action of the elements or from any other cause, except Contractor operations or negligence. The Contractor will not be required to reclean such portions of the improvement before field acceptance, except for cleanup made necessary by its operations. Nothing in this section shall be construed as relieving the Contractor from full responsibility for correcting defective work or materials.

In the event the Agency exercises its right to place into service and utilize all or part of any completed facility or appurtenance, the Agency will assume the responsibility and liability for injury to persons or property resulting from the utilization of the facility or appurtenance so placed into service, except for any such injury to persons or property caused by any willful or negligent act or omission by the Contractor, Subcontractor, their officers, employees, or agents.



SECTION 7 – RESPONSIBILITIES OF THE CONTRACTOR

7-1 CONTRACTOR'S EQUIPMENT AND FACILITIES. The Contractor shall furnish and maintain in good condition all equipment and facilities as required for the proper execution and inspection of the Work. Such equipment and facilities shall meet all requirements of applicable ordinances and laws.

7-2 LABOR.

7-2.1 General. Only competent workers shall be employed on the Work. Any person employed who is found to be incompetent, intemperate, troublesome, disorderly, or otherwise objectionable, or who fails or refuses to perform work properly and acceptably, shall be immediately removed from the Work by the Contractor and not be reemployed on the Work.

7-2.2 Laws. The Contractor, its agents, and employees shall be bound by and comply with applicable provisions of the Labor Code and Federal, State, and local laws related to labor.

The Contractor shall strictly adhere to the provisions of the Labor Code regarding minimum wages; the 8-hour day and 40-hour week; overtime; Saturday, Sunday, and holiday work; and nondiscrimination because of race, color, national origin, sex, or religion. The Contractor shall forfeit to the Agency the penalties prescribed in the Labor Code for violations.

In accordance with the Labor Code, the Board has on file and will publish a schedule of prevailing wage rates for the types of work to be done under the Contract. The Contractor shall not pay less than these rates.

Each worker shall be paid subsistence and travel as required by the collective bargaining agreement on file with the State of California Department of Industrial Relations.

The Contractor's attention is directed to Section 1776 of the Labor Code which imposes responsibility upon the Contractor for the maintenance, certification, and availability for inspection of such records for all persons employed by the Contractor or Subcontractor in connection with the project. The Contractor shall agree through the Contract to comply with this Section and the remaining provisions of the Labor Code.

7-3 LIABILITY INSURANCE. Insurance shall be required as specified in section 10 of the Public Works Contract.

The cost of this insurance shall be included in the Contractor's Bid.

7-4 WORKERS' COMPENSATION INSURANCE. Before execution of the Contract by the Board, the Contractor shall file with the Engineer the following signed certification:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

The Contractor shall also comply with Section 3800 of the Labor Code by securing, paying for, and maintaining in full force and effect for the duration of the contract, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the Engineer before execution of the Contract.



The Agency, its officers, or employees, will not be responsible for any claims in law or equity occasioned by failure of the Contractor to comply with this paragraph.

All compensation insurance policies shall bear an endorsement or shall have attached a rider whereby it is provided that, in the event of expiration or proposed cancellation of such policies for any reason whatsoever, the Agency shall be notified by registered mail not less than 30 days before expiration or cancellation is effective.

All insurance is to be placed with insurers that are admitted and authorized to conduct business in the state of California and are listed in the official publication of the Department of Insurance of the State of California. Policies issued by the State Compensation Fund meet the requirement for workers' compensation insurance.

7-5 PERMITS. Except as specified herein the Contractor will obtain, at no cost to the Contractor all City of Carlsbad building permits necessary to perform work for this contract on Agency property, streets, or other rights-of-way. Contractor shall not begin work until all permits incidental to the work are obtained. The Contractor shall obtain and pay for all permits for the disposal of all materials removed from the project. The cost of said permit(s) shall be included in the price bid for the appropriate bid item and no additional compensation will be allowed therefore. The Contractor shall obtain and pay for all costs incurred for permits necessitated by its operations such as, but not limited to, those permits required for night work, overload, blasting, and demolition. For private contracts, the Contractor shall obtain all permits incidental to the Work or made necessary by its operations, and pay all costs incurred by the permit requirements.

The Contractor shall pay all business taxes or license fees that are required for the work.

7-5.1 Resource Agency Permits. Not used.

7-6 THE CONTRACTOR'S REPRESENTATIVE. Before starting work, the Contractor shall designate in writing a representative who shall have complete authority to act for it. An alternative representative may be designated as well. The representative or alternate shall be present at the Work site whenever work is in progress or whenever actions of the elements necessitate its presence to take measures necessary to protect the Work, persons, or property. Any order or communication given to this representative shall be deemed delivered to the Contractor. A joint venture shall designate only one representative and alternate. In the absence of the Contractor or its representative, instructions or directions may be given by the Engineer to the superintendent or person in charge of the specific work to which the order applies. Such order shall be complied with promptly and referred to the Contractor or its representative.

In order to communicate with the Agency, the Contractor's representative, superintendent, or person in charge of specific work shall be able to speak, read, and write the English language.

7-7 COOPERATION AND COLLATERAL WORK. The Contractor shall be responsible for ascertaining the nature and extent of any simultaneous, collateral, and essential work by others. The Agency, its workers and contractors and others, shall have the right to operate within or adjacent to the Work site during the performance of such work.

The Agency, the Contractor, and each of such workers, contractors and others, shall coordinate their operations and cooperate to minimize interference.

The Contractor shall include in its Bid all costs involved as a result of coordinating its work with others. the Contractor will not be entitled to additional compensation from the Agency for damages resulting



from such simultaneous, collateral, and essential work. If necessary to avoid or minimize such damage or delay, the Contractor shall redeploy its work force to other parts of the Work.

Should the Contractor be delayed by the Agency, and such delay could not have been reasonably foreseen or prevented by the Contractor, the Engineer will determine the extent of the delay, the effect on the project, and any extension of time.

7-7.1 Coordination. The Contractor shall coordinate and cooperate with all the utility companies during the relocation or construction of their lines. The Contractor may be granted a time extension if, in the opinion of the Engineer, a delay is caused by the utility company. No additional compensation will be made to the Contractor for any such delay.

7-8 PROJECT SITE MAINTENANCE.

7-8.1 Cleanup and Dust Control. Throughout all phases of construction, including suspension of work, and until the final acceptance, the Contractor shall keep the site clean and free from rubbish and debris. The Contractor shall also abate dust nuisance by cleaning, sweeping and sprinkling with water, or other means as necessary.

Materials and equipment shall be removed from the site as soon as they are no longer necessary. Before the final inspection, the site shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance. All cleanup costs shall be included in the Contractor's Bid.

Care shall be taken to prevent spillage on haul routes. Any such spillage shall be removed immediately and the area cleaned.

Failure of the Contractor to comply with the Engineer's cleanup orders may result in an order to suspend work until the condition is corrected. No additional compensation will be allowed as a result of such suspension.

The Contractor shall conduct effective cleanup and dust control throughout the duration of the Contract. The Engineer may require increased levels of cleanup and dust control that, in his/her sole discretion, are necessary to preserve the health, safety and welfare of the public. Cleanup and dust control shall be considered incidental to the items of work that they are associated with and no additional payment will be made therefore.

7-8.2 Air Pollution Control. The Contractor shall not discharge smoke, dust, or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

7-8.3 Vermin Control. At the time of acceptance, structures entirely constructed under the Contract shall be free of rodents, insects, vermin, and pests. Necessary extermination work shall be arranged and paid for by the Contractor as part of the Work within the Contract time, and shall be performed by a licensed exterminator in accordance with requirements of governing authorities. The Contractor shall be liable for injury to persons or property and responsible for the elimination of offensive odors resulting from extermination operations.

7-8.4 Sanitation. The Contractor shall provide and maintain enclosed toilets for the use of employees engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition. They shall also comply with all applicable laws, ordinances, and regulations pertaining to public health and sanitation of dwellings and camps.



Wastewater shall not be interrupted. Should the Contractor disrupt existing sewer facilities, sewage shall be conveyed in closed conduits and disposed of in a sanitary sewer system. Sewage shall not be permitted to flow in trenches or be covered by backfill.

7-8.5 Temporary Light, Power, and Water. The Contractor shall furnish, install, maintain, and remove all temporary light, power, and water at its own expense. These include piping, wiring, lamps, and other equipment necessary for the Work. The Contractor shall not draw water from any fire hydrant (except to extinguish a fire), without obtaining permission from the water agency concerned. The Contractor shall obtain a construction meter for water used for the construction, plant establishment, maintenance, cleanup, testing and all other work requiring water related to this contract. The Contractor shall contact the appropriate water agency for requirements. The Contractor shall pay all costs of temporary light, power and water including hookup, service, meter and any, and all, other charges, deposits and/or fees therefore. Said costs shall be considered incidental to the items of work that they are associated with and no additional payment will be made therefore.

7-8.6 Water Pollution Control. Not used

7-8.7 Drainage Control. Not used

7-8.8 Noise Control. All internal combustion engines used in the construction shall be equipped with mufflers in good repair when in use on the project with special attention to the City Noise Control Ordinance, Carlsbad Municipal Code Chapter 8.48.

7-9 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS. The Contractor shall be responsible for the protection of public and private property adjacent to the Work and shall exercise due caution to avoid damage to such property.

The Contractor shall repair or replace any site amenities and/or building finishes which are damaged or removed as a result of its operations. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension.

All costs to the Contractor for protecting, removing, and restoring existing site amenities and/or building finishes shall be included in the Bid.

7-10 PUBLIC CONVENIENCE AND SAFETY.

7-10.1 Traffic and Access. The Contractor's operations shall cause no unnecessary inconvenience. The access rights of the public shall be considered at all times. Unless otherwise authorized, traffic shall be permitted to pass through the Work, or an approved detour shall be provided.

Safe and adequate pedestrian and vehicular access shall be provided and maintained to: fire hydrants; commercial and industrial establishments; churches, schools and parking lots; service stations and motels; hospitals; police and fire stations; and establishments of similar nature. Access to these facilities shall be continuous and unobstructed unless otherwise approved by the Engineer.

Safe and adequate pedestrian zones and public transportation stops, as well as pedestrian crossings of the Work at intervals not exceeding 90 m (300 feet), shall be maintained unless otherwise approved by the Engineer.

The Contractor shall cooperate with the various parties involved in the delivery of mail and the collection and removal of trash and garbage to maintain existing schedules for these services.



The Contractor shall schedule the work so as to prevent damage by all traffic, including but not limited to mail delivery. The Contractor shall not schedule work so as to conflict with trash pickup. The trash hauling schedule can be obtained by calling the City's contracted waste disposal company, Coast Waste Management at 929-9417.

The Contractor shall include in its Bid all costs for the above requirements.

7-10.2 Storage of Equipment and Materials in Public Streets. Construction materials shall not be stored in roadways after unloading. All materials or equipment not installed or used in construction after unloading shall be stored elsewhere by the Contractor at its expense unless authorized additional storage time.

Construction equipment shall not be stored at the Work site before its actual use on the Work nor for more than 5 days after it is no longer needed. Time necessary for repair or assembly of equipment may be authorized by the Engineer.

7-10.3 Street Closures, Detours, Barricades. Not used

7-10.3.1 Construction Area Signs and Control Devices. All construction signs and control devices shall be maintained throughout the duration of work in good order. The City's Construction Management Consultant may require additional signage if deemed necessary.

7-10.3.2 Maintaining Traffic. Not used.

7-10.3.3 Traffic Control System for Lane Closure. Not used.

7-10.3.4 Traffic Control for Permanent and Temporary Traffic Striping. Not used.

7-10.3.5 Temporary Pavement Delineation. Not used

7-10.3.6 Preparation of New, or Modifications and Additions to Existing, Traffic Control Plan Sheets. Not used.

7-10.3.7 Payment. The Contractor shall prepare and install construction signs and control devices and shall furnish all labor and materials to maintain, replace and remove them as incidental expenses to the work with which they are associated and no other compensation will be allowed therefore.

7-10.4 Safety.

7-10.4.1 Safety Orders. The Contractor shall have at the Work site, copies or suitable extracts of: Construction Safety Orders and General Industry Safety Orders issued by the State Division of Industrial Safety. The Contractor shall comply with provisions of these and all other applicable laws, ordinances, and regulations.

Payment for performing all work necessary to provide safety measures shall be included in the prices bid for each category of work.

7-10.4.2 Use of Explosives. Not used.

7-10.4.3 Special Hazardous Substances and Processes. Materials that contain hazardous substances or mixtures may be required on the Work. A Material Safety Data Sheet as described in



Section 5194 of the California Code of Regulations shall be requested by the Contractor from the manufacturer of any hazardous products used.

Material usage shall be accomplished with strict adherence to California Division of Industrial Safety requirements and all manufacturer warnings and application instructions listed on the Material Safety Data Sheet and on the product container label.

The Contractor shall notify the Engineer if a specified product cannot be used under safe conditions.

7-10.4.4 Confined Spaces.

1. Confined Space Entry Program. The Contractor shall be responsible for implementing, administering and maintaining a confined space entry program (CSEP) in accordance with Sections 5156, 5157 and 5158, Title 8, CCR.

Prior to starting the Work, the Contractor shall prepare and submit its comprehensive CSEP to the Engineer. The CSEP shall address all potential physical and environmental hazards and contain procedures for safe entry into confined spaces, including, but not limited to the following:

- a) Training of personnel
- b) Purging and cleaning the space of materials and residue
- c) Potential isolation and control of energy and material inflow
- d) Controlled access to the space
- e) Atmospheric testing of the space
- f) Ventilation of the space
- g) Special hazards consideration
- h) Personal protective equipment
- i) Rescue plan provisions

The Contractor's submittal shall include the names of its personnel, including subcontractor personnel, assigned to the project who will have CSEP responsibilities, their CSEP training, and their specific assignment and responsibility in carrying out the CSEP.

2. Permit-Required Confined Spaces. Entry into permit-required confined spaces as defined in Section 5157, Title 8, CCR may be required as a part of the Work. All manholes, tanks, vaults, pipelines, excavations, or other enclosed or partially enclosed spaces shall be considered permit-required confined spaces until the pre-entry procedures demonstrate otherwise. The Contractor shall implement a permit space program prior to performing any work in a permit-required confined space. A copy of the permit shall be available at all times for review by Contractor and Agency personnel at the Work site.
3. Payment. Payment for implementing, administering, and providing all equipment and personnel to perform the CSEP shall be included in the bid items for which the CSEP is required.

7-10.4.5 Safety and Protection of Workers and Public. The Contractor shall take all necessary precautions for the safety of employees on the work and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and public, and shall use danger signs warning against hazards created by such features of construction as protruding nails, hoists, well holes, and falling materials.



7-11 PATENT FEES OR ROYALTIES. The Contractor shall absorb in its Bid the patent fees or royalties on any patented article or process furnished or used in the Work. The Contractor shall indemnify and hold the Agency harmless from any legal action that may be brought for infringement of patents.

7-12 ADVERTISING. The names, addresses and specialties of Contractors, Subcontractors, architects, or engineers may be displayed on removable signs. The size and location shall be subject to the Engineer's approval.

Commercial advertising matter shall not be attached to or painted on the surfaces of buildings, fences, canopies, or barricades.

7-13 LAWS TO BE OBSERVED. The Contractor shall keep fully informed of State and National laws and County and Municipal ordinances and regulations which in any manner affect those employed in the Work or the materials used in the Work or in any way affect the conduct of the Work. The Contractor shall at all times observe and comply with such laws, ordinances, and regulations.

7-14 ANTITRUST CLAIMS. Section 7103.5 of the Public Contract Code provides:

"In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or subcontract. The assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment of the parties."



SECTION 8 – FACILITIES FOR AGENCY PERSONNEL

8-1 GENERAL. All facilities provided for Agency personnel shall be at suitable locations approved by the Construction Manager. Such facilities must be in a room, building, or trailer provided for this purpose with acceptable means for locking.

Offices and laboratories at plants may be used concurrently by inspection personnel of other agencies provided such use does not seriously conflict with Agency use. When facilities are shared in this manner, at least one locker provided with a hasp for a padlock must be available for the exclusive use of Agency inspectors. Otherwise any facilities furnished are for the exclusive use of Agency personnel.

All facilities shall conform to the applicable codes, ordinances, and regulations of the local jurisdiction and of the State of California and shall conform to current practice. The interior shall be paneled or suitably lined to provide a facility of good appearance.

The Contractor shall provide janitorial and other maintenance services in all types of facilities provided. Such services shall include the supply of the appropriate paper products and dispensers. Trash receptacles shall be provided and emptied by the Contractor at weekly intervals or sooner as required. The trash shall be removed from the project site.

All costs to maintain and service the specified facilities at the project site shall be included in the price bid for such facilities. If no bid item is provided in the proposal, costs shall be included in other items for which bids are entered. The first progress payment will not be approved until all facilities are in place and fully comply with the Specifications.

8-2 FIELD OFFICE FACILITIES.

8-2.1 Class “A” Field Office. Furniture and equipment shall be provided as follows: one plan table, one standard 1.5 m (5 feet) long double-pedestal desk with a drawer suitable for holding files, two chairs, one drafting stool, one plan rack, two 36”x48” Wall Mounted Dry-Erase Boards & Supplies and one 6’ tall adjustable 5-shelf bookcase and dual computer monitors. Electric power shall be provided to include a minimum of four duplex convenience outlets. The office shall be illuminated at the tables and desk. An outdoor lighting fixture with a 300-watt bulb shall be installed.

Provide a dedicated high-speed Internet connection capable of 100 Mbps with wireless router for secure Wi-Fi connection. Include IT support for network/Internet/printer/wireless setup and service as required. Provide a multi-function laser color printer/copier/fax/scanner capable of printing 50 ppm color/55 B&W and ability to print on letter (8½”x11”), legal (8½”x14”) and ledger (11”x17”) size paper. Cop Resolution 1200 x 2400 dpi. Connectivity – Wireless Ethernet 802.11b. Collating and stapling capabilities.

Heating and air conditioning of sufficient capacity shall be provided at no expense to the Agency. The Contractor shall provide drinking water within the office and integral sanitary facilities directly adjoining.

Sanitary facilities shall include a toilet and wash basin with hot and cold running water. Extended area, land-line telephone service shall be provided within the office area. The installation shall include sufficient extension cord to serve the plan table and desk. Provide weekly cleaning and service throughout duration of project. Access and one parking space for the exclusive use of the Engineer and his/her designees that are convenient and satisfactory to the Engineer shall be provided by the Contractor.



SECTION 9 – MEASUREMENT AND PAYMENT

9-1 MEASUREMENT OF QUANTITIES FOR UNIT PRICE WORK.

9-1.1 General. Unless otherwise provided in Specifications, volumetric quantities shall be the product of the mean area of vertical or horizontal sections and the intervening horizontal or vertical dimension.

9-1.2 Methods of Measurement. Materials and items of work which are to be paid for on basis of measurement shall be measured in accordance with methods stipulated in the particular sections involved.

9-1.3 Certified Weights. Not used

9-1.4 Units of Measurement. The system of measure for this contract shall be the U.S. Standard Measures.

9-2 LUMP SUM WORK. Items for which quantities are indicated "Lump Sum", "L.S.", or "Job", shall be paid for at the price indicated in the Bid. Such payment shall be full compensation for the items of work and all work appurtenant thereto.

When required by the Specifications or requested by the City's Construction Management Consultant, the Contractor shall submit to the City's Construction Management Consultant within 15 days after award of Contract, a detailed schedule, to be used only as a basis for determining progress payments on a lump sum contract or designated lump sum bid item. This schedule shall equal the lump sum bid and shall be in such form and sufficiently detailed as to satisfy the City's Construction Management Consultant that it correctly represents a reasonable apportionment of the lump sum.

9-3 PAYMENT

9-3.1 General. Lump sum prices to be paid shall be full compensation for the items of work and all appurtenant work, including furnishing all materials, labor, equipment, tools, and incidentals.

Payment will not be made for materials wasted or disposed of in a manner not called for under the Contract. This includes rejected material not unloaded from vehicles, material rejected after it has been placed, and material placed outside of the Plan lines. No compensation will be allowed for disposing of rejected or excess material.

Payment for work performed or materials furnished under an Assessment Act Contract will be made as provided in particular proceedings or legislative act under which such contract was awarded.

Whenever any portion of the Work is performed by the Agency at the Contractor's request, the cost thereof shall be charged against the Contractor, and may be deducted from any amount due or becoming due from the Agency.

Whenever immediate action is required to prevent injury, death, or property damage, and precautions which are the Contractor's responsibility have not been taken and are not reasonably expected to be taken, the Agency may, after reasonable attempt to notify the Contractor, cause such precautions to be taken and shall charge the cost thereof against the Contractor, or may deduct such cost from any amount due or becoming due from the Agency. Agency action or inaction under such circumstances shall not be construed as relieving the Contractor or its Surety from liability.



Payment shall not relieve the Contractor from its obligations under the Contract; nor shall such payment be construed to be acceptance of any of the Work. Payment shall not be construed as the transfer of ownership of any equipment or materials to the Agency. Responsibility of ownership shall remain with the Contractor who shall be obligated to store any fully or partially completed work or structure for which payment has been made; or replace any materials or equipment required to be provided under the Contract which may be damaged, lost, stolen or otherwise degraded in any way prior to acceptance of the Work, except as provided in Section 6-10.

Guarantee periods shall not be affected by any payment but shall commence on the date of recordation of the "Notice of Completion."

If, within the time fixed by law, a properly executed notice to stop payment is filed with the Agency, due to the Contractor's failure to pay for labor or materials used in the Work, all money due for such labor or materials will be withheld from payment to the Contractor in accordance with applicable laws.

At the expiration of 35 days from the date of acceptance of the Work by the Board, or as prescribed by law, the amount deducted from the final estimate and retained by the Agency will be paid to the Contractor except such amounts as are required by law to be withheld by properly executed and filed notices to stop payment, or as may be authorized by the Contract to be further retained.

9-3.2 Partial and Final Payment. The Engineer will, after award of Contract, establish a closure date for the purpose of making monthly progress payments. The Contractor may request in writing that such monthly closure date be changed. The Engineer may approve such request when it is compatible with the Agency's payment procedure.

Each month, the Engineer will make an approximate measurement of the work performed to the closure date as basis for making monthly progress payments. The estimated value will be based on contract unit prices, completed change order work and as provided for in Section 9-2 of these General Provisions. Progress payments shall be made no later than thirty (30) calendar days after the closure date. Five (5) working days following the closure date, the Engineer shall complete the detailed progress pay estimate and submit it to the Contractor for the Contractor's information. Should the Contractor assert that additional payment is due, the Contractor shall within ten (10) days of receipt of the progress estimate, submit a supplemental payment request to the Engineer with adequate justification supporting the amount of supplemental payment request. Upon receipt of the supplemental payment request, the Engineer shall, as soon as practicable after receipt, determine whether the supplemental payment request is a proper payment request. If the Engineer determines that the supplemental payment request is not proper, then the request shall be returned to the Contractor as soon as practicable, but not later than seven (7) days after receipt. The returned request shall be accompanied by a document setting forth in writing the reasons why the supplemental payment request was not proper. In conformance with Public Contract Code Section 20104.50, the City shall make payments within thirty (30) days after receipt of an undisputed and properly submitted supplemental payment request from the Contractor. If payment of the undisputed supplemental payment request is not made within thirty (30) days after receipt by the Engineer, then the City shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

From each progress estimate, 5 percent will be deducted and retained by the Agency, and the remainder less the amount of all previous payments will be paid.

No progress payment made to the Contractor or its sureties will constitute a waiver of the liquidated damages under 6-9.



As provided in Section 22300 of the California Public Contract Code, the Contractor may substitute securities for any monies withheld by the Agency to ensure performance under the Contract.

After final inspection, the Engineer will make a Final Payment Estimate and process a corresponding payment. This estimate will be in writing and shall be for the total amount owed the Contractor as determined by the Engineer and shall be itemized by the contract bid item and change order item with quantities and payment amounts and shall show all deductions made or to be made for prior payments and amounts to be deducted under provisions of the contract. All prior estimates and progress payments shall be subject to correction in the Final Payment Estimate.

The Contractor shall have 30 calendar days from receipt of the Final Payment Estimate to make written statement disputing any bid item or change order item quantity or payment amount. The Contractor shall provide all documentation at the time of submitting the statement supporting its position. Should the Contractor fail to submit the statement and supporting documentation within the time specified, the Contractor acknowledges that full and final payment has been made for all contract bid items and change order items.

If the Contractor submits a written statement with documentation in the aforementioned time, the Engineer will review the disputed item within 30 calendar days and make any appropriate adjustments on the Final Payment. Remaining disputed quantities or amounts not approved by the Engineer will be subject to resolution as specified in Section 3-5, Disputed Work.

The written statement filed by the Contractor shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of said disputed items. The Engineer will consider the merits of the Contractor's claims. It will be the responsibility of the Contractor to furnish within a reasonable time such further information and details as may be required by the Engineer to determine the facts or contentions involved in its claims. Failure to submit such information and details will be sufficient cause for denying payment for the disputed items.

9-3.2.1 Payment for Claims. Except for those final payment items disputed in the written statement required in Section 9-3.2 all claims of any dollar amount shall be submitted in a written statement by the Contractor no later than the date of receipt of the final payment estimate. Those final payment items disputed in the written statement required in Section 9-3.2 shall be submitted no later than 30 days after receipt of the Final Payment estimate. No claim will be considered that was not included in this written statement, nor will any claim be allowed for which written notice or protest is required under any provision of this contract including Sections 3-4 Changed Conditions, 3-5 Disputed Work, 6-6.3 Payment for Delays to Contractor, 6-6.4 Written Notice and Report, or 6-7.3 Contract Time Accounting, unless the Contractor has complied with notice or protest requirements.

The claims filed by the Contractor shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of said claims. The Engineer will consider and determine the Contractor's claims and it will be the responsibility of the Contractor to furnish within a reasonable time such further information and details as may be required by the Engineer to determine the facts or contentions involved in its claims. Failure to submit such information and details will be sufficient cause for denying the claims.

Payment for claims shall be processed within 30 calendar days of their resolution for those claims approved by the Engineer. The Contractor shall proceed with informal dispute resolution under Section 3-5, Disputed Work, for those claims remaining in dispute.



9-3.3 Delivered Materials. When provided for in the Specifications, and subject to the limitation and conditions therein, the cost of materials and equipment delivered but not incorporated into the Work will be included in the progress estimate.

9-3.4 Mobilization. When a bid item is included in the Proposal form for mobilization and subject to the conditions and limitations in the Specifications, the costs of work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate. When no such bid item is provided, payment for such costs will be considered to be included in the other items of work.

9-3.4.1 Mobilization and Preparatory Work. The Contract lump-sum price paid for mobilization and preparatory work shall not exceed twenty thousand dollars (\$20,000.00) and includes full compensation for furnishing all insurance, bonds, licenses, labor, materials, utilities, tools, equipment and incidentals, and for doing all the work involved in mobilization and preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidental to preparing to conduct work on and off the project site and other offsite facilities necessary for work on the project; for all other facilities, sureties, work and operations which must be performed or costs incurred prior to beginning work on various contract items on or off the project site, excepting those specifically paid for under separate sections of these specifications. The Contractor hereby agrees that the stipulated lump sum amount is sufficient for Mobilization and Preparatory Work, as described in this section, and that the Contractor shall have no right to additional compensation for Mobilization and Preparatory Work.

Progress payments for Mobilization and Preparatory Work will be made as follows:

For the first progress payment (after the issuance of the Notice to Proceed), forty percent (40%) of the amount bid for Mobilization and Preparatory Work will be allowed. For the second progress payment, an additional sixty percent (60%) of the amount bid for mobilization and preparatory work will be allowed therefore.

9-4 BID ITEMS. Payment for each Bid Item shall be made at the quantity and type as listed in the Contractor's Proposal. All work shown or mentioned on the plans, in the Contract Documents, General Provisions, or Technical Provisions/Specifications shall be considered as included in the Bid Items. Contractor must protect existing utilities, improvements, landscaping, irrigation systems, and vegetation in place. If damaged during the work, Contractor is responsible to repair or replace any utilities, improvements, landscaping, irrigation systems, and vegetation at his expense.

