

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

**FOR**

**23-24 PREVENTATIVE MAINTENANCE PROJECT**

**PROJECT NO. 2023-01**

**BID DUE DATE: April 17, 2024 at 1:00PM**



Prepared by  
City of Rohnert Park-  
Public Works  
600 Enterprise Drive  
Rohnert Park, CA 94928  
(707) 588-3300

**CITY COUNCIL**

Mayor – Susan Hollingsworth Adams  
Vice-Mayor – Gerard Giudice  
Council Member – Samantha Rodriguez  
Council Member - Jackie Elward  
Council Member – Emily Sanborn  
City Manager – Marcela Piedra  
City Engineer – Vanessa Garrett

Approved by:

A handwritten signature in black ink, appearing to read "Vanessa Garrett".

City Engineer, 3/10/2024

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## **PART 1 - BID DOCUMENTS**

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## INVITATION FOR SEALED BIDS

### 23-24 PREVENTATIVE MAINTENANCE PROJECT PROJECT NO. 2023-01

Notice is hereby given that on Wednesday, April 17, 2024, at 1:00:00 PM at 130 Avram Avenue, Rohnert Park, California, the City of Rohnert Park will receive and open sealed bids for the 23-24 Preventative Maintenance Project, Project No. 2023-01. Sealed bids shall be dropped off in the secured box to the right of the main doors in front of City Hall before 1:00:00 PM on April 17, 2024. The work is described generally as crack sealing, slurry seal, traffic striping and pavement markings. The Contractor must have a valid California contractor's license, a Class A license. The Engineer's estimate for this project is \$2,200,000. The Contractor must begin work within fifteen (15) calendar days after official notice by the City Engineer to proceed with the work and must diligently prosecute the same to completion within 60 calendar days of that Notice.

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

SB 854 (Stat. 2014, Chapter 28) establishes that no contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement). The prime contractor must also post job site notices prescribed by regulation.

Per California Civil Code Section 9550, a payment bond in the amount of 100% of the bid total will be required from the successful bidder for bids exceeding \$25,000. The bond must be provided within 15 calendar days from notice of award and prior to the performance of any work.

A performance bond and bid bond must also be provided for bids exceeding \$25,000.

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

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

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

Except as otherwise indicated in the Instructions to Bidders, bids will be publicly opened, examined and

declared on said day and hour and referred to and considered by the City Council at a future City Council meeting. Each bid must be submitted on the bid forms furnished by the City, and each bid must include all the items shown on these forms. Substitute forms may be used if specified in this Notice.

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

A copy of the drawings and specifications may be obtained from Draftech for a non-refundable fee. Draftech Blueprinting is located at 1544 Terrace Way, Santa Rosa, CA 95404, phone number 707-578-9442. The planholders list and all addendums shall be issued through the City of Rohnert Park. In order to ensure receipts of addendums, any party interested in the project shall place their information with the City of Rohnert Park, attention Jason Sampietro, Associate Engineer, 600 Enterprise Drive, Rohnert Park, California 94928, telephone: (707) 588-2235, email: [pwprojects@rpcity.org](mailto:pwprojects@rpcity.org). For questions relating to the project, please contact the Department of Public Works at 707-588-3300 or [pwprojects@rpcity.org](mailto:pwprojects@rpcity.org).

Posted Date: March 13, 2024

/s/ SYLVIA LOPEZ CUEVAS

Published Date: March 15, 2024

City Clerk of the City of Rohnert Park

March 22, 2024



## INSTRUCTIONS TO BIDDERS

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

### 23-24 PREVENTATIVE MAINTENANCE PROJECT

#### PROJECT NO. 2023-01

and addressed to the City Engineer of the City of Rohnert Park, California. Said sealed bids shall be dropped off in the secured box to the right of the main doors in front of City Hall located at 130 Avram Avenue, Rohnert Park, California before 1:00:00 PM on April 17, 2024. The bidder must not file the book of Special Provisions or the Contract Drawings with his bid.

The bidders attention is directed to the schedule of bid prices that requires this project be bid as a unit price contract.

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

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

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

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

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

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

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

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

not prejudice the right of the bidder to file a new bid. This article does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

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

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

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

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

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

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

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

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

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

Violations of the provisions of these specified sections of the Code must be deemed to be a violation of the Contract, and the City, because of any such violations, must have the right to cancel the Contract. The Contractor, after any such violations, must be penalized to the extent of 20 percent of the amount of the Subcontract involved.

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

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

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

**Quantity of Work.** The quantity of work for the unit price items to be done under the contract as noted in the Bid Schedule is but an estimate and is not to be taken as an expressed or implied statement that the actual quantity of work will correspond to the estimate. The right is reserved to increase or decrease, or to entirely eliminate items from the work if found desirable or expedient. The Contractor will be allowed no claims for anticipated profits, loss of profits, or for any damages of any sort because of any difference between the estimated and the actual quantities of work done.

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

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

All estimates and all measurements used in determining the quantities of unit price items of work done, the percentage of completion of lump sum items of work, and the quantity of materials furnished under the Contract at various times during the progress of the work must be the Engineer's estimates and measurements.

The planimeter must be considered an instrument of precision adapted to the measurements of all areas.

**Insurance.** The bidder's attention is drawn to Special Provisions, Location and Description of Work, and Special Provisions, Minimum Limits of Insurance.

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

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

Investigations of subsurface conditions are made for the purpose of design. The City assumes no responsibility whatever in respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations, or of the interpretation thereof, and there is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work, or any part of it, or that unlooked for developments may not occur.

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

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

Records of such preliminary investigations as may have been made by the City may be inspected at the office of the Engineer.

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

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

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

BIDDER'S PROPOSAL

23-24 PREVENTATIVE MAINTENANCE PROJECT  
PROJECT NO. 2023-01

To: City Council, City of Rohnert Park

The undersigned hereby declares:

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

\_\_\_\_\_.

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

- (b) That this proposal is made without collusion with any other person, firm, or corporation.
- (c) That he/she has carefully examined the locations of the proposed work, and has familiarized himself/herself with all of the physical and climatic conditions, and makes this bid solely upon his/her own knowledge.
- (d) That he/she has carefully examined the drawings and specifications and makes this proposal in accordance therewith.
- (e) That, if this bid is accepted, he/she agrees to enter into an agreement with City in the form included in the Contract Documents to complete all work as specified in the Contract for the contract price and within the contract time indicated in this bid and in accordance with the Contract Documents.
- (f) That this bid will remain open and not be withdrawn for the period specified in the Instructions to Bidders.
- (g) That he/she has read the insurance requirements in Section 2.03, Insurance in the Special Provisions section of this bid document;
- (h) That he/she has conferred with his/her insurance carriers or brokers to determine in advance of the bid submission the availability of insurance certificates and endorsements as prescribed and provided herein;
- (i) That if the bid is accepted, he/she will enter into a written contract and within fifteen (15) calendar days furnish the required proof of insurance including certificates and endorsements;
- (j) That failure to comply strictly with the insurance requirements may result in forfeiture of the bid security and withdrawal of the bid proposal.
- (k) That he/she is properly licensed in accordance with California Business and Professions Code section 7000 et seq. Bidder acknowledges that if the bidder is not properly licensed at the time the bid is awarded or as otherwise required by law, the bid will be considered non-responsive and will be rejected.
- (l) That he/she and any subcontractor relied on by him will keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work, as more fully set forth in the Contract. All contractors and subcontractors must furnish

electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement).

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

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

It is understood and agreed that should the bidder fail within fifteen (15) calendar days after the date of mailing written notice to the successful bidder that the contract has been awarded, to enter into the contract and furnish acceptable surety bonds and insurance on forms included herein, then the proceeds of said check, or bidder's bond, must become the property of the City. But if the contract is entered into and said bonds are furnished or if the bid is not accepted, then said check must be returned to the undersigned or the bidder will be released from the bidder's bond.

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

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

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

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

SCHEDULE OF BID PRICES

23-24 PREVENTATIVE MAINTENANCE PROJECT  
PROJECT NO. 2023-01

In accordance with the plans and specifications therefor approved by the City of Rohnert Park, the undersigned bidder is herewith submitting the following bid prices for the performance of the entire proposed work as described in these specifications and attached drawings.

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
1	Traffic Control System	1	LS		
2	Project Identification Sign	2	EA		
3	Mobilization and Demobilization	1	LS		
4	Removal of Existing Striping and Pavement Markings	1	LS		
5	Crack Sealing	1	LS		
6	Slurry Seal, Type II	425,715	SY		
7	4" White Thermoplastic Stripe	1,704	LF		
8	4" White Thermoplastic Cross-Hatch Stripe	30	LF		
9	4" Yellow Thermoplastic Stripe	2,543	LF		
10	12" White Thermoplastic Limit Line	1,369	LF		
11	12" White Thermoplastic Crosswalk Stripe, BASIC Crosswalk	2,050	LF		
12	12" Yellow Thermoplastic Crosswalk Stripe, BASIC Crosswalk	879	LF		
13	White Thermoplastic Pavement Markings/Legends	3,132	SF		
14	Yellow Thermoplastic Pavement Markings/Legends	1,139	SF		
15	White Thermoplastic Pavement Markings, Parallel Parking Space	61	EA		
16	Yellow Thermoplastic Pavement Markings - Continental/Ladder Crosswalk	5,202	SF		
17	White Thermoplastic Pavement Markings - Continental/Ladder Crosswalk	830	SF		
18	Traffic Stripe, Detail 4 (2010)	168	LF		
19	Traffic Stripe, Detail 10 (2010)	12,746	LF		
20	Traffic Stripe, Detail 23 (2015)	2,260	LF		
21	Traffic Stripe, Detail 38	2,738	LF		
22	Traffic Stripe, Detail 39	8,367	LF		
23	Traffic Stripe, Detail 39A	1,840	LF		
24	Median Island Treatment	36	EA		
25	Blue, Two-way Retroreflective Pavement Markers	129	EA		

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

\_\_\_\_\_ Dollars

and \_\_\_\_\_ Cents.

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

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

(Figures)

\_\_\_\_\_

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

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

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

\_\_\_\_\_  
Name of Bidder (Print)

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

\_\_\_\_\_  
FAX Number of Bidder

\_\_\_\_\_  
Contractor's License Number

\_\_\_\_\_  
License's Expiration Date

\_\_\_\_\_  
Contractor's DIR Number

\_\_\_\_\_  
Contractor's email address



ADDENDUM ACKNOWLEDGEMENT

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

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

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

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

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

1. Bidder's Contractor's License Number is as follows: \_\_\_\_\_.
2. The expiration date of Bidder's Contractor's License is \_\_\_\_\_, 20\_\_.
3. Bidder acknowledges that pursuant to Section 7028.15(a) of the Business and Professions Code it is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except as provided therein.

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

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

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

LIST OF SUBCONTRACTORS

In accordance with the provisions of Sections 4102 to 4108, inclusive, of the Public Contract Code of the State of California, each bidder must list below the name and location of place of business, contractors license number and Department of Industrial Relations registration number of each subcontractor who will perform a portion of the contract work in an amount in excess of one-half of one percent of the total contract price. In each such instance, the nature and extent of the work to be sublet must be described.

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

*[Add additional sheets if necessary]*

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

**BID BOND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# NONCOLLUSION DECLARATION

## TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

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

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or 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 \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

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

\_\_\_\_\_  
Signature

## DECLARATION OF ELIGIBILITY TO CONTRACT

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

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

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

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

\_\_\_\_\_  
Signature and Title of Authorized Official

## CONTRACT

### 23-24 PREVENTATIVE MAINTENANCE PROJECT PROJECT NO. 2023-01

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter called "Contractor", and the City of Rohnert Park, hereinafter called "City".

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

NOW, THEREFORE, IT IS AGREED, as follows:

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

2. Time of Performance and Liquidated Damages: The Contractor must begin work within fifteen (15) calendar days after official notice by the City Engineer to proceed with the work and must diligently prosecute the same to completion within 60 calendar days of that Notice. The Contractor acknowledges and agrees that time is of the essence with respect to Contractor's work and that Contractor shall diligently pursue performance of the work.

In the event the Contractor does not complete the work within the time limit so specified or within such further time as said City Council must have authorized, the Contractor must pay to the City liquidated damages in the amount of Five Thousand Two Hundred (\$5,200) per day for each and every day's delay in finishing the work beyond the completion date so specified. Additional provisions with regard to said time of completion and liquidated damages are set forth in the specifications, which provisions are hereby referred to and incorporated herein by reference.

3. Payments: Payments will be made by City to the Contractor for said work performed at the times and in the manner provided in the specifications and at the unit prices stated in Contractor's bid.

The award of the contract is for a total amount of <<AMOUNT>>.

4. Component Parts and Interpretation: This contract must consist of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated herein and made a part hereof by reference thereto:

- a) This Agreement
- b) Notice Inviting Sealed Proposals
- c) Instruction and Information to Bidders
- d) Accepted Proposal, with all attachments and certifications
- e) Performance Bond
- f) Payment Bond
- g) Special Provisions
- h) Standard Specifications

- i) Technical specifications
- j) Design Standards
- k) Plans, Profiles and Detailed Drawings

In the event of conflict between these documents, the following order of precedence will govern: this contract; change orders; supplemental agreements and approved revisions to plans and specifications; special conditions; standard specifications; detail plans; general plans; standard plans; reference specifications. In the absence of a controlling or contrary provision in the foregoing, the *Standard Specifications* (2022 edition) of the California Department of Transportation shall apply to this project.

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

6. Prevailing Wages: Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Contract will be on file in, and available at, the office of the Director at 601 Carmen Drive, Camarillo, California 93010.

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

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

Contractor must comply with all provisions of Labor Code section 1775. Under Section 1775, Contractor may forfeit as a penalty to City up to \$200.00 for each worker employed in the execution of the Contract by Contractor or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

Nothing in this Contract prevents Contractor or any subcontractor from employing properly registered apprentices in the execution of the Contract. Contractor is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.



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

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

7. Hours of Labor: Contractor acknowledges that under California Labor Code sections 1810 and following, eight hours of labor constitutes a legal day's work. Contractor will forfeit as a penalty to City the sum of \$25.00 for each worker employed in the execution of this Contract by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code section 1810.

8. Apprentices: Attention is directed to the provisions in Sections 1777.5 (Chapter 1411, Statutes of 1968) and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor under him.

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

- A. When unemployment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15 percent in the 90 days prior to the request for certificate, or
- B. When the number of apprentices in training in that area exceeds a ratio of one to five, or
- C. When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally, or
- D. When the assignment of an apprentice to any work performed under a public works Contract would create a condition which would jeopardize his life or the life, safety, or property of fellow employees or the public at large, or if the specified task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman, or
- E. When the Contractor provides evidence that he employs registered apprentices on all of his Contracts on an annual average of not less than one apprentice to eight journeymen.

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

The Contractor and any Subcontractor under him must comply with the requirements of Section 1777.5 and 1777.6 in the employment of apprentices.

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

9. Labor Discrimination: Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"A contractor must not discriminate in the employment of persons upon public

works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter. "

10. CARB In-Use Off-Road Diesel-Fueled Fleets

A. Contractor shall complete and return the "In-Use Off-Road Diesel-Fueled Fleets Certification" attached hereto as **Exhibit A** to City within fifteen (15) calendar days after this Agreement is fully executed. If Contractor fails to timely do so, City shall have the same rights as if Contractor had breached this Agreement.

B. Contractor warrants that it is knowledgeable of and will comply with California Code of Regulations Title 13, Sections 2449, 2449.1, and 2449.2, relating to In-Use Off-Road Diesel-Fueled Fleets (the "Regulations"), issued by the California Air Resources Board ("CARB") effective October 1, 2023.

C. If Contractor or its listed subcontractors intend to use vehicles subject to the Regulations in its performance under this Agreement, Contractor must obtain copies of the valid Certificates of Reported Compliance, as described in Regulation Section 2449(n), for the fleet, if applicable, prior to entering into a new or renewed contract with that fleet. Contractor shall not enter into a contract with a fleet for which it does not have a valid Certificate of Reported Compliance for the fleet and Contractor's listed subcontractors, if applicable, prior to entering into a new or renewed contract with that fleet. Contractor shall only allow fleets with valid Certificates of Reported Compliance on Contractor's job sites.

D. The Certificates of Reported Compliance received by the Contractor for this Project must be retained for three (3) years after the Project's completion. Upon request by CARB, these records must be provided to CARB within five (5) business days of the request.

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

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

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

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

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

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

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

Contractor shall procure and maintain throughout the time for performance of the work under this Contract the insurance required by the Special Provisions. The requirement that Contractor procure and maintain insurance shall in no way be construed to limit the Contractor's duty to indemnify City as provided in the paragraph above.

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

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

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

Upon the occurrence of a default by Contractor, the Director will serve a written notice of default on Contractor specifying the nature of the default and the steps needed to correct the default. Unless Contractor cures the default within 10 days after the service of such notice, or satisfactory arrangements acceptable to City for the correction or elimination of such default are made, as determined by City, City may thereafter terminate this Contract by serving written notice on Contractor. In such case, Contractor

will not be entitled to receive any further payment, except for Work actually completed prior to such termination in accordance with the provisions of the Contract Documents.

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

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

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

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

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

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

- a. The amount of securities to be deposited;
- b. The terms and conditions of conversion to cash in case of the default of the Contractor; and
- c. The termination of the escrow upon completion of the contract.

15. General Provisions

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

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

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

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

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

F. Counterparts, Facsimile or other Electronic Signatures. This Contract may be executed in several counterparts, each of which will be deemed an original, and all of which, when taken together, constitute one and the same instrument. Amendments to this Contract will be considered executed when the signature of a party is delivered by facsimile or other electronic transmission. Such facsimile or other electronic signature will have the same effect as an original signature.

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

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

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

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

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

CITY OF ROHNERT PARK

<<CONTRACTOR>>

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

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

ATTEST:

APPROVED AS TO FORM:

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

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

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

The undersigned Contractor certifies to the City of Rohnert Park (“Owner” or “City”) as set forth in sections 1 through 2, below:

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

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

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

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

CONTRACTOR: \_\_\_\_\_  
(Name of Contractor)

Date: \_\_\_\_\_, 2024 By: \_\_\_\_\_  
(Signature)

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

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

END OF CERTIFICATION

## INSURANCE

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

# CERTIFICATE OF INSURANCE

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

ISSUE DATE MM/DD/YY

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

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

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

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

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

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



**THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY**

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Organization:

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

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

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

Modifications to ISO for CG 20 10 11 85

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

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

\_\_\_\_\_  
Address

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





**PART 2 – SPECIAL PROVISIONS**

---

## **SPECIAL PROVISIONS**

### **2.01 PROJECT OWNER**

The Project Owner is the City of Rohnert Park, California. Wherever in these or the Standard Specifications the word "Owner" appears, it must be interpreted to mean the City of Rohnert Park.

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

Location of work is within the City of Rohnert Park, various streets.

The work generally consists of, but not limited to, crack sealing, slurry seal, traffic striping and pavement markings, as shown on the plans and specified in these Special Provisions.

### **2.03 INSURANCE**

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

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

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

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

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

#### **A. Minimum Scope of Insurance**

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or the exact equivalent. If Contractor owns no vehicles,

this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employee(s) will use personal autos in any way on this project, Contractor must provide evidence of personal auto liability coverage for each such person.

3. Workers' Compensation and Employers Liability: Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence.
4. Course of Construction insurance coverage must provide "all risk" coverage for the completed value of the project. Policies must contain the following provisions:
  - a. The City must be named as loss payee, and
  - b. The insurer must waive all rights of subrogation against the City.

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

## **B. Minimum Limits of Insurance**

Contractor must maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage and \$2,000,000 general aggregate. It is permissible to use excess/umbrella coverage to meet limit requirements provided the umbrella policies are appropriately endorsed and meet all other requirements. Additionally, a letter clearly identifying the primary policy or policies to which the excess umbrella coverage applies must be submitted attesting to the following: *"Umbrella or excess liability policies must provide coverage at least as broad as specified for underlying coverages and covering those insured in the underlying policies. Coverage must be "pay on behalf", with defense costs payable in addition to policy limits. There must be no cross liability exclusion of claims or suits by one insured against another, and such coverage must also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured."*
2. Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation providing statutory benefits as required by the Labor Code of the State of California with employers liability insurance, with minimum limits of \$1,000,000 per accident or disease.
4. Course of Construction insurance coverage must provide "all risk" coverage for the completed value of the project. Policies must contain the following provisions:
  - a. The City must be named as loss payee, and
  - b. The insurer must waive all rights of subrogation against the City.

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

**C. Deductibles and Self-Insured Retentions**

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

**D. Other Insurance Provisions**

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

1. General Liability and Automobile Liability Coverages

- a. The City, its officers, elected officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage must contain no special limitations on the scope of protection afforded to the City, its officers, elected officials, employees, agents or volunteers.
- b. The Contractor's insurance coverage must be primary insurance as respects the City, its officers, elected officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, elected officials, employees, agents or volunteers must be in excess of Contractor's insurance and must not contribute with it.
- c. Any failure to comply with reporting provisions of the policies must not affect coverage provided to the City, its officers, elected officials, employees, agents or volunteers.
- d. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

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

3. All Coverages

- a. Each insurance policy required by this clause must be endorsed to state that coverage must not be suspended, voided, cancelled by either party, reduced

in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

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

- 4. Course of Construction policies must contain the following provisions:
  - a. The City must be named as loss payee.
  - b. The insurer must waive all rights of subrogation against the City.

**E. Acceptability of Insurers**

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

**F. Verification of Coverage**

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

**G. Subcontractors**

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

**2.04 BONDS**

In accordance with Section 3.4 of the Standard Specifications, the Contractor must provide the following bonds:

Payment Bond equal to 100% of the Contract Bid Price, and Performance Bond equal to 100% of the Contract Bid Price on City's forms. Both bonds must, by its term, remain in full force and effect for a period of one (1) year after the completion and acceptance of said work to guarantee the replacing or making acceptable of any defective materials or faulty workmanship.

The Contractor may elect to post a maintenance bond equal to 100% of the contract bid price, which will run for one year after completion and acceptance of said work to guarantee replacing or making acceptable any defective materials or faulty workmanship prior to the acceptance of said work.

**2.05 LIQUIDATED DAMAGES**

In accordance with Section 8.6 of the Standard specifications, Liquidated Damages shall be agreed to amount to \$5,200.00 per calendar day.



## **2.06 WITHDRAWALS OF PROPOSALS**

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

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

## **2.07 DRAWINGS AND SPECIFICATIONS**

The drawings showing location and character of work are entitled 2023-2024 Pavement Maintenance, numbered 1 through 26 inclusive, and are included as a part of these specifications. The City of Rohnert Park 2010 Manual of Standards, Details and Specifications are the adopted Standard Plans for the City of Rohnert Park and are included as a part of these specifications.

Also included by reference as part of these specifications are the Standard Specifications of the CITY OF ROHNERT PARK, Sections 1-10 inclusive, hereinafter referred to as GENERAL PROVISIONS.

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

## **2.08 COOPERATION AND COLLATERAL WORKS**

The Contractor must conform to the provisions of Section 7.26, "Cooperation and Collateral Works," of the STANDARD SPECIFICATIONS.

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

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

The Contractor must conform to the provisions of Section 7.15, "Preservation of Property," of the STANDARD SPECIFICATIONS.

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

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

## **2.10 PERMITS AND LICENSES**

The Contractor must obtain all required City permits for this work and must fully comply with all conditions and provisions of such permits. The Contractor must pay any fees connected therewith, and as described in the Bid Schedule for this project.

The Contractor must have a valid California contractor's license, a Class A license. The Contractor and all subcontractors will be required to obtain a City Business license.

The Contractor must obtain a Sonoma-Marín Area Rail Transit Right of Entry Permit for this work and must fully comply with all conditions and provisions of such permits. The Contractor must pay any fees connected therewith, and as described in the Bid Schedule for this project.

**2.11 APPROVED DEBRIS HAULERS**

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

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

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

**2.12 FIELD REVIEW PRIOR TO BIDDING**

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

**2.13 TESTING**

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

**2.14 WORKING HOURS AND RECORD DRAWINGS**

Contractor working hours shall be between 8AM and 6PM unless approved by the City Engineer at least 72 hours in advance. Working days shall be Monday through Friday, excluding weekend and holidays.

Record drawings shall be provided at the end of the project by the contractor, and final payment shall not be issued until completed and approved by the project manager. The record drawing compilation shall be considered part of the bid amount.

**2.15 PROJECT NOTIFICATION AND IDENTIFICATION SIGN**

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

The Contractor shall supply 4' X 8' signs to be displayed at the project site as approved by the Engineer in wording to be provided by the City. The signs shall be constructed in accordance with City STD 742. The contractor shall remove the signs when construction is complete.

## **2.16 CORONAVIRUS RISKS AND CONSTRUCTION REQUIREMENTS**

As of this date of this contract, the extent and impact of Coronavirus (also known as “COVID-19”) on this project, including with respect to supplies, materials, and labor, may not be known by the parties. Nevertheless, Contractor acknowledges the need to reasonably foresee the extent and impact of COVID-19; warrants that it has taken such risks into account in preparing its bid and procuring supplies, materials, and labor; and shall be deemed to have assumed the risks associated with COVID-19 by Contractor’s voluntary entry into this Contract, except as otherwise expressly stated in the Contract Documents.

Contractor hereby acknowledges that it has investigated and is familiar with and shall comply with applicable health orders and construction field safety protocols established by the Health Officer of the County of Sonoma. Contractor shall establish any required Code of Safety Practices and designated a Site Safety Representative as may be required under such orders. Contractor acknowledges that it may be subject to further requirements that may be imposed by State Public Health Officer. Contractor hereby acknowledges that compliance with such requirements constitutes part of the Scope of Work under this Contract.

## **PART 3 – STANDARD SPECIFICATIONS**

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**PART 3  
CONDITIONS OF THE CONTRACT**

**SECTION 1**

**DEFINITIONS AND TERMS**

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

**Abbreviations**

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

**Acceptance**

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

**Bidder**

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

**City**

City of Rohnert Park

**City Engineer**

The City Engineer of the City of Rohnert Park.

**Contract or Contract Documents**

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

### **Contractor**

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

### **Contract Prices**

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

### **Directed**

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

### **Engineer**

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

### **Federal Agencies**

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

### **Inspector**

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

### **Plans**

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

### **Specifications**

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

**State**

State of California.

**Supervision**

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

**Surety**

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

## **SECTION 2**

### **PROPOSAL REQUIREMENTS AND CONDITIONS**

#### **2.1 INTENT**

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



## SECTION 3

### AWARD AND EXECUTION OF CONTRACT

#### 3.1 AWARD OF CONTRACT

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

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

#### 3.2 BID PROTESTS

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

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

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

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

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

#### 3.3 RETURN OF PROPOSAL GUARANTEES

Within 10 days after award of Contract, the City will upon demand return the proposal guarantees accompanying the proposals of all bidders, except those of the three lowest responsible bidders as determined by the City. Proposal guarantees of such three lowest responsible bidders will be held until the Contract has been finally executed, after which they will be returned to the respective bidders whose proposals they accompany.

### **3.4 BONDS**

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

The following minimum thresholds require Payment and Performance bonds for projects over \$25,000.

Payment Bond: Per California Civil Code Section 9550. The payment bond should contain the terms and conditions set forth in Section 9554 of the Civil Code of the State of California, and must be subject to the provisions of that chapter and, in addition, must be in the amounts which are specified in the Special Provisions.

The performance bond must be in an amount specified in the Special Provisions and must be so conditioned as to insure the complete performance of the Contract without exception.

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

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

Once the Notice of Completion has been recorded, Contractor may elect to post a Maintenance Bond equal to 100% of the final Contract Price, including Contract Change Orders, if any, for a period of one-year after the Notice of Completion recorded date.

### **3.5 EXECUTION OF CONTRACT**

The Contract must be signed by the successful bidder and returned, together with the Contract Bonds and valid insurance on City forms, within fifteen (15) calendar days after the date of mailing written notice to the successful bidder that the Contract has been awarded.

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

Failure to execute a Contract, file acceptable bonds, and/or acceptable insurance as provided herein within said fifteen (15) calendar days shall allow the City, at its discretion, to annul the award and claim the proposal guarantee as provided in the California Public Contract Code. If the successful

bidder refuses or fails to execute the Contract, the City may award the Contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses or fails to execute the Contract, the City may award the Contract to the third lowest responsible bidder. On the failure or refusal of the second or third lowest responsible bidder, to whom any Contract is so awarded, to execute the same, such bidders' guarantees must be likewise forfeited to the City. The work may then be re-advertised or may be constructed by other means as the City may decide.

## **SECTION 4**

### **SCOPE OF WORK**

#### **4.1 WORK TO BE DONE BY CONTRACTOR**

The work to be done consists of furnishing all labor, methods or processes, implements, tools, machinery, transportation, insurance, permits, bonds, taxes and materials, except as otherwise specified which are required to construct the crack sealing, slurry seal, traffic striping and pavement markings in complete order for use and to leave the grounds in a neat and orderly condition.

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

#### **4.2 FINAL CLEANUP**

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

When the Contractor utilizes a staging area or storage yard that is fenced and screened, final cleanup of the staging area and storage yard will be completed before the fence and screen are removed, except for spot cleanup or trimming that may be required in areas directly under or adjacent to the fence and screen.

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

The City reserves the right to make such alterations or deviations, additions to or omissions from the plans and specifications, as may be determined during the progress of the work to be necessary and advisable for the proper completion thereof. When such change is ordered, the City Engineer must determine and state in his/her written order to the Contractor made pursuant thereto whether or not in his/her opinion such change constitutes a material change and what adjustment of consideration provided for in the Contract is warranted. Upon written order of the City Engineer, the Contractor must proceed with the work as so increased, decreased or altered. Such action and any disposition thereof may be taken without notice by City to Insurance Underwriters, Sureties, or Guarantors required by this Contract and absence of notice thereto must in no way whatsoever discharge the obligation of any such party.

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

Pending a settlement of the dispute, the Contractor must file with the City Engineer, within ten (10) days after receiving such written notice to proceed, a protest setting forth in detail in what particulars the character of the work was changed so as to warrant a consideration adjustment or by what amount the unit cost or other cost was increased or to what extent the consideration demand or reduction in consideration determined by the City Engineer as warranted is excessive. The failure of the parties to agree must in no wise be construed as relieving the Contractor of its duty and responsibility for continuing with performance under the Contract as changed and filing a protest as above provided for. Failure to continue performance under such circumstances must constitute a breach of Contract by the Contractor and the appropriate provisions hereof with relation thereto must apply. The determination of the City Engineer of the amount of reduction in Contract consideration or other consideration to City or increase in consideration or other basis of compensation to Contractor arising out of any such change must be final and binding upon the Contractor, unless it files such a protest as hereinabove provided within ten (10) days after receiving notice from the City Engineer to proceed. Payment by City on the basis of Contract prices so adjusted must constitute full and final performance of City obligation hereunder. If the parties fail to agree prior to completion of the Contract, final payments must not be delayed but must be made in accordance with the City Engineer's determinations subject to further claim of the Contractor and compliance by City with court order, but nothing contained in this clause must excuse the Contractor from proceeding with the prosecution of the work as changed.

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

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

#### **4.3.2 Quantity Changes**

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

#### **4.3.3 Extra Work**

(a) The City reserves and must have the right, when confronted with unpredicted conditions, unforeseen events, or emergencies, to revise the details of the contemplated work or to add work of a different character or function and have the Contractor perform such revised or added work, as extra work, when such extra work is considered by the City Engineer to be vitally appurtenant to the satisfactory completion of the project. Extra Work is defined as added work of a different character or function and for which no basis for payment is prescribed; or that involving revisions of the details of the work in such a manner as to render inequitable payment under items upon which the Contractor proposed; or that work to be done under stipulated prices as given in the Schedule of Bid Prices.

The signing of the Contract by the Contractor will be deemed to be an agreement on its part to perform extra work, as and when ordered by the City Engineer. The Contractor must give notice to the sureties on the Contractor's bonds if the estimated total value of the Contract, as changed or supplemented, must exceed the original total proposal price by more than twenty-five percent

(25%), but failure to give such notice must in no way whatsoever affect the surety's obligation under said bonds. If required extra work results in delay to the work, the Contractor will be given an equivalent extension of time.

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

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

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

Total Cost Must Include:

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

**LABOR:** For all direct labor engaged in the specific operation, the Contractor will receive the prevailing wage paid on the project for each and every hour that said labor is actually engaged in such work. In addition, the City will reimburse the Contractor for compensation insurance payments; contributions made to the State as required by the provisions of the Unemployment Reserve Act, Chapter 352, Statutes of 1935, as amended; and for taxes paid to the Federal Government, as required by the Social Securities Act, approved August 14, 1935, as amended.

**EQUIPMENT RENTAL:** For any machine, power and equipment which is deemed necessary, the Contractor must receive the actual cost of rented equipment furnished by it as shown on its paid vouchers.

For the use of equipment owned by the Contractor, it must be paid the rental rates currently prevailing in the locality, and said rental rates must be deemed to include profit and overhead, and no extra compensation will be allowed, nor will any percentage or amount whatsoever be added thereto.

**MARKUP:**

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

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

(c) The Contractor must not commence extra work until it has secured the approval of the City as to the method and amount of payment thereunder, excepting that the City Engineer may, in writing, order the Contractor to proceed with extra work in advance of such approval.

(d) Upon receipt of the Contractor's price, the City Engineer will make an analysis thereof, and the City will adopt one of the following procedures for prosecuting extra work:

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

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

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

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

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

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

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

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

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

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



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

**5.1 AUTHORITY OF CITY ENGINEER**

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

**5.2 PLANS**

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

**5.3 CONFORMITY WITH PLANS**

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

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

**5.4 WORKING DRAWINGS**

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

It is expressly understood, however, that approval by the Engineer of the Contractor's working drawings does not relieve the Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreement of dimensions and details.

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

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

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

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

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

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

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

## **5.7 SUPERINTENDENCE**

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

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

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

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

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

Initial staking out of the work will be done by the Contractor, unless otherwise stated in the Special Provisions. The Contractor will establish control lines and offset lines and set all stakes normally required in order that the Contractor can make the necessary measurements therefrom for the layout of the details of its work without the need for surveyors. Survey stakes and bench marks removed

by the carelessness of the Contractor or its employees will be replaced by the City at the Contractor's expense.

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

## **5.9 INSPECTION**

**5.9.1** Except as otherwise provided in paragraph 5.9.4 below, all material and workmanship, if not otherwise designated by the Specifications, must be subject to inspection, examination and test by the Engineer at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. The Engineer must have the right to reject defective material and workmanship or require its correction. Rejected workmanship must be satisfactorily corrected, and rejected material must be satisfactorily replaced with proper material without charge therefor, and the Contractor must promptly segregate and remove the rejected material from the premises. If the Contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship, the Engineer may by Contract or otherwise replace such material and/or correct such workmanship and charge the cost thereof to the Contractor, or may terminate the right of the Contractor to proceed.

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

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

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

**5.9.4** Should it be considered necessary or advisable by the Engineer at any time before final

acceptance of the entire work to make an examination of work already completed, and upon which adequate notice and sufficient opportunity for inspection was as provided in the previous paragraph, by removing or tearing out same, the Contractor must on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or non-conforming in any material respect due to fault of the Contractor or its Subcontractors, it must defray all the expense of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual direct cost of labor and material necessarily involved in the examination and replacement, plus markup as determined in Section 4.3, must be allowed the Contractor, and it must, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

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

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

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

#### **5.11 METHODS AND EQUIPMENT**

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

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

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

Each machine or unit of equipment must be operated by a person experienced in handling the

particular make of machine or unit of equipment in use, at a speed or rate of production not to exceed that recommended by the manufacturer.

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

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

### **5.12 FINAL INSPECTION AND ACCEPTANCE**

The work will be inspected by the City for acceptance promptly upon receipt of notice in writing, for the Contractor, that the work required under the Contract has been performed.

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

### **5.13 CLEANUP WORK**

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

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

**SECTION 6**  
**CONTROL OF MATERIALS**

**6.1 CITY-FURNISHED MATERIALS**

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

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

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

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

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

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

**6.2 MATERIALS TO BE FURNISHED BY THE CONTRACTOR**

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

**6.3 SOURCE OF SUPPLY AND QUALITY OF MATERIALS**

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

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

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

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

Unless otherwise indicated in the proposal schedules, the responsibility must be upon the Contractor to provide, pay all cost for, and maintain at his own expense an adequate supply of water and electric power of a quality suitable for its construction and domestic purposes.

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

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

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

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

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

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

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

#### **6.7 SAMPLES AND SPECIMENS**

The Contractor must submit specimens or samples of materials to be used in the work as the

Engineer may require.

## **6.8 TRADE NAMES AND ALTERNATIVES**

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

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

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

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

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

## **6.10 TESTING OF MATERIALS**

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



## **SECTION 7**

### **LEGAL RELATIONS AND RESPONSIBILITY**

#### **7.1 LAWS TO BE OBSERVED**

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

#### **7.2 PERMITS**

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

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

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

#### **7.3 PATENT CLAIMS**

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

#### **7.4 SANITARY PROVISIONS**

The Contractor must provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with all applicable laws, ordinances and regulations pertaining to the public health and sanitation of dwellings and camps. Enclosed toilets must be provided for the use of the persons employed or engaged on any work under these Specifications.

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

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

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

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

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

#### **7.6 PUBLIC CONVENIENCE AND ACCESS**

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

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

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

Construction materials must not be stored in streets unless permitted by the City Engineer.

#### **7.8 PUBLIC SAFETY**

Attention is called to the “Construction Safety Order,” “Trench Construction Safety Orders,” “General Safety Orders,” and “Tunnel Safety Rules” of the California Division of Occupational Safety and Health to which the Contractor is required by law to conform. The contractor must provide itself with copies of these rules and orders and must keep a copy of each at the site of its operations and must be governed by the requirements thereof. The requirements concerning Ventilation, General Safety Precautions, Transportation, Roof Inspection, Timbering, and all

rules and regulation concerning the use of explosives are of particular importance.

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

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

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

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

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

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

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

The Contractor must notify the appropriate authorities of any municipality or unincorporated area 24 hours in advance of the start of any construction work being done in said municipality or area.

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

## **7.10 USE OF EXPLOSIVES**

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

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

### **7.11 PRESERVATION OF PROPERTY**

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

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

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

### **7.12 PRESERVATION OF MONUMENTS**

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

### **7.13 SAFEGUARDING EXCAVATIONS AND STRUCTURES**

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

The Contractor must remove all shattered rock or other loose material which appears dangerous to workmen or to structures. The fact that such removal may enlarge the excavation beyond the required limits must not operate to relieve the Contractor from the necessity of making such removal, and the Contractor must be entitled to no additional compensation under any Contract item on account of such removal and enlargement.

All material required for sheeting, bracing and shoring must be furnished by the Contractor and upon completion of the work, except for such as may be left in place, must become the property of the Contractor.

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

The Contractor, at all times throughout the performance of the Contract, must take all precautions necessary to effectually prevent any accident or other cause of damage to life or property in any place affected by the operations in consequence of work being done under the Contract and in consequence of any unusual conditions which may arise, and must to this end erect and maintain suitable and sufficient barriers, signs, lights, or other necessary protection. This requirement must also apply to interruption or contamination of public water supply, irrigation, or other public services, or from the failure of partly completed works.

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

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

A sufficient amount of the money due the Contractor under the Contract as must be determined to be necessary by the City may be retained until all legal actions or claims for damages as aforesaid have been settled and evidence to that effect has been furnished to the City. This amount may be retained in addition to that provided for in Paragraph 9.5.

All of the above provisions must include suits for loss of business and/or obstruction or inconvenience to business or private property owners.

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

Unless otherwise specified in the Special Provisions, the Contractor must make its own arrangements for disposing of materials outside of City's right of way at its own profit or loss, and it must pay all costs involved therewith.

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

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

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

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

The Contractor must, throughout the entire term of the Contract, assume all risks and expense of interference and delay in its operations, and the protection from or the repair of damage to improvements being built by it under the Contract as may be caused by water of whatever quantity from floods, storms, industrial waste, irrigation, underground, or other sources. The Contractor must

also assume full responsibility and expense of protecting or removing and returning to the site of work all equipment or materials under its care endangered by any action of the elements.

Furthermore, the Contractor must indemnify, defend and save harmless the City against all claims or suits for damage arising from his operations in dewatering the work and control or diversion of water.

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

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

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

#### **7.18 RIGHTS IN LAND IMPROVEMENTS**

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

#### **7.19 PERSONAL LIABILITY**

Neither the City, the City Engineer, nor any of his/her agents or other officer or authorized employee of the City must be personally responsible for any liability arising under the Contract. The Contractor must maintain in full force and effect, during the entire life of the Contract, public liability, property damage and personal injury insurance in amounts not less than specified in the Special Provisions. The Contractor must maintain on file with the City during the entire life of the Contract a memorandum of coverage or other evidence of such insurance, issued by the underwriter. Said insurance referred to must not be cancelled or renewal thereof declined unless notice is mailed to the named insured at least 45 days prior to the effective date or renewal or at least 60 days prior to the effective date of cancellation. In addition, if a public agency is named as an additional insured by way of endorsement or certificate of insurance, notice should be given to said public agency. The Contractor must pay all premiums whether said premiums cover extra work or work under regular contract items.

#### **7.20 REPAIR OF EQUIPMENT**

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

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

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

#### **7.22 COOPERATION AND COLLATERAL WORKS**

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

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

#### **7.23 UTILITIES**

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

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

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

Work required in connection with utilities because of interference with Contract work will be performed and paid for as specified in the following paragraphs, 7.27.1 through 7.22.8; however, when directed or approved by the City Engineer, changes in line or grade of structure being built may be made in order to avoid utilities. The cost of such changes will be paid for as extra work.

### **7.23.1 By Other Than the Contractor:**

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

### **7.23.2 By the Contractor Under A Specified Contract Item:**

When the bidding schedule contains a separate item covering the relocation, alteration, or reconstruction of a utility by the Contractor, the price proposal for said item must cover all costs involved in such work.

The utility owner's drawings and Special Provisions will give the construction details for the work, and, unless the time at which the work must be done is specified in the Special Provisions, the Contractor must coordinate with the utility owner in respect to when the work is to be done.

### **7.23.3 By the Contractor But Not Under a Specified Contract Item:**

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

### **7.23.4 By the Contractor - Service Connections:**

The alteration, temporary relocation or reconstruction of service connections to adjacent property must be the responsibility of the Contractor, and the contractor must notify occupants of the affected properties before service is interrupted and make all arrangements with the utility owners regarding requirements of interruption and reconstruction of service connections. The costs for such work on service connections must be absorbed in the unit prices or included in the lump sum amounts proposal for the various Contract items, unless otherwise specified in the Special Provisions. Reconstruction of sanitary sewer house connections must be accomplished in the manner shown on the Plans.

### **7.23.5 By the Contractor for His Own Convenience:**

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

### **7.23.6 By the Contractor or by Others – Unknown Utilities Disclosed during Contract Work:**

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



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

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

#### **7.23.7 Responsibility of the Contractor**

The Contractor must be held responsible for all costs for the repair of any and all damage to the Contract work or to any utility (whether previously known or disclosed during the work), as may be caused by its operations. Utilities not shown on the drawings to be relocated or altered by others must be maintained in place by the Contractor. Utilities which are relocated by others in order to avoid interference with structures and which cross the project work must be maintained in their relocated positions by the Contractor.

At the completion of the Contract work, the Contractor must leave all utilities and appurtenances in a condition satisfactory to the owners and the City.

#### **7.23.8 Delays Caused by Failure to Relocate Utilities**

Where parties other than the Contractor are responsible for the relocation of utilities, in accordance with the provisions of these Plans and Specifications, and a delay in the Contractor's work is caused by the failure on the part of said parties to remove or relocate such utilities in time to prevent such delay. It must be understood that the Contractor must not be entitled, as a result of such delay to its work, to damages or additional payments over and above the Contract price. If delays in the Contractor's work are caused by the reason mentioned hereinabove, the Contractor must be entitled to an extension of time. The length of such extension of time will be determined by the City, with consideration as to the effect of the delay on the project as a whole.

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

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

The cost of all such work must be absorbed in the prices proposal for the various items of work, unless it is ascertained that the franchise of the former owner is such as to require it to bear such costs, in which case it must be the responsibility of the Contractor to secure enforcement of said franchise if it so desires.

## **SECTION 8**

### **PROSECUTIONS AND PROGRESS**

#### **8.1 SUBCONTRACTS**

The Contractor may sublet the Contract work only in accordance with the provisions of these Specifications and with the consent of the City. The prime Contractor must be held responsible to see that its subcontractors and material suppliers conform to all the provisions of these Specifications. If the Contractor, after complying with these conditions, must sublet any portion of the proposed work to a Subcontractor, the Contractor under the original Contract must remain directly responsible to the City for all work being performed by it or by any Subcontractor under it, and all obligations imposed upon the Contractor in the original Contract must be equally binding upon any Subcontractor under it. The City will deal directly with and make all payment to the original Contractor. Contractor understands and acknowledges that the Subletting and Subcontracting Fair Practices Act (as set forth in the California Public Contracts Code) applies to the Contract and Contractor Agrees to comply with the terms of said Act.

#### **8.2 ASSIGNMENT**

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

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

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

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

#### **8.4 CHARACTER OF WORKMEN**

The Contractor must employ none but skilled foremen and workmen upon work requiring special qualifications. When required by the Engineer, the contractor must discharge from the work and must not again employ without the consent of the Engineer any employee who is incompetent, disorderly, abusive, dangerous, insubordinate, or who in any way attempts to interfere with the employees of the City in the inspection and supervision of the work.

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

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

The City Engineer may order the Contractor to suspend work when, in his/her opinion, the conditions are such as to prevent the work being properly carried out. Such conditions may include: war, government regulations, labor disputes, strikes, fire, floods, adverse weather or elements, inability to obtain material, labor or equipment, required extra work, or other specific as may be

further described in the Specifications. When delay is caused by such order, an extension of time may be granted when the conditions, in the opinion of the City Engineer, are such as could not have reasonably been foreseen. It is agreed that under no circumstances must the Contractor be excused from performance or entitled to any extra compensation or reimbursement because of any such suspension.

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

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

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

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

It is agreed that under no circumstances must the Contractor be excused from performance or entitled to any extra compensation or reimbursement because of any delay occasioned by or in any way arising out of any Acts of God or acts of the public enemy, fires, floods, epidemics, quarantine

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

## **8.7 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 Performance Bond demanding satisfactory compliance with the Contract.

The Contract may be canceled by the City without liability for damage, when in the City'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 City'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 proposal and the quantity of the work completed at the time of cancellation, less damages caused to the City by acts of the Contractor. The Contractor, in having tendered a Proposal, must be deemed to have waived any and all claims for damages because of cancellation of Contract for any such reason. If the City declares the Contract canceled for any of the above reasons, written notice to that effect must be served upon the Surety. The Surety must, within 5 days, assume control and perform the work as successor to the Contractor.

If the Surety assumes any part of the work, it must take the Contractor's place in all respects for that part, and must be paid by the City 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 must 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 City may exclude the Surety from the premises. The Agency may then take possession of all material and equipment and complete the work by City 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 must 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 must pay to the City within 5 days after the Notice of Completion resolution, all costs in excess of the sums due.

The provisions of this subsection must be in addition to all other rights and remedies available to the City under law.

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

## **8.9 MAXIMUM LENGTH OF OPEN TRENCH – Not Applicable**

## **8.10 LIMITED ACCEPTANCE OF WORK**

At any time during the progress of the work, the City may, upon written notice to the Contractor, take over and utilize the whole or part of the work, or appurtenance thereto which has been completed, giving, if desired, permits to utilize the same. Such use by the City must constitute a limited acceptance of that part of the work so taken over and utilized which must

relieve the Contractor and its sureties from responsibility for any damage to, or defect in, that part of the work not inherent in its construction which may be caused by the use of such part by the City or by property owners under its permits.

## **SECTION 9**

### **MEASUREMENT AND PAYMENT**

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

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

It must be understood that the unit prices or lump sum amounts proposal must include full compensation for furnishing all labor, materials, tools, and equipment and doing all work shown on the Plans or stipulated in the Specifications for that particular item of work, unless otherwise specified in the Special Provisions.

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

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

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

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

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

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

Prior to the Contractor's application for the first progress payment, Contractor must submit a detailed breakdown of its bid by scheduled Work items and/or activities, including coordination responsibilities and project record document responsibilities. Where more than one subcontractor comprises the work of a work item or activity, the Schedule of Values must show a separate line item for each subcontract. Contractor must furnish such breakdown, of the total Contract Sum, by assigning dollar values (cost estimates) to each applicable Progress Schedule network activity,

which cumulative sum equals the total Contract Sum. The format and detail of the breakdown must be as directed by City to facilitate and clarify future progress payments to Contractor for direct Work under Contract Documents. This breakdown must be referred to as the Schedule of Values.

Contractor's overhead, profit, insurance, cost of bonds and/or other financing, as well as "general conditions costs," (e.g., site cleanup and maintenance, temporary roads and access, off site access roads, temporary power and lighting, security and the like), must be prorated through all activities so that the sum of all the Schedule of Values line items equal Contractor's total Contract Sum.

City will review the breakdown in conjunction with the Progress Schedule to ensure that the dollar amounts of this Schedule of Values are, in fact, fair market cost allocations for the Work items listed. Upon favorable review by City, City will accept this Schedule of Values for use. City must be the sole judges of fair market cost allocations.

Any attempt to increase the cost of early activities, i.e., "front loading," will be rejected by City, resulting in a complete reallocation of monies until such "front loading" is corrected. Repeated attempts at "front loading" may result in suspension or termination of the Work or refusal to process progress payments, until such time as the Schedule of Values is acceptable to City.

## **9.5 PAYMENTS AND MONTHLY ESTIMATES**

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

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

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

The partial payments made as the work progresses will be payments on account and must in no way be considered as an acceptance of any part of the work or materials of the Contract, nor must they in any way govern the final estimate. Extra work will be paid for as specified in Section 4.3.3. Payments for unit price items will be made upon the basis of the unit prices proposal and the quantities of work done, calculated as hereinafter specified, for each particular item of work. However, where several types of work are included in a unit price item, the City will make partial

payment for the portions of such work as are completed at the time of making the monthly estimates. All monies due the Contractor under the Contract will be paid on demand by the City, prepared and approved as required by law, and it is understood that any delay in the preparation, approval and payment of these demands will not constitute a breach of Contract on the part of the City.

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

## **9.6 PAYMENT FOR EXTRA WORK**

Payment for extra work will be made as provided by Section 4.3.3. Where payment is to be made on a force account basis, the Contractor and the City's representative must compare records of extra work performed by the Contractor on a force account basis at the end of each day. Copies of these records will be made in duplicate by the City's representative and must be signed by both the inspector and the Contractor's Representative, one copy being forwarded to the Contractor and one copy to the City. Bills for extra work must be signed by the Contractor and submitted to the City.

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

**9.6.1** Method of payment for extra work approved as specified in Section 4 under unit price or lump sum amounts or at stipulated prices must be the same as that for Contract items as set forth in this Section.

**9.6.2** Payment for extra work by Contractor's force account must be made in the following manner:

Upon verification by the Engineer of the Contractor's statement for force account work, a claim will be prepared upon the proper claims form for approval of the City Engineer and presentation to the City Manager or Assistant City Manager, for his approval and direction.

## **9.7 FINAL PAYMENT**

Upon completion of the Contract work, the City Engineer will, upon acceptance of the work by the City and 35 days after the date of recordation of the Notice of Completion, present the Contractor's claim for the balance of the total Contract price, less any sums which may lawfully be retained under the Contract.

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



## **SECTION 10**

### **CLAIMS BY CONTRACTOR**

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

10.1.1 Should it appear to Contractor that the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER, then Contractor shall first follow all other procedures set forth in the Contract Documents and Standard Specifications. If a dispute remains, then Contractor shall give written notice to City that expressly invokes this Section 10. City shall decide the issue in writing within 15 days; and City's written decision shall be final and conclusive. If Contractor disagrees with City's decision, or if Contractor contends that City failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written claim setting forth Contractor's position as required herein.

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

#### **10.2 FORM AND CONTENTS OF CLAIM**

10.2.1 Contractor's written claim must be submitted via registered mail or certified mail with return receipt requested and must identify itself as a "Claim" under this Section 10 and must include the following: (i) a narrative of pertinent events; (ii) citation to contract provisions; (iii) theory of entitlement; (iv) complete pricing of all cost impacts; (v) a time impact analysis of all time delays that shows actual time impact on the critical path; (vi) reasonable documentation supporting items (i) through (v); and (vii) a verification under penalty of perjury of the claim's accuracy. The Claim shall be submitted to City within thirty (30) calendar days of receiving City's written decision, or the date Contractor contends such decision was due, shall be priced like a change order, and must be updated monthly as to cost and entitlement if a continuing claim. Routine contract materials, for example, correspondence, RFI, change order requests, or payment requests shall not constitute a Claim. Contractor shall bear all costs incurred in the preparation and submission of a Claim.

10.2.2 Upon receipt of a Claim, City shall conduct a reasonable review of the Claim. Within 45 days, or such expended period as City and Contractor may agree, City shall provide Contractor with a written statement identifying what portion of the claim is disputed and what portion is undisputed.

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

10.2.4 City shall pay the undisputed portions of the Claim within 60 days of the issuance of a written statement identifying an undisputed portion.

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

10.2.6 Notwithstanding and pending the resolution of any claim or dispute, Contractor shall diligently prosecute the disputed work to final completion in accordance with City's determination.

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

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

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

10.3.3 City shall pay the undisputed portions of the Claim within 60 days of the issuance of a written statement identifying an undisputed portion.

### **10.4 MEDIATION**

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

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

10.4.3 The cost of mediation shall be equally shared by all parties to the mediation. The parties shall, prior to the commencement of mediation upon notice of the other party, exchange relevant, non-privileged project documents in compliance with Code of Civil Procedure Sections 2031.010, et seq. The parties may agree mutually to engage in additional discovery prior to mediation. Should the parties proceed with additional discovery, they shall, unless mutually agreed otherwise, comply with Code of Civil Procedure Sections 2019, et. seq. The mediator will undertake to resolve any discovery disputes relating to the mediation.

10.4.4 For Claims under \$375,000, unless the parties agree otherwise in writing, mediation pursuant to this Paragraph 10.4 shall excuse the mediation obligation under Public Contract Code Section 20104.4(a).

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

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

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

## **10.5 OTHER MATTERS**

10.5.1 The provisions of this Section 10 constitute a non-judicial claim settlement procedure that, pursuant to Government Code Section 930.2, shall constitute a condition precedent to submission of a valid Government Code Claim under the Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a claim. Any claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the claims procedure herein and the previous dispositions under Paragraphs 10.3 and 10.4 above of the claims asserted. No suit may be brought against City arising out of or in connection with the Project unless and until Contractor presents to City a statutory Government Code Claim, in accordance with Government Code Sections 910, et seq. Pursuant to Government Code Section 930.2, the one-year period in Government Code Section 911.2 shall be reduced to 150 days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.

10.5.2 Failure to submit and administer claims as required in Section 10 shall waive Contractor's right to claim on any specific issues not included in a timely submitted claim. Claim(s) or issue(s) not raised in a timely protest and timely claim submitted under this Section 10 may not be asserted in any subsequent litigation, Government Code Claim, or legal action.

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

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

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

## **10.6 COMPLIANCE WITH STATUTORY PROCEDURES**

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

apply.

## **PART 4 – TECHNICAL SPECIFICATIONS**

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# TECHNICAL SPECIFICATIONS

for

## 23-24 PREVENTATIVE MAINTENANCE PROJECT

RP# 2023-01

FEBRUARY 2024

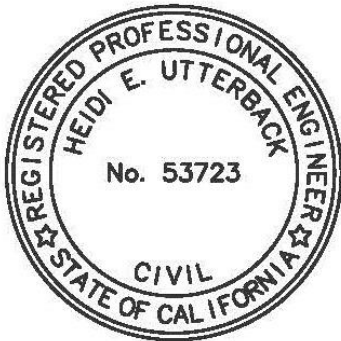
Prepared By:

*Heidi E. Utterback*

Heidi E. Utterback, RCE 53723  
Exp. 06/30/25

02/05/24

Date



**COASTLAND | BCCM**

1400 Neotomas Avenue  
Santa Rosa, CA 95405  
(707) 571-8005

## SECTION 12

### TECHNICAL SPECIFICATIONS

#### **12-1 GENERAL**

##### **12-1.01 DESCRIPTION OF WORK**

- A. The work includes pavement rehabilitation on various streets in Rohnert Park, California. The work in general consists of crack sealing, slurry seal, traffic striping and pavement markings, and such other items of work as are required to complete the project.
- B. The estimate of the quantities of work to be done is approximate only, being as a basis for the comparison of bids, and the City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or any portion of the work as directed by the City.
- C. The work shall also include weekly construction progress meetings and schedule updates with City representatives, all submittals, public notifications, traffic controls, permits, site restorations and cleanup as may be required. Contractor shall furnish all labor, materials, equipment, and incidentals as necessary to complete the work in accordance with these Project Specifications, the General Specifications, Standard Specifications, Special Provisions, and all drawings and details as included with these contract documents
- D. All work is located within the City's right of way, except within the railroad right of at Southwest Blvd (just east of Seed Farm Dr.) that is owned and operated by SMART. The Contractor is required to obtain an encroachment permit from SMART prior to any work within their right of way. Contractor shall contact Nina Diamzon (Real Estate Officer, 707-794-3071) for the encroachment permit application and information. A sample copy of the SMART encroachment permit application is included in Appendix A of these Special Provisions.

##### **12-1.02 CONSTRUCTION LIMITATIONS**

- A. The Contractor is expected to conduct his operations in a manner which creates a minimum amount of damage to the natural vegetation and landscape. Ingress and egress to work areas shall be via existing public roads or easements. Care shall be exercised to avoid hazards that may cause injury to persons, animals, or property either during working hours or after working hours, which includes dust control and temporary fencing as required.
- B. All public and private roads and driveways used during construction shall be restored to their pre-project condition or better. If necessary, the Contractor shall provide and place new surfacing.
- C. Contractor shall provide receptacles for construction residue including oil, cleaning fluids, and litter. Such residues shall be disposed of in a proper manner.

- D. All construction activity, except for emergency situations, shall be confined to weekday daylight hours to minimize nuisance to local residences. Mufflers and/or baffles will be required on all construction equipment.
- E. Wherever in these Technical Specifications reference is made to “Standard Specifications,” it is referencing the 2022 State of California Department of Transportation (Caltrans) Standard Specifications.

### **12-1.03 HOURS OF WORK**

- A. The Contractor shall restrict their hours of work to 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding Legal Holidays. Deviations from these hours may be requested and approved in writing by the City Engineer.
- B. The Contractor shall indicate the need for non-normal work hours in the various schedules submitted during the progress of the Project. All requests for non-normal work hours shall be subject to the prior written approval of the City Engineer. Work outside of regular working hours without prior written approval of the City Engineer is prohibited.
- C. All costs of overtime inspection may be charged to the Contractor. Overtime inspection shall include inspection required during Saturdays, Sundays, and Legal Holidays. Such costs shall include but shall not necessarily be limited to inspection, general supervision, and other overhead expenses, which are directly chargeable to the overtime work. All such charges shall be deducted by the City from payments due the Contractor.
- D. Overtime work shall not entitle the Contractor to any compensation for any contract item in addition to that stipulated in the contract for the kind of work performed. In case of extra work ordered by the City, no additional payment shall be made to the Contractor because of the payment by him of overtime wage rates for such work, unless the use of overtime work in connection with such extra work is specifically ordered in writing by the City, and then only to such extent as extra payment is regularly being made by the Contractor to his personnel for overtime work of a similar nature in the same locality.

### **12-1.04 ACCESS**

- A. The Contractor is directed to Chapter 6D, Pedestrian and Worker Safety, in the California Manual on Uniform Traffic Control Devices (CAMUTCD), the improvement plans, and these Technical Specifications.

Pedestrians shall be provided with a safe, convenient, and accessible path that, at a minimum, replicates the most desirable characteristics of the existing sidewalk, path, or footpath.

Pedestrian access to bus facilities shall be provided with a safe, convenient, and accessible path.

The Contractor shall construct and maintain temporary pedestrian pathways through the work zone, where required, that shall be in compliance with the requirements of the Americans with Disabilities Act (ADA) and the CAMUTCD.



Pedestrian routes shall not be impacted for the purposes of any non-construction activities such as parking of vehicles or equipment, or stock piling of materials.

Pedestrians shall not be led into conflicts with work site vehicles, equipment, or operations.

#### **12-1.05 PUBLIC CONVENIENCE, SAFETY AND HEALTH**

- A. Prior to commencing work, the Contractor shall file with the City a list of personnel which may be called at any time in case of an emergency. Such list shall include the names, addresses, and phone numbers of the job superintendent, foremen, subcontractors, and their foremen. The Contractor shall amend or supplement said list as necessary.
- B. The Contractor shall conduct his operations as to offer the least possible obstruction and inconvenience to the public and he shall have under construction no greater length or amount of work than he can prosecute properly with due regard to the rights of the public. Unless otherwise provided in these specifications, all public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.
- C. The Contractor shall notify all emergency service providers in writing at least (48) hours in advance of any proposed construction activity that will involve roadway closures.
- D. The Contractor's vehicles and equipment shall be equipped with appropriate exhaust and/or spark-arresting devices. Additionally, all vehicles and equipment used for construction shall be maintained in good mechanical condition with engine mufflers installed and operating properly.
- E. Spillage resulting from hauling operations along or across any public traveled way shall be removed immediately at the Contractor's expense.
- F. Construction operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners. Safe, adequate, continuous, and unobstructed pedestrian and vehicular access shall be maintained to residences, commercial establishments, bus stops, parking lots, etc. unless other arrangements satisfactory to the owners have been made. Vehicular access to residential driveways shall be maintained except when necessary construction precludes such access for reasonable periods of time.
- G. Whenever the Contractor's operations create a condition hazardous to traffic or to the public, he shall furnish at his expense such flagmen and guards as are necessary to give adequate warning to the public of any dangerous conditions to be encountered and he shall erect and maintain signs and furnish, erect, and maintain such fences, barricades, lights, and other devices as are necessary to prevent accidents and avoid damage or injury to the public. Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in the current CAMUTCD.
- H. No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic. At the end of each day's work and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment,

materials, and other obstructions from that portion of the roadway open for use by public traffic.

- I. Full compensation for conforming to all of the provisions of this Section shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed.

#### **12-1.06 PROTECTION OF EXISTING FACILITIES AND PROPERTY**

- A. There are a number of existing utilities in the area of work. Underground gas, telecommunications, electric, drain, sewer, irrigation, and water facilities are present in close proximity to the project site. The Contractor shall be responsible for establishing control to accurately locate all existing valve boxes, sanitary sewer manholes, sewer cleanouts, storm drain manholes, City monuments, and all other appurtenances within the project areas. Prior to beginning any excavation, the Contractor shall call 811 - Underground Service Alert (USA North) at least two (2) working days in advance, to arrange for utility location.

Where potential conflict with existing underground utilities may constitute a safety hazard or interfere with the progress of work, such facilities shall be hand-excavated to determine their precise location. Contractor shall be liable for damages to all utilities whether so located and marked or not.

It is not the intent of the Plans to show the exact location or extent of existing underground utilities or structures, and the Engineer assumes no responsibility therefore.

It is the Contractor's responsibility to verify all existing utility locations and notify the Engineer in case of conflict. Any delays claimed by the Contractor as a direct result of the utility facilities not being rearranged as provided will not be recognized nor will any delays be considered right-of-way delays within the meaning of Section 8-1.07, "Delays," of the Standard Specifications, except that any such delays will entitle the Contractor to an extension of time as provided in Section 8-1.10, "Liquidated Damages," of the Standard Specifications. The Contractor shall immediately notify the Engineer of such delays.

The Contractor will be required to work around public and private utility facilities and other improvements that are to remain in place within the construction area and he will be held liable to the owners of such facilities or interference with service resulting from his operations.

- B. Existing facilities shall not be intentionally disturbed and shall be supported and protected against injury and maintained in good operating conditions at the expense of the Contractor for the entire duration of the Contract. All facilities shall be repaired prior to application of the finish paved surface.
- C. Due care shall be exercised to avoid injury to existing improvements or facilities, adjacent property and roadside trees and shrubbery. The Contractor shall exercise care that tree roots are not cut carelessly or unnecessarily and that all cuts are cleanly made and coated with an approved preservative. The Contractor shall conform to the provisions of Section 5-1.36, "Property and Facility Preservation," of the Standard Specifications.

- D. Trees and shrubbery, fences, signs, survey markers and monuments, buildings and structures, conduits, pipe lines under or above ground, and any other improvements or facilities adjacent to the work shall be protected from injury or damage. The Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored to a condition as good as when the Contractor entered upon the work and as described further herein. The cost of such replacement or restoration shall be borne by the Contractor under the contract.
- E. Trees shall not be removed unless so designated on the Drawings or as directed by the City Engineer or Arborist. Any damage to limbs, trunks, or roots shall be repaired by a licensed tree service contractor. Damaged trees that cannot be adequately repaired shall be replaced at Contractor's expense.
- F. The Contractor shall preserve and protect City survey monuments and benchmarks per State of California Business and Professions Code Section 8771.
- G. Signs, fences, and other improvements within the construction area shall be moved to temporary locations satisfactory to the responsible agency and replaced at the original location following the completion of construction.
- H. The Contractor shall cooperate with the various parties involved in the delivery of mail, the bussing of children to and from school, transit services, and the collection and removal of trash and garbage to maintain existing schedules for these services.
- I. Payment for such relocation and access shall be considered as included in the prices paid for the various contract items and no additional payment shall be made. All costs to the Contractor for protecting, removing, modifying, relocating, and restoring existing improvements shall be considered as included in the contract prices paid for the various items of work, and no additional payment shall be made.

#### **12-1.07 PUBLIC & EMERGENCY SERVICES NOTIFICATION**

- A. The Contractor shall cooperate with, and advise as to the current schedule, the Rohnert Park Department of Public Safety (707-584-2600), and local ambulance services, forty-eight (48) hours in advance of the start of work on any street.
- B. No separate measurement or payment will be made for Public & Emergency Services Notifications. Full compensation for conforming to all of the provisions of this Section shall be considered as included in the contract price paid for Traffic Control System and no additional compensation will be allowed.

#### **12-1.08 QUALITY CONTROL**

- A. Site Investigation and Control: The Contractor shall verify all dimensions in the field and shall check all field conditions continuously during construction. The Contractor shall be solely responsible for any inaccuracies built into the work.

B. Submittals:

Submittals shall be submitted by the Contractor for review and approval by the City prior to delivery to the job site.

C. Inspection Of The Work:

1. The work shall be subject to inspection by representatives of the City to assure strict compliance with the requirements of the Contract Documents.
2. The authorized representative of the Engineer on the project site shall be the Project Engineer acting directly and through various inspectors at the site. The presence of the Inspectors, however, shall not relieve the Contractor of the responsibility for the proper execution of the Work in accordance with all requirements of the Contract Documents. Compliance is distinctly a duty of the Contractor, and said duty shall not be avoided by any act or omission on the part of the inspector(s).
3. All materials and articles furnished by the Contractor shall be subject to rigid inspection and no material or articles shall be used in the Work until it has been inspected and accepted by the Engineer or the City.
4. Testing and employment of a testing agency or laboratory shall not relieve the Contractor of the obligation to perform Work in accordance with requirement of Contract Documents.
5. Re-testing or re-inspection required because of non-conformance to specified requirements shall be performed by same independent firm on instructions by the Engineer. Payment for re-testing or re-inspection will be charged to the Contractor by deducting testing charges from the Contract Sum/Price.

D. Defective Materials To Be Removed: All materials not conforming to the requirements of these Specifications shall be considered as defective; and all such materials, whether in place or not, shall be rejected and shall be removed immediately from the site of work at the Contractor's expense.

E. Quality Control Plan: The contractor shall develop and submit a quality control procedure for the project. Approval of the quality control plan by the Engineer does not relieve the contractor of responsibility for quality control or work methods.

F. Payment: Full compensation for conforming to all of the provisions of this Section shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed.

## **12-1.09 STORM WATER POLLUTION PREVENTION**

A. Attention is directed to the provisions in Section 13, "Water Pollution Control," of the Standard Specifications and these Technical Specifications.

- B. The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, bays, and coastal waters from pollution with fuels, oils, bitumens, calcium chloride and other harmful materials and shall conduct and schedule his operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, bays and coastal waters. Care shall be exercised to preserve roadside vegetation beyond the limits of construction.
- C. Water pollution control work is intended to provide prevention, control, and abatement of water pollution to streams, waterways, and other bodies of water, and shall consist of constructing those facilities which may be shown on the plans, specified herein or in the special provisions, or directed by the Engineer.
- D. Before starting any work on the project, the Contractor shall submit, for acceptance by the Engineer, a program to control water pollution effectively during construction of the project. Such program shall show the schedule for the erosion control work included in the contract and for all water pollution control measures which the Contractor proposes to take in connection with construction of the project to minimize the effects of his operation upon adjacent streams and other bodies of water. The Contractor shall not perform any clearing and grubbing or earthwork on the project, other than that specifically authorized in writing by the Engineer, until such program has been accepted.
- E. The City Engineer will notify the Contractor of the acceptance or rejection of any submitted or revised water pollution control program not more than 5 working days.
- F. No separate measurement or payment shall be made for storm water pollution prevention. Full compensation for conforming to the requirements of this section shall be considered as included in the contract prices paid for the various contract items of work and no additional compensation will be allowed.

#### **12-1.10 TEMPORARY EROSION CONTROL**

- A. Temporary erosion control shall consist of, but not be limited to, constructing such facilities and taking such measures as are necessary to prevent, control and abate water, mud, and erosion damage to public and private property as a result of the construction of this project.
- B. Conformance with the requirements of this section shall in no way relieve the Contractor from his responsibilities, as provided in Section 13-6, "Temporary Sediment Control," Section 5-1.36, "Property and Facility Preservation," and Section 5-1.39, "Damage Repair and Restoration," of the Standard Specifications.
- C. Temporary erosion control features as are necessary to prevent damage during the winter season shall be constructed and functioning. The Contractor shall construct such supplementary temporary erosion control facilities as are necessary to protect adjacent private and public property.
- D. Temporary erosion control measures shall conform to the current edition of Association of Bay Area Governments Manual of Standards for Erosion and Sediment Control Measures and includes, but not limited to the following:

1. The Contractor shall conduct his operations in such a manner that storm runoff will be contained within the project or channeled into the storm drain system which serves the runoff area. Storm runoff from one area shall not be allowed to divert to another runoff area.
  2. The roadway shall be kept swept, and spoils from grinding, sawcutting, trenching, etc. and silt, shall be removed daily or as often as needed to prevent spoils and silt from entering the storm drain system and roadside ditches.
- E. No separate measurement or payment shall be made for temporary erosion control. Full compensation for conforming to the requirements of this section shall be considered as included in the contract prices paid for the various contract items of work and no additional compensation will be allowed.

#### **12-1.11 OWNER NOTIFICATION**

- A. The Contractor shall notify all property owners and businesses affected by the project's work at least 72 hours before work is to begin. The notice shall be in writing, placed on doors and shall indicate the Contractor's name and phone number, type of work, days(s) and time when work will occur, and, if service disruption is anticipated, to avoid water usage during the specified time that their sewer lateral may be out of service.
- B. On the day prior to the beginning of work being conducted, the Contractor will provide personal contact and attempted written notice to affected property owners, notifying them of the duration of time that they should avoid water usage while their sewer lateral is out of service.
- C. The Contractor will provide personal contact with any home or business that cannot be reconnected within the time stated in the written notice.

#### **12-1.12 CONSTRUCTION AREA SIGNS**

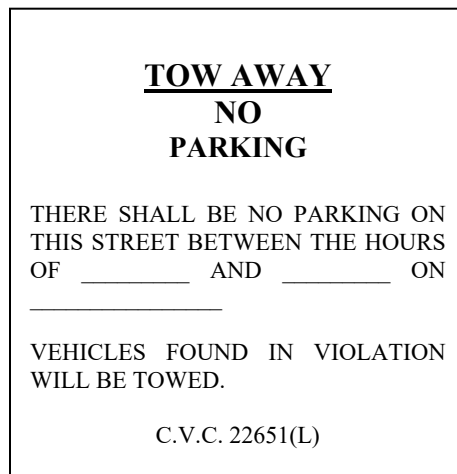
- A. Attention is directed to Sections 7-1.03, "Public Convenience," 7-1.04, "Public Safety," and Section 12, "Temporary Traffic Control," of the Standard Specifications, insofar as they may apply, and the following special provisions.
- B. All traffic control devices are hereby revised to provide that all signs and other warning devices (including construction and warning signs placed beyond the limits of work), shall be provided by the Contractor, and shall remain his property after the completion of the contract. The applicable sections of Section 7-1.03, "Public Convenience," regarding flagging costs are further revised to provide that all flaggers shall be provided by the Contractor at his expense. Flaggers shall be properly equipped and trained in accordance with "Instructions to Flaggers" published by the Department of Transportation.
- C. The Contractor shall refer to the current CAMUTCD, and the "Uniform Signs Chart," issued by the California Department of Transportation, and shall furnish, erect, maintain and remove all necessary signs and devices during the length of this contract.

- D. Full compensation for furnishing all labor, materials, equipment, and or incidentals, and for doing all work involved including, but not limited to, erecting, maintaining, and removing construction area signs shall be considered as included in the contract lump sum price for “Traffic Control System.”

**12-1.13 TRAFFIC CONTROL SYSTEM**

- A. The Contractor shall prepare and submit a Traffic Control Plan per Section 12 of the City Construction Specifications to the Engineer for review and approval at least two (2) calendar weeks prior to planned beginning of the lane closures. The Traffic Control Plan shall depict the details of all proposed lane closures and show how pedestrian traffic will be handled through the construction site.
- B. For each lane closure, the Contractor shall submit a detailed drawing showing placement of delineators, barricades, construction signing, flagmen, etc. and shall indicate the reasons for each closure and the duration of each closure.
- C. Access for emergency vehicles shall be allowed whenever necessary.
- D. The Contractor shall make arrangements to keep the work area free of parked vehicles and shall cooperate fully with local authorities in maintaining traffic flows through the area. The Contractor shall notify the Rohnert Park Department of Public Safety directly for any vehicles that remain within the limits of that day’s operation for removal of vehicle.

Seventy-two (72) hours prior to construction, the Contractor shall place barricades signed “NO PARKING –TOW AWAY – Specific Time and Date(s)” at 50- to 60-foot intervals in the work area. “NO PARKING” signs must also state “C.V.C. 22651 (L).” See example below:



“NO PARKING – TOW AWAY” signs shall be submitted for approval by the Engineer prior to their use. The Contractor shall notify the Engineer and the Police Department

immediately after the “NO PARKING” signs are in place. “NO PARKING” signs and barricades shall be supplied by the Contractor.

Failure to comply with this section will prevent the City from towing vehicles parked in the proposed work area. Work will not proceed if vehicles are parked in the proposed work area.

E. Lane closures for paving operations. Lane closures may be required; closures shall be subject to the following conditions:

1. The Contractor shall submit a Traffic Control Plan and adhere to the Traffic Control Plan as approved by the Engineer.
2. One lane direction for vehicular traffic shall be provided at all times. Unless otherwise specified by the City Engineer, the full width of traveled way shall be open for use by the public at all times including designated legal holidays and when construction operations are not actively in progress except between 9:00 PM and 5:00 AM Sunday evening-Monday morning, Monday evening-Tuesday morning, Tuesday evening-Wednesday morning, Wednesday evening-Thursday morning and Thursday evening-Friday morning. The City Engineer may specify certain conditions on specific aspects of the Traffic Control Plan which may alter the hours of closure from those identified above. When not in use, all components of the traffic control system shall be removed from the traveled way and shoulder. Where traffic is shifted and vehicles are diverted to the opposing direction of the roadway, 48” delineators will be required to direct and separate lanes of traffic.
3. If a closure is not reopened to public traffic by the specified time, work shall be suspended in conformance with the provisions in Section 8-1.06, “Suspensions,” of the Standard Specifications. The Contractor shall not make any further closures until the Engineer has accepted a work plan submitted by the Contractor that will ensure that future closures will be reopened to public traffic at the specified time. The Engineer will have 2 working days to accept or reject the Contractor’s proposed work plan. The Contractor will not be entitled to any compensation for the suspension of work resulting from the late reopening of closures.

F. **Payment:** The contract **lump sum** price paid for **Traffic Control System** will include full compensation for furnishing all labor (including flagging costs), materials (including Construction Area signs), Traffic Control Plan, tools, equipment and incidentals, and for doing all the work involved, including but not limited to, compliance with Regional Traffic Management Plan, removing, storing, maintaining, and moving to new locations, replacing, and disposing of the components of the traffic control system, and removal of on-street parking shall be considered as included in the lump sum price for **Traffic Control System** as shown on the Plans, as specified in these Technical Specifications and as directed by the Engineer and no additional compensation will be allowed.

## 12-1.14 CONSTRUCTION STAKING

A. Attention is directed to Part 3: (City) Standard Specifications Section 5.8 for information on Construction Staking.



### 12-1.15 TESTS AND INSPECTION

- A. Attention is directed to Part 3: (City) Standard Specifications Sections 5 and 6 for information on materials testing and inspections.

### 13-1.16 PROJECT IDENTIFICATION SIGN

- A. The Contractor shall supply two 4'x8' signs to be displayed at the project site as approved by the Engineer in wording to be provided by the City. The sign will be constructed in accordance with City STD 742. Sign shall indicate funding source.
- B. The Contractor shall provide a submittal for the Project Identification Sign to the Engineer for review and approval at least fifteen (15) working days prior to the planned beginning of the work. The Project Identification Sign shall depict the details as provided in the samples in City STD 742 and wording as provided by the City.
- C. **Payment:** The contract unit price for **Project Identification Sign** shall include full compensation for furnishing all labor, materials, equipment, and or incidentals, and for doing all work involved including, but not limited to, erecting, maintaining, and removing project sign shall be considered as included in the contract unit price and no additional compensation will be allowed.

### 14-1.17 MOBILIZATION AND DEMOBILIZATION

- A. Description: Mobilization shall conform to the provisions in Section 9-1.16D, “Mobilization,” of the Standard Specifications and these Technical Specifications. Mobilization shall include the obtaining of all permits, moving onto the site of all equipment, and other construction facilities as required for the proper performance and completion of the work. Contractors working within the City of Rohnert Park are required to possess a valid City of Rohnert Park Business License throughout the course of the work. Business licenses can be obtained at the Finance Annex located at 6800 Hunter Drive, Rohnert Park, CA 94928, at a cost of \$250.00.

Mobilization shall include but not be limited to the following principal items:

1. Signed Contract by the City and the Contractor.
2. Completion of all tasks and submittal of all documents (bonds, insurance, schedule, etc.) required as conditions of issuing the Notice to Proceed.
3. Moving onto the site of all Contractor’s equipment required for operations.
4. Installing temporary construction water supply, power, wiring and lighting facilities, as required.
5. Providing field office trailers if needed by the Contractor.

6. Providing all on-site communication facilities, including telephones and radio pagers.
7. Obtaining all required permits and business license.
8. Having all OSHA required notices and establishment of safety programs.
9. Attendance at Pre-Construction Conference of Contractor's principal construction personnel.
10. Physical verification (potholing) of existing utilities.
11. Installation of storm water pollution prevention and temporary erosion control measures.
12. Beginning work on the project or at the subject site as applicable.
13. Demobilization shall include removal of all equipment, contractor facilities and materials from the project site within five (5) working days from completion and acceptance of the work.

B. **Payment: Mobilization and Demobilization** will be paid for at the contract **lump sum price**, which price shall include full compensation for furnishing all labor, materials, tools and equipment, obtaining business licenses, and doing all work involved in mobilization and demobilization, as specified herein, and no additional allowance will be made therefore. **City maximum allowed lump sum price is six (6) percent of the total bid price.**

No payment for mobilization or any part thereof will be approved for payment under the contract until all applicable mobilization items listed above have been completed.

## **12-2 EXISTING FACILITIES**

### **12-2.01 EXISTING FACILITIES**

- A. The work performed in connection with various existing highway facilities shall conform to the provisions in Section 15, “Existing Facilities,” of the Standard Specifications and these Technical Specifications.

### **12-2.02 REMOVAL OF MISCELLANEOUS ITEMS**

- A. Various items shown on the Plans to be removed will be completely removed and disposed of.

### **12-2.03 MEASUREMENT AND PAYMENT**

- A. **Removal or Removal and Replacement of Miscellaneous Items:** No separate measurement or payment shall be made for the various items to be removed or removed and replaced unless specified and listed in the Bid Schedule. Full compensation for conforming to the requirements of this section shall be considered as included in the contract prices paid for the various contract items of work and no additional compensation will be allowed.

## **12-3 STREET SWEEPING / PAVEMENT PREPARATION**

### **12-3.01 DESCRIPTION**

- A. Pavement surfaces shall be clean and dry prior to slurry sealing.
- B. Cleaning shall be performed by sweeping to remove all loose particles of paving, all dirt, and all other extraneous material.
- C. All traffic stripes, pavement markers and pavement markings shall be removed unless otherwise directed by the Engineer. Traffic stripes and pavement markings shall be removed by sandblasting or grinding and shall not materially damage the existing pavement. Where grinding is used, grinding of the pavement surface shall be limited to a maximum depth of 1/16".
- D. Residue from the removal of traffic stripes, pavement markings, and pavement markers shall be swept or vacuumed from the street surface and disposed of immediately after removal. Residue shall not be allowed to enter the storm drain system or creeks and roadside ditches. Disposal shall be performed in accordance with Section 7.15 of Part 3 of the City Standard Specifications.
- E. Street sweeping shall be performed at 3 working days, 14 workings days, 28 working days, and 45 working days after slurry sealing.

### **12-3.02 PAYMENT**

- A. Full compensation for **Street Sweeping/Pavement Preparation**, except for removal of existing striping and pavement markings, will be considered as included in the prices paid for various contract items of work and no additional allowance will be made therefore.
- B. Payment for **Removal of Existing Striping and Pavement Markings** shall be per **lump sum** and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in removal of existing striping and pavement markings, disposal of material, as shown on the plans, as specified in the Standard Specifications and these special provisions, and as directed by the Engineer.

## **12-4 CRACK SEALING**

### **12-4.01 CRACK SEALING**

Crack sealing shall consist of preparing and sealing pavement cracks on roadway, with a hot applied crack sealant to prolong the life of existing pavements by preventing moisture from penetrating the roadway structure, and by preventing the spalling of material from the edges of the cracks. A roadway will include all travel lanes, shoulders, and intersections. Crack sealing shall be required to clean, prepare, and seal all cracks between 1/8 inch and one inch in width in asphalt concrete pavement and as directed by the Engineer.

### **12-4.02 MATERIALS**

Attention is directed to the provisions in Section 37, "Seal Coats," Section 92, "Asphalt Binders," and Section 94, "Asphaltic Emulsions," of the Standard Specifications. Crack sealant shall be a commercial rubberized material of paving asphalt and ground rubber or ground rubber and polymer. The gradation of the ground rubber shall be such that 100 percent will pass a No. 8 sieve.

Asphalt crack sealant shall be Type 3 in accordance with Section 37-6.02B of the Standard Specifications.

Modified asphalt sealant material shall be furnished premixed in containers with an inside liner of polyethylene. Packaged material shall not exceed 66 pounds in weight and shall be capable of being melted and applied to cracks at temperatures below 400°F and shall readily penetrate cracks 1/4 inch wide or wider.

### **12-4.03 PREPARATION**

Prior to crack cleaning, the contractor shall inspect the roadway. All cracks within the entire width of the pavement surface, which are greater than 1/8 inch in width and showing signs of raveling or spalling shall be cleaned. All cracks 1/4 inch to 1 inch shall be cleaned. Do not clean cracks greater than 1 inch, and do not seal spalls or cavities greater than 4 inches, unless otherwise directed. Seven days prior to crack cleaning, apply a non-persistent herbicide (industrial Round Up, or equivalent). The non-persistent herbicide shall include an integral dye to identify areas of application.

Before applying the hot sealant, clean cracks by an approved method or methods to remove dust, dirt, moisture, vegetation, debris, loose sealant, and other foreign material. Cracks shall be cleaned to a minimum of two times the width of the crack or one inch, whichever is greater. Old sealant which protrudes above the asphalt concrete surfacing shall be completely removed. Keep these areas clean and dry until all sealing operations are completed. Use a propane lance unit capable of producing a blast of hot air that operates at 97 psi, 2.5 cubic feet per second, 900°F and a gas velocity of 2000 feet per second. Take care to not burn or overheat pavement with hot air lance. The temperature of the hot-air lance shall be kept below 930°F and the tip 2 to 4 inches from the crack.

## 12-4.04 SEALING

Crack sealant shall be applied only after the cracks and adjacent asphalt concrete surfacing have been cleaned and dried. Crack sealant material shall be spread with a nozzle or device approved for use by the Engineer and is placed within the specified temperature range. The sealing operation shall follow directly behind the cleaning operation. In no instance shall the crack sealing operation be separated from the cleaning operation by more than 250 feet.

All cracks within the entire width of the pavement surface, which are greater than 1/8 inch shall be sealed as follows:

1. All cracks within the entire width of the pavement surface, which are greater than 1/8 inch and less than 1/4 inch, shall be sealed only if they show signs of raveling or spalling.
2. All cracks greater than 1/4 inch and less than 1 inch shall be sealed.
3. Do not seal cracks greater than 1 inch (25 mm), and do not seal spalls or cavities greater than 4 inches (100 mm), unless otherwise directed.
4. When directed, cracks that are one inch wide or wider shall be filled with sealant flush with the existing asphalt concrete surfacing. While the sealant is still hot, these cracks shall be covered with crushed aggregate conforming to the provisions for Type II slurry seal in Section 37-3.02 of the Standard Specifications and compacted with a wetted steel wheel roller or vibrating plate compactor large enough to compact the sealant to the cross section shown on the plans. Light brooming shall be performed to remove loose excessive sand prior to opening a lane to public traffic that is not controlled by a pilot car.
5. Sealant application shall be to 1 inch depth.
6. Where cracks are over 1/2 inch and over 3 inches in depth the crack shall be filled with sand prior to sealing. Fill the crack to 1 inch below the adjacent pavement surface and tamp lightly with a steel rod to reduce any voids in the sand.
7. Except where cracks show signs of raveling or spalling, crack sealing shall be filled flush with no overbanding. All sealant left on the surface shall be squeegeed.
8. Where cracks have been filled with sand the finish surface of the sealant shall be slightly recessed from the adjacent pavement surface.

Where cracks show signs of raveling or spalling, overband the crack 1/2 inch on each side of the crack. Squeegee flush with surface.

Heat the sealant in a kettle or melter constructed as a double boiler, with the space between the inner and outer shells filled with oil or other heat-transfer fluid. Use a kettle or melter with separate thermometers for the oil bath and mixing vat. Equip the kettle with a full sweep type agitator. Also, equip the kettle with a 2-inch (50 mm) minimum recirculating pump to provide circulation of the materials when not applying the crack sealant. Do not apply direct heat to the sealant.

Follow manufacturer's recommendations for sealant application temperatures. Hotpour crack sealant shall be heated to the temperature specified by the manufacturer. [Hot rubberized asphalt is generally applied at 370°F to 390°F.] Overheating will not be permitted. The sealant shall be circulated in the hose when the installation train is idle.

Use a mechanical applicator wand capable of continuously feeding the sealant through nozzles capable of placing the crack sealant. A positive sealant flow shutoff mechanism is required. Sealant shall be even and consistent. Sealant shall not be reheated more than the allowable number of times nor greater than the recommended period of time as recommended by the manufacturer. Sealant shall flow evenly with no surging. The vat is to be kept part full at all times.

Cracks shall be filled from the bottom up. There shall be no bubbles due to moisture present in the crack. Crack sealant shall be applied so that the crack is flush filled immediately following application. Fill the entire crack reservoir with the sealant from the bottom up to approximately 1/16 inch above the pavement surface.

Excess crack sealant shall be removed from the pavement surface immediately following application. Removal shall involve the use of a squeegee, starting from the centerline and proceeding to the shoulder. Immediately scrape the filled cracks with a V-shaped or U-shaped squeegee, or similar hand tool, to smooth the overfill. Squeegee shall be the correct shape and shall not be worn. Squeegee shall be kept clean and free of carbon or filler build up. Squeegee shall be operated at the correct distance from the crack and be centered on the crack.

Reapply sealant to any areas that are underfilled. Application shall have an even and uniform appearance flush with the pavement surface.

Traffic shall be kept off sealed cracks until the crack sealant will not track under the action of traffic. The contractor shall be required to use a detackifier on crack sealant to allow roadways to open and minimize the duration of closure. Within 2 days after application of sealant, sealed cracks that reopen or in which the sealant material sags below the surrounding asphalt concrete surfacing and shoulders shall be resealed.

Crack sealant shall be allowed to cure for a minimum of five (5) calendar days or in accordance with the manufacturer's recommendations.

Fuel, asphalt, and any other spills shall be cleaned up to the satisfaction of the Engineer at the Contractor's expense.

#### **12-4.05 MEASUREMENT AND PAYMENT**

Payment for **Crack Sealing** shall be per **lump sum** and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in cleaning, preparing and sealing cracks, disposal of material, as shown on the plans, as specified in the Standard Specifications and these special provisions, and as directed by the Engineer.

## **12-5 SLURRY SEAL**

### **12-5.01 DESCRIPTION:**

Slurry Seal, Type II shall conform to the requirements of Section 37-3, “Slurry Seal and Micro-Surfacings,” of the Standard Specifications, the Plans, and these Special Provisions. Polymer modified asphaltic emulsion shall be in accordance with Section 37-3.02B(3) and mineral filler shall be portland cement. Aggregate shall be black or dark grey in color.

### **12-5.02 QUALITY CONTROL AND ACCEPTANCE**

The Contractor shall be responsible for all sampling, laboratory testing, and submittals as specified in Sections 37-3.01A(3), 37-3.01A(4), and 37-3.02 of the Standard Specifications. Material samples are not required to be provided to the City.

Aggregate gradation test shall be performed for each day’s production. Aggregate acceptance is based on the gradation test for compliance with the requirements in Section 37-3.02A(4)(c).

Polymer modified asphaltic emulsion shall be sampled from the tank truck at mid load or from a sampling tap or thief. Samples shall be taken at minimum 1 per day per delivery truck. Polymer modified asphaltic emulsion shall be tested for quality characteristics as listed in Section 37-3.02A(4)(b)(iii). Polymer modified asphaltic emulsion acceptance shall be based on the conformance requirements of Section 37-3.02B(3).

If test results do not comply with these specifications the slurry seal shall be removed and replaced with slurry seal conforming to these specifications at no additional cost to the City.

### **12-5.03 CALIBRATION AND DEMONSTRATION OF SPREADING EQUIPMENT:**

The Contractor shall calibrate the spreader vehicle(s) to be used on the project to the approved mix design prior to their arrival at the job site and shall furnish the Engineer a copy of the calibration settings for each vehicle. Thereafter, no adjustments in the aggregate and emulsion settings shall be made without the approval of the Engineer.

The Contractor shall demonstrate the ability to mix and apply the surface in a satisfactory manner and to the approved mix design with each spreader vehicle. The Contractor may not begin work until the ability to apply surfacing as specified is demonstrated to the Engineer. Evidence of calibration of the machine shall be supplied to the Inspector prior to placement of any surfacing. A test strip shall be laid at the beginning of the placement of the surfacing to ensure the mix is proper and the machine has been properly calibrated.

### **12-5.04 OWNER NOTIFICATION**

A. The Contractor shall notify all property owners and businesses affected by the slurry seal work twice (3 weeks and again at 3 days) before work is to begin. The notice shall be in writing, placed on the door.



## 12-5.05 CONSTRUCTION

Prior to placement of the surfacing, the Contractor shall clean the existing asphalt concrete surface, seal cracks in accordance with the section entitled “Crack Sealing” and remove traffic stripes and pavement markings in accordance with the section entitled “Street Sweeping/Pavement Preparation” of these Special Provisions.

The Contractor shall take appropriate measures to protect existing; curb and gutter, manholes, valve covers, city monuments, or other iron castings in the street during the application of slurry seal. Slurry seal shall be removed from these existing improvements, if required, to the satisfaction of the City. All valve boxes, manholes, utility covers, and monument covers shall be covered with heavy paper or roofing felt prior to placement of the surfacing and shall be uncovered after the surfacing has set. Drainage inlets shall have adequate protection and coverings to prevent any surfacing materials from entering the storm drain system.

Slurry seal shall be held back to within 12 inches of utility and monument covers as shown on the plans.

Surfacing shall be applied a minimum of five (5) calendar days after crack sealing operations. The project shall not be started without a two-week window when freezing weather (temperatures below 32 degrees F) will not occur.

Slurry Seal shall be applied at a rate between 10 and 18 pounds per square yard in accordance with Section 37-3.02C(4) of the Standard Specifications.

Slurry Seal areas shall be rolled with a pneumatic rubber tire roller. Rolling shall not begin until the slurry has “cured” sufficiently to support the load without tracking. The finished Slurry Sealed surface shall be rolled once, but not more than twice. Roller shall travel slowly, not more than 5 mph.

Longitudinal joints may be overlapped or butt jointed. All joints shall be straight or curve with the traffic lane. Overlaps shall not be allowed in the wheel paths and all overlaps shall not exceed 3 inches in width.

Transverse joints shall be butted and shall be smooth. Handwork shall be kept to a minimum. The contractor shall not over wet the mix at the start-up. Transverse joints shall be made on roofing felt to avoid poor texture and scarring at the joints.

For all edges, the edge of the spreader box should be outside the line of the pavement and edge boxes should be used when shoulders are covered.

## 12-5.06 POST SWEEPING:

Post sweeping of slurry sealed areas shall be performed in accordance with Section 12-3, “Street Sweeping/Pavement Preparation,” of these Special Provisions.

## 12-5.07 MEASUREMENT AND PAYMENT:

**Slurry Seal, Type II** will be measured and paid for at the contract price per **square yard**. Payment for slurry seal shall include full compensation for furnishing all labor, materials, tools,

equipment, and doing all work involved in furnishing and applying the slurry seal, including, but not limited to submittals, mix design, samples, testing, surface preparation, placing the slurry, protecting the slurry seal until it has set, rolling, post sweeping and all other work involved in placing **Slurry Seal, Type II** not specifically enumerated in the Plans or Specifications, and no additional compensation will be allowed.

## **12-6 TRAFFIC STRIPING AND MARKINGS**

### **12-6.01 DESCRIPTION:**

Thermoplastic and painted traffic stripes (traffic lines) and pavement markings and markers, of the various types, shall conform to the provisions of the City of Rohnert Park Manual of Standards, Details and Specifications and Section 84-2, "Traffic Stripes and Pavement Markings." Standard Specifications and these Technical Specifications.

Thermoplastic material shall conform to State Specifications 8010-41G-21. Glass beads to be applied to the surface of the molten thermoplastic material shall conform to the requirements of State Specification 8010-22L-22 (Type II), or AASJTP Designation: M 247 (Type 1).

State Specifications for thermoplastic material and glass beads may be obtained from the Transportation Laboratory, P.O. Box 19128, Sacramento, CA 95819; (916) 739-2400.

A primer of the type recommended by the manufacturer of the thermoplastic material shall be applied over all existing painted stripes and pavement legends to be covered with thermoplastic material.

All painted striping and markings shall be applied in 2 coats.

Existing stripes and pavement markings which are damaged by the work shall be replaced.

Striping and marking shall begin a minimum of 7 days after slurry seal.

**Some of the streets within the project will be striped and marked by the City as indicated on the plans.**

### **12-6.02 MEASUREMENT AND PAYMENT:**

**Thermoplastic Stripes/Traffic Lines** will be measured and paid for at the contract unit price per **lineal foot** of the various detail types, which price shall include full compensation for furnishing all labor, materials, tools, and equipment, and doing all work involved in placing traffic markers and lines, complete in place, including:

- all glass beads,
- thermoplastic material,
- pavement markers (retroreflective and non-reflective markers),
- tape,
- temporary traffic stripes,
- replacement of damaged stripes, and
- pavement surface preparation

and any other work required to install traffic markers, lines, and parking space markings not specifically enumerated in the plans and specifications and no additional compensation will be allowed.

**Thermoplastic Pavement Markings** will be measured and paid for at the contract unit price per **square foot** of the various types, which price shall include full compensation for furnishing all equipment, tools, and labor, and doing all the work involved, as herein specified, including:

- all glass beads,
- thermoplastic material,
- tape,
- providing temporary pavement markings,
- replacement of damaged markings,
- pavement surface preparation

and any other work required to install thermoplastic pavement markings not specifically enumerated in the plans or specifications, and no additional compensation will be allowed.

**Median Island Treatment** will be measured and paid for at the contract unit price per each, which price shall include full compensation for furnishing all equipment, tools, and labor, and doing all the work involved, as herein specified, including:

- paint material,
- reflective pavement markers on top of curb,
- surface preparation

and any other work required to install median island treatment not specifically enumerated in the plans or specifications, and no additional compensation will be allowed.

## **12-7 PAVEMENT MARKERS**

### **12-7.01 DESCRIPTION**

Pavement markers shall conform to the requirements of Section 81-3, “Pavement Markers,” of the Standard Specifications and these Technical Specifications.

Attention is directed to “Construction Area Signs” and “Traffic Control System” elsewhere in these Technical Specifications regarding the use of moving lane closures during placement of pavement markers with bituminous adhesive.

Blue Two-Way Retroreflective Pavement Markers shall be placed at existing fire hydrant locations.

Hot melt bituminous adhesive shall be used to cement the markers to the pavement. Bituminous adhesive material shall conform to the following:

<b>Specification</b>	<b><u>ASTM</u></b>	<b><u>REQUIREMENT</u></b>
Flash Point, COC, °F	D 92	550 Min.
Softening Point, °F	D 36	200 Min.
Brookfield Thermosel Viscosity, Centipoise, No. 27 Spindle, 20 RPM, 400°F	D 4402	3,000-6,000
Penetration dmm, 100g, 55 seconds, 77°F	D 5	10 - 20
Filler Cement, percent by weight (Insoluble in 1,1,1 Trichloroethane)	D 2371	65 - 75

Filler material used in bituminous adhesive shall be Type PC, Grade III, calcium carbonate conforming to ASTM D1199, and shall conform to the following gradation:

<b>Sieve Size</b>	<b>Percent Passing</b>
No. 100	100
No. 200	95
No. 325	75

Bituminous adhesive shall be heated indirectly in an applicator with continuous agitation or recirculation. Bituminous adhesive shall not be heated above the maximum safe heating temperature recommended by the manufacturer and shall not be applied at temperatures greater than 425°F. nor less than 375°F.

Immediately after application of the adhesive, pavement markers shall be placed in position and pressure applied until firm contact is made with the pavement.

Placement of pavement markers using bituminous adhesive shall conform to the requirements of the Section 81-3.03 of the Standard Specifications,

When bituminous adhesive is used for pavement marker placement, traffic control during placement operations shall conform to the requirements of “Construction Area Signs” and “Traffic Control System” of these Technical Specifications.

**Some of the streets within the project will be striped and marked, including installation of pavement markers, by the City as indicated on the plans.**

## **12-7.02 MEASUREMENT AND PAYMENT**

No separate measurement and payment will be made for installation of the individual pavement markers used in conjunction with new traffic striping or the median island treatment. Full compensation for pavement markers used in conjunction with new traffic striping or the median island treatment shall be considered as included in conjunction with new traffic stripes of the various detail types, or the median island treatment and no additional compensation will be allowed.

**Blue, Two-way Retroreflective Pavement Markers** will be paid for at the contract price each, which shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved, as herein specified, including:

- pavement markers,
- bituminous adhesive,
- pavement surface preparation

and any other work required to install blue two-way pavement markers not specifically enumerated in the plans or specifications, and no additional compensation will be allowed.

## **12-8 FINAL CLEANUP**

### **12-8.01 DESCRIPTION:**

Final Cleanup shall conform to the provisions of Section 4-1.13, "Cleanup," and Section 22, "Finishing Roadway," of the Standard Specifications and these Project Provisions.

The project area shall be left in a neat and clean condition, as approved by the Engineer, at the end of each workday. The project site shall be clear of clutter at the end of each workday.

The project area shall be left in a neat and clean condition upon completion of the project prior to final inspection by the Engineer.

### **12-8.02 MEASUREMENT AND PAYMENT:**

Full compensation for complying with the above provisions shall be considered as included in the contract prices paid for the various bid items and no additional compensation will be allowed.



# APPLICATION FOR ENTRY PERMIT

<b>SMART Internal Use Only</b>	
MP _____	
# _____	

**1. To be completed for Public Agency/Organization/Corporation**

Permittee: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**2. This application is submitted for permission to perform the following in the SMART Right of Way:**

<b>Check all that apply:</b>	<b>Project Duration:</b>	<b>Submitted Documents*:</b>
Excavate/Survey <input type="checkbox"/>	Start Date: _____	Drawings (2 sets) <input type="checkbox"/>
Construct Temporary Improvement <input type="checkbox"/>	End Date: _____	Plans & Specs. (2 Sets) <input type="checkbox"/>
Construct Permanent Improvement <input type="checkbox"/>	<b>Project Manager:</b>	Proof of Insurance <input type="checkbox"/>
Other: _____ <input type="checkbox"/>	Name: _____	Email: _____
	Cell: _____	

**\*Note:** Applicants must provide 11x17 plans. At the discretion of SMART Engineering, applicant may be asked to provide full size (24"x36") scaled drawings and/or plan sets stamped by a licensed engineer.

**3. Detailed scope of work including hours, method and location of work, nearest cross street(s), landmarks, and/or a physical address with approximate distances (use separate sheet if necessary):**

**4. Type of Construction (Mark all that apply):**

<b>Pipe</b>	<b>Conduit</b>	<b>Excavation</b>
Underground <input type="checkbox"/>	Type: _____ <input type="checkbox"/>	Length: _____ <input type="checkbox"/>
Surface <input type="checkbox"/>	No. of Ducts: _____ <input type="checkbox"/>	Width: _____ <input type="checkbox"/>
	Buried Cable: _____ <input type="checkbox"/>	Depth: _____ <input type="checkbox"/>

**5. Types of Vehicles/Equipment To Be Used in Permit Area (Mark all that apply):**

Passenger Cars <input type="checkbox"/>	Heavy Construction Equip. <input type="checkbox"/>	Pickups <input type="checkbox"/>
Farm Equipment <input type="checkbox"/>	Hazardous Materials Trucks <input type="checkbox"/>	Recreational Vehicles <input type="checkbox"/>
Truck-Trailers <input type="checkbox"/>	Buses <input type="checkbox"/>	Other _____ <input type="checkbox"/>

7. **Method of Work:** \_\_\_\_\_

9. **Is work within 25 ft. (vertical or horizontal) of track way?\*** Y\_\_\_ N\_\_\_

8. **Approximate Cost of Work in Permit Area:** \_\_\_\_\_

10. **Is work within 50 ft. (vertical or horizontal) of track way?\*** Y\_\_\_ N\_\_\_

**\*\*Note:** If YES to Questions 9 or 10, Railroad Protective Liability Insurance May Be Required

**\*\*\*PLEASE INCLUDE \$300 APPLICATION FEE (non-refundable) AND \$1000 PERMIT FEE WITH SUBMISSION**

Mail or email application and supporting documents to: SMART 5401 Old Redwood Highway, Ste 200 Petaluma, Ca 94954 OR ndiamzon@sonomamarintrain.org

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

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*Please note that if any additional services, such as inspectors, safety monitors, traffic flagging, etc., are required, an additional deposit(s) for those items may be required prior to issuance of Permit.

**SMART Internal Use Only**

Permit No.: _____	Date Issued: _____	Reviewed by: _____
As-Built Drawings Req'd: Y___ N___	Prepared By: _____	Engineering: _____ Risk Management: _____
As-Built Submittal Date: _____	Systems: _____	Operations: _____ Other: _____

**SMART Comments or Conditions** (if necessary, use separate sheet or continue on back):



## Right of Entry Permit No. 2022-ROE-XXX

Permittee shall fully pay for all materials joined or affixed to Premises, and shall pay in full all persons who perform labor on Premises. As Permitter is a public entity, its property is not subject to mechanics' or materialmen's liens, and nothing in this Permit shall be construed to make its property subject to such liens. However, if any such liens are filed, Permittee shall immediately remove them at Permittee's own expense, and shall pay any judgment which may be entered. Should Permittee fail, neglect, or refuse to do so, Permitter, after 48 hours prior notice to Permittee, shall have the right to pay any amount required to release any such liens, or to defend any action brought, and to pay any judgment entered. Permittee shall be liable to Permitter for all costs, damages, reasonable fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or any judgment. Permitter may post and maintain upon Premises notices of non-responsibility as provided by law.

Permittee shall cooperate with Permitter in making any tests Permitter requires of any installation or condition which in Permitter's reasonable judgment may have an adverse effect on any of the facilities of Permitter. All costs incurred by the tests, or any corrections required as a result of such tests, shall be borne by Permittee.

Permittee shall take protective measures necessary to keep Permitter's facilities, including track ballast, free of sand or debris resulting from its use of Premises. Should any damage occur to Permitter's facilities as a result of Permittee's use of Premises, Permittee shall immediately notify Permitter. Permitter may require Permittee to contact the operator of any rail service on the rail line to make arrangements to ensure the safe performance of any work and agrees to give Permitter ten (10) calendar days of written notice prior to commencement of the work in the event such arrangements need to be made. Any damage to Permitter's facilities resulting from Permittee's use of Premises will be repaired or replaced by Permitter at Permittee's sole cost and expense, which Permittee shall pay to Permitter promptly upon demand.

9. No Crossing of Tracks. Permittee shall not be permitted to cross Permitter's tracks located near Premises but shall gain access to and from Premises only by use of designated public streets.
10. No Hazardous Materials. No hazardous materials shall be handled at any time upon Premises.
11. Mechanized Equipment. Under no condition shall Permittee be permitted to place or store any mechanized equipment, tools or other materials within twenty-five feet (25') of the center line of Permitter's nearest railroad tracks.
12. Indemnity and Insurance. Permittee shall release, defend (with counsel reasonably satisfactory to Permitter) and indemnify Permitter, its successors and assigns, any railroad company operating on Premises, and their respective directors, officers, employees, and agents (collectively, "Indemnitees") from and against all liability, cost, and expense for loss

## Right of Entry Permit No. 2021-ROE-XXX

of, or damage to, property and for injuries to, or death of, any person (including, but not limited to, the property and employees of each party) when arising or resulting from the use of Premises by Permittee, its agents, employees, contractors, subcontractors, or invitees; or Permittee's breach of these provisions. The duty of Permittee to indemnify and save harmless the Indemnitees includes the duties to defend as set forth in Section 2778 of the Civil Code. It is the express intent of the parties under this Section 12, that Permittee will indemnify and hold harmless the Indemnitees from any and all claims, suits, or actions arising from any cause whatsoever as set forth above, other than the active negligence, willful misconduct, or criminal acts of the Indemnitees. Permittee waives any and all rights to any type of express or implied indemnity against the Indemnitees arising out of Permittee's use of or activities on Premises. This indemnity shall survive termination of this Permit. It is the intention of the parties that should any term of this indemnity provision be found to be void or unenforceable, the remainder of the provision shall remain in full force and effect.

All personal property of Permittee, including, but not limited to fixtures, equipment, or related materials upon the Property, will be at the risk of OWNER only, and Permitter will not be liable for any damage thereto or theft thereof, whether or not due in whole or in part to the negligence of Permitter.

Prior to entry upon the Property and commencement of construction activities, Permittee shall provide Permitter with satisfactory evidence, in the form of a Certificate of Insurance, that Permittee is insured in accordance with the following. Said insurance shall remain in effect throughout the term of this License:

a. Workers' Compensation and Employers' Liability

Permittee shall procure and maintain Workers' Compensation Insurance and Employers' Liability Insurance in accordance with the laws of the State of California. Employers' Liability Insurance shall have coverage for a minimum liability of \$2,000,000, covering Permittee's employees engaged in the work. Permittee shall insure the procurement and maintenance of such insurance by all contractors or subcontractors engaged in the construction, operation or maintenance of the Conveyor.

b. Commercial General Liability

Permittee shall procure and maintain Commercial General Liability insurance covering products-completed and ongoing operations, property damage, bodily injury and personal injury using an occurrence policy form, in an amount no less than \$5,000,000 per occurrence.

Said policy shall either include a Railroads CG 24 17 endorsement removing the exclusion of coverage for bodily injury or property damage arising out of construction or demolition operations within 50 feet of any railroad property and

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affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing, or provide evidence that said policy does not have any railroad exclusions. A follow form Excess Liability policy may be utilized to satisfy the required limits of liability under this section.

c. Professional Liability

Permittee shall procure and maintain Professional Liability insurance covering liability arising out of any negligent act, error or omission in performance of design or engineering services for the Project in an amount no less than \$2,000,000 per claim. If any Design Professional Services are furnished by a Subcontractor, the Subcontractor shall be required to provide professional liability coverage.

d. Automobile Liability

Permittee shall procure and maintain Automobile Liability insurance covering bodily injury and property damage in an amount no less than \$2,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall also include a CA 20 70 10 13 endorsement removing the exclusion of coverage for bodily injury or property damage arising out of operations within 50 feet of any railroad bridge, trestle, track, roadbeds, tunnel, underpass or crossing.

e. Contractors Pollution Liability

Contractors Pollution Liability insurance in an amount no less than \$2,000,000 per incident. The Contractor's Pollution Liability policy shall be written on an occurrence basis with coverage for bodily injury, property damage and environmental damage, including cleanup costs arising out of third party claims, for pollution conditions, and including claims of environmental authorities, for the release of pollutants caused by construction activities related to the Permit. Coverage shall include the Permittee as the named insured and shall include coverage for acts by others for whom the Permittee is legally responsible.

Coverage to be provided for bodily injury to or destruction of tangible property, including the resulting loss of use thereof, loss of use of tangible property that has been physically injured, and natural resource damage. There shall be no exclusions or limitations regarding damages or injury from existence, removal or abatement of lead paint. There shall be no insured vs. insured exclusion in the policy.

f. Railroad Protective Liability

Prior to commencement of construction activities, Permittee shall procure and maintain Railroad Protective Liability insurance, in Permitter's name, with limits of liability of no less than \$5,000,000 per occurrence, for losses arising out of

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injury to or death of all persons, and for physical loss or damage to or destruction of property, including the loss of use thereof. The additional named insureds shall be the Sonoma-Marín Area Rail District and the North Coast Railroad Authority, and shall cover all other railroads operating on the right-of-way.

Prior to entering onto the Property, Permittee shall file Certificate(s) of Insurance with Permitter evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies. Said endorsements and Certificate(s) of Insurance shall stipulate:

- 1) SMART, its officers and employees, shall be named as additional insured on all policies listed above.
- 2) That the policy(ies) is Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim which Permittee is liable, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the Insureds.
- 3) The policy shall also stipulate: Inclusion of the Insureds as additional insureds shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Permittee. Said policy shall protect Permittee and the Insureds in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- 4) Permittee hereby grants to Permitter a waiver of any right to subrogation which any insurer of said Permittee may acquire against Permitter by virtue of the payment of any loss under such insurance. Permittee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Permitter has received a waiver of subrogation endorsement from the insurer.
- 5) Permittee shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Permittee shall ensure that SMART, its officers and employees, shall be named as additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

The insurance policy(ies) shall be written by an insurance company or companies acceptable to Permitter. Such insurance company shall be authorized to transact business in the state of California.

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### Deductibles and Retentions

Permittee shall be responsible for payment of any deductible or retention on Permittee's policies without right of contribution from Permittor. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible of retention provision limiting payment to the name insured is not acceptable.

### Self-Insurance

Permittee's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to Permittor.

### Claims Made Coverage

If any insurance specified above is written on a claims-made coverage form, Permittee shall:

- 1) Ensure that the retroactive date is shown on the policy, and such date must be before the date of this Permit or beginning of any work under this Permit;
- 2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- 3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to Permit effective date, Permittee shall purchase "extending reporting" coverage for a minimum of three (3) years after completion of the work.

13. Permits from Other Agencies; Hazardous Materials. Permittee shall comply, at Permittee's expense, with all applicable laws, regulations, rules and orders with respect to the use of Premises, and shall obtain all required licenses, permits or other approvals in connection with Permittee's use of Premises. Permittee shall furnish satisfactory evidence of such compliance upon request of Permittor.

Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from Premises due to Permittee's use and occupancy thereof, Permittee, at Permittee's expense, shall clean all affected property to the satisfaction of Permittor and any governmental body having jurisdiction.

Permittee shall indemnify, hold harmless and defend the Indemnitees against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, reasonable attorneys' fees and consulting, engineering and construction costs) incurred by Permittor as a result of Permittee's breach of this section or as a result of any such discharge, leakage, spillage, emission, or pollution by Permittee, regardless of whether such liability, cost, or expense arises during or after the term of this Permit.

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14. Assumption of Risk. Permittee shall assume all risk of damage to any and all other property of Permittee, or any property under the control or custody of Permittee while upon or near Premises of Permitter incident to the use of Premises; provided, however, such assumption by Permittee shall not include any damage caused by the active negligence and/or willful misconduct of Permitter. Permittee releases Permitter from any liability, including claims for damages or extra compensation, arising from construction delays due to transportation activities by Permitter or transportation operations by any agency as authorized by Permitter.
15. Subcontractors. Any person, firm or corporation Permittee authorizes to work upon Premises, shall be deemed to be Permittee's agent and shall be subject to all the applicable terms hereof.
16. Restoration of Premises. Upon termination of this Permit, Permittee, at its own expense, shall remove from Premises all property it owns or controls, all debris and other materials, and restore Premises to its condition prior to entry or to a condition reasonably satisfactory to Permitter. Upon Permittee's failure to do this, Permitter, upon forty-eight (48) hours prior notice to Permittee, may perform such work at Permittee's expense.
17. Severability. If any provision of this Permit shall be for any reason unenforceable, in any respect, such unenforceability shall not affect the other provisions of this Permit.
18. Attorneys' Fees. If any legal proceeding should be instituted by either of the parties to enforce the terms of this Permit or to determine the rights of the parties under this Permit, the prevailing party in the proceeding shall receive, in addition to all costs, reasonable attorneys' and expert fees.
19. Time of Essence. Time is and shall be of the essence of this Permit and of each and every provision contained in this Permit.
20. No Third Party Beneficiaries. Nothing contained in this Permit shall be construed to create and the parties do not intend to create any rights in third parties.
21. Construction of Agreement. The provisions in this Permit shall be construed and given effect in a manner that avoids any violation of statute, regulation or law. Permitter and Permittee agree that in the event any provision in this Permit is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Permit. Permitter and Permittee acknowledge that they have each contributed to the making of this Permit and that, in the event of a dispute over the interpretation of this Permit, the language of the Permit will not be construed against one party in favor of the other. Permitter and Permittee further acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Permit.