

Exhibit A2

## **PART B**

# **GENERAL PROVISIONS**

**FOR**

## **City of Emeryville "Old City Hall Exterior Renovation and "New" City Hall Exterior Painting and Cleaning**

**PROJECT NO. EPW-24104**

Issued for Bidding: June 12, 2024  
Bids Open: MONTH June 26, 2024 at 10:00AM

# **CITY OF EMERYVILLE DEPARTMENT OF PUBLIC WORKS STANDARD SPECIFICATIONS**

These Standard Specifications are to be used in conjunction with the State of California, Department of Transportation Standard Specifications and Standard Plans dated 2015. In absence of revision by these Standard Specifications, comply with the State of California Department of Transportation Standard Specifications dated 2015.

## **DIVISION I GENERAL PROVISIONS**

### **1 GENERAL**

The Bidder's attention is directed to the provisions in Division I, Section 1, "General," of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 1, "General," of the Caltrans Standard Specifications, 2015, as follows:**

#### **SECTION 1-1.01 GENERAL**

**Add to 1<sup>st</sup> paragraph in Section 1-1.01 General as follows:**

When counting paragraphs, individually numbered items and tables are part of the preceding paragraph.

**Replace the 8<sup>th</sup> paragraph of Section 1-1.01 General with the following:**

The Engineer will number bid items consecutively and uniquely for each contract.

**Delete item 1 Assignments in the list in the 12th paragraph of Section 1-1.01 General.**

#### **SECTION 1-1.05 REFERENCES**

**Replace first sentence of the 4<sup>th</sup> paragraph of Section 1-1.05 References with the following:**

Where a section number is referenced without a reference to a document, the reference is to a section of the Standard Specifications as revised by the City Standard Specifications and Special Provisions.

#### **SECTION 1-1.07 DEFINITIONS**

##### **SECTION 1-1.07B GLOSSARY**

**Add to Section 1-1.07B Glossary, and where a glossary term definition already exists in the Standard Specifications, 2015, replace said term as follows:**

**Architect:** The Engineer as defined in this section.

**City:** City of Emeryville

**Department or Department of Transportation:** The City of Emeryville.

**Director or Director of Transportation:** The City of Emeryville Public Works Director or designee.

**Engineering Standards:** The current City of Emeryville Engineering Standards.

**Engineer:** The City Engineer, City of Emeryville, acting either directly or through properly authorized agents, the agents acting within the scope of the particular duties delegated to them.

**Excusable Delay:** Delay caused by the City and not reasonably foreseeable when the work began such as:

1. Change in the work;
2. City action that is not part of the Contract;
3. Described facility rearrangement not rearranged as described, by the utility owner by the date specified, unless:
  - (i) the rearrangement is solely for the Contractor's convenience, or
  - (ii) as a result of a Contractor proposed construction method or detail;
4. City's failure to obtain timely access to the right-of-way; or
5. City's failure to review a submittal or provide notification in the time specified.

**Federal Aid Contract:** A project that is identified within the Special Specifications as being financed with Federal funding and for which you and the City must follow unique Federal requirements.

**Highway:** Highway or Highway Right of Way means the work site(s) as identified in the contract.

**Holiday:** Holiday shown in the following table:

| Holiday                             | Date Observed                            |
|-------------------------------------|--|
| Sunday                              | Every Sunday                             |
| New Year's Day                      | January 1 <sup>st</sup>                  |
| Birthday of Martin Luther King, Jr. | 3 <sup>rd</sup> Monday in January        |
| Washington's Birthday               | 3 <sup>rd</sup> Monday in February       |
| Memorial Day                        | Last Monday in May                       |
| Independence Day                    | July 4 <sup>th</sup>                     |
| Labor Day                           | 1 <sup>st</sup> Monday in September      |
| Indigenous Peoples Day              | 2 <sup>nd</sup> Monday in October        |
| Veterans Day                        | November 11 <sup>th</sup>                |
| Thanksgiving Day                    | 4 <sup>th</sup> Thursday in November     |
| Day after Thanksgiving              | Day after Thanksgiving Day               |
| Day before Christmas Day            | Last working day prior to Christmas Day  |
| Christmas Day                       | December 25 <sup>th</sup>                |
| Day before New Year's Day           | Last working day prior to New Year's Day |

Caesar Chavez Day is not a City recognized Holiday but can be recognized through a written change order. If the holiday falls on a Sunday, the Monday following is a holiday. If the holiday falls on a Saturday, the preceding Friday is a holiday.

**Laboratory:** The City or a designated laboratory authorized by the City to test materials and work involved in the contract.

**Landscape Architect:** The Engineer as defined in this section.

**MUTCD:** The most current version of the California Manual on Uniform Traffic Control Devices.

**Office of Structure Design:** The Office of the City Engineer at the address located in the special provisions for the submission of bids.

**Plans:**

1. Project Plans: Drawings specific to the project, including authorized shop drawings.
2. Engineering Standards: Drawing standard to City of Emeryville.
3. Standard Plans: Drawing standard to Caltrans.

**Permanent erosion control establishment period:** Number of working days shown on the Notice to Bidders for permanent erosion control establishment work

**Plant establishment period:** Number of working days shown on the Notice to Bidders for plant establishment work.

**Specifications:** The directions, provisions and requirements contained in the City of Emeryville, Standard Specifications and engineering standards as supplemented by the special provisions. Whenever the term "these specifications" or "these Standard Specifications" is used in this book, it means the provisions set forth in this book, in conjunction with, by reference, the edition of the State Standard Specifications as referenced in the beginning of this book. The Department of Transportation publications entitled Labor Surcharge and Equipment Rental Rates and General Prevailing Wage Rates are to be considered as a part of the special provisions.

**State: The City of Emeryville.**

**Transportation Building, Sacramento      City Hall, City of Emeryville, State of California.**

**State Highway Engineer      The City Engineer of the City of Emeryville, State of California.**

**State Standard Specifications:** Means the Standard Specifications of the California Department of Transportation, Business and Transportation Agency, dated 2015.

**The Greenbook.** Parts 2 through 6 of the Standard Specifications for Public Works Construction, 2015 Edition.

**SECTION 1-1.08 DISTRICTS**

**Delete Section 1-1.08 Districts.**

**SECTION 1-1.11 WEB SITES, ADDRESSES, AND TELEPHONE NUMBERS**

**Add to Section 1-1.11 Web Sites, Addresses, and Telephone Numbers as follows:**

| Reference               | Web Site  | Address                                  | Telephone Number |
|-------------------------|---|--|------------------|
| City of Emeryville      | <a href="http://www.emeryville.org/">http://www.emeryville.org/</a> | 1333 Park Avenue<br>Emeryville, CA 94608 | 510-596-4334     |
| On-line Plan Repository | <a href="http://www.ciplist.com">http://www.ciplist.com</a>         |  |                  |

**Delete from Section 1-1.11 Web Sites, Addresses, and Telephone Numbers the reference to Bidders' Exchange.**

**SECTION 1-1.12 MISCELLANY**

**Replace Section 1-1.12 Miscellany with the following:**

Make checks and bonds payable to the City of Emeryville.

## **2 BIDDING**

The Bidder's attention is directed to the provisions in Division I, Section 2, Bidding, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

The form of Bidder's Bond will be found following the signature page of the Proposal.

In accordance with Public Contract Code Section 7106, a Non-collusion Affidavit is included in the proposal. Signing the proposal shall also constitute signature of the Non-collusion Affidavit.

**Replace, Delete or Add to Division I, Section 2, Bidding, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 2-1.01 GENERAL**

**Replace Section 2-1.01 General with the following:**

Section 2 includes specifications related to bid eligibility and the bidding process.

### **SECTION 2-1.02 BID INELIGIBILITY**

**Replace Section 2-1.02 Bid Ineligibility with the following:**

If an individual, firm, partnership or corporation, including any of its affiliates, partners, officers, employees, parent companies or subsidiaries, has provided architectural or engineering services to the City for this Contract before bid submittal for this Contract, then such individual, firm, partnership and corporation, and any of its affiliates, partners, officers, employees, parent companies or subsidiaries is prohibited from any of the following:

1. Submitting a bid
2. Subcontracting for a part of the work
3. Supplying materials.

The firm of Kimley Horn has provided engineering services to the City for this Contract. Therefore, this firm, and any of their affiliates, partners, officers, employees, parent companies or subsidiaries are prohibited from being awarded the Contract for the project, subcontracting for a portion of the work under the Contract, or supplying materials for the work under the Contract. Accordingly, these persons and entities are ineligible to bid on the project and no Contract shall be awarded to such persons or entities identified as the Contractor, subcontractor or supplier on a submitted bid proposal for this Contract.

### **SECTION 2-1.03 CONTRACTOR REGISTRATION**

**Replace Section 2-1.03 Contractor Registration with the following:**

No contractor or subcontractor may be listed on a bid proposal for this Contract 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)].

### **SECTION 2-1.05 ADDENDUM**

**Add Section 2-1.05 Addendum as follows:**

During the course of the bidding process if changes are made to the Plans, Specifications, Bid Documents or other Contract Documents, they will be posted to <http://www.ciplist.com> for prospective Bidders.

If discrepancies or apparent errors are found in the Contract Documents prior to the date of bid opening, Bidders shall submit a written request for clarification to the City Engineer, **a minimum of Five (5) Days prior to Bid Date**, which response to said request will be given in the form of addenda to all Bidders, if time permits.

The correction of any discrepancies in, or omissions from the Plans, Specifications, Bid Documents or other Contract Documents, or any interpretation thereof, during the bidding process will be made only by Addendum issued in writing by the City and signed by the City Engineer. A copy of each such Addendum issued by the City will be posted to <http://www.ciplist.com> . Any other interpretation or explanation of such documents will not be considered binding.

All Addenda must be signed by a Bidder and included with their proposal at the time of bid opening.

## **SECTION 2-1.06 BID DOCUMENTS**

### **SECTION 2-1.06A GENERAL**

**Replace Section 2-1.06A General with the following:**

The Bid Documents, set forth in Part A of City of Emeryville Specifications, include bid proposal form, certifications, bidder's bond, declarations and acknowledgements. A standard proposal form, which, when filled out and executed shall be submitted as that Bidder's bid. Bids not presented on forms so furnished, and copies or facsimiles of the Bidder's completed and executed proposal forms submitted as a bid may be rejected by Owner in its sole discretion. Bid Documents, including Plans, Specifications, Notice Inviting Bids, Supplemental Specifications and any Addendum can be obtained on the internet at <http://www.ciplist.com>. State of California Department of Transportation Standard Specifications, 2015, and State of California Department of Transportation Standard Plans, 2015, are available for review at the City Public Works Office.

### **SECTION 2-1.06B SUPPLEMENTAL PROJECT INFORMATION**

**Replace Section 2-1.06B Supplemental Project Information with the following:**

The availability or use of information described in this Section is not intended to be and shall not be construed to relieve the Bidder or Contractor from properly examining the site and making such additional investigations as it may elect, or from properly fulfilling all the terms of the Contract Documents.

### **SECTION 2-1.07 JOB SITE AND DOCUMENT EXAMINATION**

**Replace Section 2-1.07 Job Site And Document Examination with the following:**

Examine the job site and Bid Documents. Notify the City of apparent errors and patent ambiguities in the Plans, Specifications, Notice Inviting Bids, Bid Documents, Supplemental Specifications and any Addendum. Failure to do so may result in rejection of a bid or rescission of an award.

Bid submission is your acknowledgment that you have examined the job site and Plans, Specifications, Notice Inviting Bids, Bid Documents, Supplemental Specifications and any Addendum and are satisfied with:

1. General and local conditions to be encountered;
2. Character, quality, and scope of work to be performed;
3. Quantities of materials to be furnished;
4. Character, quality, and quantity of surface and subsurface materials or obstacles; and
5. Requirements of the Contract.

### **SECTION 2-1.09 BID ITEM LIST**

**Replace Section 2-1.09 Bid Item List with the following:**

Submit a bid based on the bid item quantities shown on the Bid Sheets.

**SECTION 2-1.10 SUBCONTRACTORS LIST**

**Replace Section 2-1.10 Subcontractors List with the following:**

On the Subcontractors List form, list each subcontractor that will perform work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont. Code § 4100 et seq.).

For each subcontractor listed, the Subcontractors List form must show:

1. Business name and the location of its place of business.
2. California contractor license number.
3. Department of Industrial Relations contractor registration number.
4. Portion of work it will perform. Show the portion of the work by:
  - 4.1. Bid item numbers for the subcontracted work
  - 4.2. Dollar value and percentage of the subcontracted work for each bid item listed
  - 4.3. Description of the subcontracted work if the percentage of the bid item listed is less than 100 percent

**SECTION 2-1.12 DISADVANTAGED BUSINESS ENTERPRISES**

**Add to Section 2-1.12A:**

This section is applicable to federally funded projects and only as directed in the special provisions.

**SECTION 2-1.15 DISABLED VETERAN BUSINESS ENTERPRISES**

**Add to Section 2-1.15A:**

This section is applicable only as directed in the special provisions.

**SECTION 2-1.18 SMALL BUSINESS AND NON–SMALL BUSINESS SUBCONTRACTOR PREFERENCES**

**Add to Section 2-1.18A:**

This section is applicable only as directed in the special provisions.

**SECTION 2-1.27 CALIFORNIA COMPANIES**

**Delete Section 2-1.27 California Companies.**

**SECTION 2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL**

**SECTION 2-1.33A GENERAL**

**Replace Section 2-1.33A General with the following:**

Furnish a bid using blank forms provided in the Bid Documents. Bid must include all forms securely sealed in a suitable envelope and must be signed by the Bidder. Use the forms provided in the Bid Documents except as otherwise specified for a bidder's bond.

Do not fax or email bids. Failure to submit the bid as specified may result in a nonresponsive bid.

If an agent other than the authorized corporate officer or a partnership member signs the bid, file a Power of Attorney with the City either before opening bids or with the bid. Otherwise, the bid may be nonresponsive.

**SECTION 2-1.33B ELECTRONIC BIDS**

**Delete Section 2-1.33B Electronic Bids.**

**SECTION 2-1.33D BID FORM SUBMITTAL SCHEDULES**

**SECTION 2-1.33D(1) GENERAL**

**Replace Section 2-1.33D(1) General with the following:**

The Bid Document includes forms specific to the Contract. The deadlines for the submittal of the forms vary. Determine the requirements of the Contract and submit the forms based on the applicable deadline.

Bid forms and information on the form that are due after the time of bid may be submitted at the time of bid.

**SECTION 2-1.34 BIDDER'S SECURITY**

**Replace Section 2-1.34 Bidder's Security with the following:**

Submit one of the following forms of Bidder's security equal to at least ten percent (10%) of the bid: (i) cash; (ii) cashier's check; (iii) certified check; or (iv) signed Bidder's Bond by an admitted surety insurer.

Submit cash, cashier's check, certified check, or Bidder's Bond to the City as part of your bid.

The Bidder's Bond must conform to the bond form shown in the Bid Documents for the project and must be properly filled out and executed. The surety's signature must be notarized and the surety's power of attorney must be attached. Original signatures are required.

**SECTION 2-1.37 BID SUBMITTAL**

**Add Section 2-1.37 Bid Submittal as follows:**

Submit your bid under sealed cover, marked outside of the envelope containing the bid in compliance with the instructions contained in the Notice Inviting Bids. No bid will be considered unless accompanied by Bidder's security equal to at least ten percent (10%) of the bid in the form of: (i) cash; (ii) cashier's check; (iii) certified check; or (iv) signed Bidder's Bond which must comply with Section 2-1.34.

If the bid is made by an individual, the individual's name and mailing address must be shown. If made by a firm or a partnership, the name and mailing address of each member of the firm or partnership must be shown. If made by a corporation, the bid must show the name of the state under the laws of which the corporation was chartered, and the names, titles and business addresses of the president, secretary and treasurer.

**SECTION 2-1.40 BID WITHDRAWAL**

**Replace Section 2-1.40 Bid Withdrawal with the following:**

Bids are not considered filed with the City until the date and time of bid opening.

A Bidder may withdraw or revise a bid after it has been submitted to the City if this is done before the bid opening date and time.

**SECTION 2-1.43 BID OPENING**

**Replace Section 2-1.43 Bid Opening with the following:**

The City publicly opens and reads bids at the time and place shown on the Notice Inviting Bids.

**SECTION 2-1.46 DEPARTMENT'S DECISION ON BID**

**Replace Section 2-1.46 Department's Decision On Bid with the following:**

The City's decision on the bid amount is final.

The City may reject:

1. All bids
2. A nonresponsive bid.



**SECTION 2-1.47 BID RELIEF**

**Replace Section 2-1.47 Bid Relief with the following:**

The City may grant bid relief under Pub Contract Code § 5100 et seq. Submit any request for bid relief to the Director within five (5) calendar days after the opening of the bids.

**SECTION 2-1.48 RESERVED**

**Add Section 2-1.48 BID PROTESTS as follows:**

1. Any protest of the proposed Project award must be submitted in writing to the City no later than 5:00 PM on the third business day following the date of the bid opening.
2. The protest must contain a complete statement of the basis for the protest.
3. The protest must state the facts and refer to the specific portion of the document or the specific statute that forms the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party.
4. The party filing the protest must concurrently transmit a copy of the protest to the proposed awardee.
5. The party filing the protest must have submitted a bid for the Project. A subcontractor of a party filing a bid for the Project may not submit a bid protest. A party may not rely on the bid protest submitted by another bidder but must timely pursue its own protest.
6. The procedure and time limits set forth in these Instructions to Bidders are mandatory and are the bidders' sole and exclusive remedy in the event of a bid protest. Any bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue a bid protest, including filing of a challenge of the award pursuant to the California Public Contract Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.
7. The City shall review all timely protests prior to award of the Project. The City shall not be required to hold an administrative hearing to consider any protests but may do so at its option. At the time of the City Council's consideration of the Project award, the City Council shall also consider the merits of any timely protests. The City Council may either reject the protest and award to the lowest responsible bidder or accept the protest and award the bid to the next lowest responsible bidder. Nothing in this section shall be construed as a waiver of the City Council's right to reject all bids.

### **3 CONTRACT AWARD AND EXECUTION**

The Bidder's attention is directed to the provisions in Division I, Section 3, Contract Award And Execution, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 3, Contract Award And Execution, of the Caltrans Standard Specifications, 2015, as follows:**

#### **SECTION 3-1.04 CONTRACT AWARD**

**Replace Section 3-1.04 Contract Award with the following:**

If the City awards the contract, the City will use best efforts to award the contract to the lowest responsive bid submitted by a responsible Bidder within 90 calendar days after opening of the bids.

#### **SECTION 3-1.04B ADDITIVE/DEDUCTIVE CONTRACT AWARD**

**Add Section 3-1.04B Additive/Deductive Contract Award as follows:**

When the bid proposal form includes additive or deductive alternates, the Engineer will determine the lowest bid as defined in the special provisions. If no method is defined in the special provisions, the lowest bid is determined on the base price without consideration for the prices of the additive or deductive alternates in compliance with Section 20103.8 of the Public Contract Code.

The City reserves the right to award or not award the Contract including or omitting the alternates. Determination as to whether or not the alternates are included in the Contract will be made by the City.

All requirements in the Contract apply to the work required to complete the alternates.

#### **SECTION 3-1.05 CONTRACT BONDS**

**Replace Section 3-1.05 Contract Bonds with the following:**

Furnish two good and sufficient bonds to the City of Emeryville, California. Each bond must be in the amount equal to one hundred percent of the Total Contract Price. One bond is for payment of claims for labor and materials, and the other bond for faithful performance.

Within ten (10) calendar days from the date the Contractor is notified of award of the Contract, the Contractor shall deliver to the City the bonds required above on the forms supplied by the City. Failure to do so may, in the sole discretion of City, result in the forfeiture of Contractor's bid security. The surety supplying the bond must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the City. Any bond signed by an agent must be accompanied by a certified copy of such agent's authority to act. If the surety on any bond provided by Contractor is declared bankrupt or becomes insolvent or it's right to do business is terminated in any state where any part of the work is located, Contractor shall, within seven (7) days thereafter, substitute another bond and surety in accordance with the requirements set forth herein. Any alteration or alterations made in the Plans and Specifications which are a part of this Contract or in any provision of this Contract shall not operate to release any surety from liability on any required bond and the consent to make such alterations is hereby given. Any surety on such bonds hereby waives the provisions of Section 2819 of the Civil Code. Bonds must remain in full force during the guaranty period. The required payment and performance bond forms are included in the Bid Documents.

#### **SECTION 3-1.07 INSURANCE POLICIES**

**Add to Section 3-1.07 Insurance Policies with the following:**

Procure and maintain, for the duration of the Contract, insurance against claims for injuries to persons, including death or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his Agents, Representatives, Employees, or Subcontractors. The cost of insurance is included in your bid.

All certificates and endorsements are to be received, reviewed and approved by the Engineer before the City will execute the Contract. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**SECTION 3-1.08 SMALL BUSINESS PARTICIPATION REPORT**

**Delete Section 3-1.08 Small Business Participation Report.**

**SECTION 3-1.18 CONTRACT EXECUTION**

**Replace Section 3-1.18 Contract Execution with the following:**

The successful Bidder must execute and deliver to the Engineer the signed Contract, performance and payment bonds, executed guarantee, insurance certificates and endorsements, including certified copies of any and all insurance policies, if requested by the Engineer, Federal W-9 tax Form, and proof of Emeryville Business License. The Engineer must receive these documents with ten (10) calendar days after the Bidder receives the Contract.

The Bidder's Bond may be forfeited for failure to execute the Contract and provide the Engineer with all documents within the time specified.

**SECTION 3-1.20 CITY BUSINESS LICENSE**

**Add 3-1.20 City Business License**

The Contractor shall obtain a City Business License and for each subcontractor not already so licensed. The cost shall be included in his bid.

## 4 SCOPE OF WORK

The Bidder's attention is directed to the provisions in Division I, Section 4, Scope of Work, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 4, Scope of Work, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 4-1.02 INTENT**

**Add to Section 4-1.02 Intent the following:**

All work and materials shall be in full accordance with the latest adopted standards and regulations of the State Fire Marshal; the California Building Code; Title 24 of the California Code of Regulations; the California Electrical Code; the California Plumbing Code; Americans With Disabilities Act; and all other applicable codes, laws, rules or regulations. Nothing in these Contract Documents is to be construed to permit work not conforming to these requirements. The Contractor agrees that immediately upon signing of the Contract, Contractor will diligently review the Contract Documents and determine if any work described or inferred within the Contract Documents is not in conformance with these requirements. Should the Contractor discover work within the Contract Documents not in conformance with these requirements, the Contractor agrees to immediately notify the Engineer in writing of said nonconformance, and to not proceed with nonconforming work. When the work detailed in the Contract Documents differs from governing codes, it is understood and agreed that the Contract sum is based upon the more costly or expensive standard.

The intent of the plans and Specifications is to prescribe the details for the construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the Contract, and that the work performed under the Contract results in a complete operating system in satisfactory working condition with respect to the functional purposes of the installation, and no extra compensation will be allowed for anything omitted but fairly implied. The prices paid for the various items in the proposal shall include full compensation for furnishing all labor, materials, tools, equipment, overhead, profit, incidentals, and doing all work necessary to complete the finished product as provided in the Contract Documents. Where the plans or Specifications describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the finest quality are to be used. The Contractor shall furnish all labor, materials, tools, equipment, and incidentals, and do all the work involved in executing the Contract to the highest possible standard of workmanship.

Should it appear that the work to be done, or any of the matters relative thereto, are not sufficiently detailed or explained in the Contract Documents, or in the event of any doubt or question arising respecting the true meaning of the Contract Documents, the Contractor shall apply to the Engineer in writing for such further explanations as may be necessary, and the Engineer shall render his or her decisions thereon. The Contractor shall thoroughly review all Requests for Information (RFI's) submitted by subcontractors prior to submission to the Engineer to determine whether such RFI's is already answered in the Contract Documents. The Contractor represents to City, that by submission of an RFI, the Contractor has thoroughly reviewed the RFI and thoroughly reviewed the Contract Documents, and determined that the RFI is not answered or reasonably inferable in the Contract Documents, and that the RFI pertains to an unforeseen condition or circumstance that is not described in the Contract Documents, that there is a conflict or discrepancy in the Contract Documents, or there is an omission in the Contract Documents.

You are responsible to obtain a copy of the Plans, Specifications and current applicable standards and keep them at the job site for reference.

You must maintain on the job site information on the manufacturer's recommendation for installation or application when that information exists.

**SECTION 4-1.05 CHANGES AND EXTRA WORK**

**SECTION 4-1.05A GENERAL**

**Add to Section 4-1.05A General the following:**

In instances where you and the City dispute that certain work is extra work or a change in the character of the work, you are responsible to obtain from the Engineer, for the disputed work, agreement on: (i) labor; (ii) materials; and (iii) equipment.

The agreement for disputed work must be on a form provided by City and signed by both parties. Contractor shall maintain and submit these records in compliance with Section 5-1.27. The Agreement for Disputed Work signed by the Engineer does not constitute agreement by the City to pay for disputed work.

**4-1.06 DIFFERING SITE CONDITIONS**

**Add 1.06 D Archaeological Discoveries**

Refer to Section 14-2.03 of Standard Specifications

**SECTION 4-1.07 VALUE ENGINEERING**

**Add to Section 4-1.07 Value Engineering as follows:**

This section is applicable only as directed in the special provisions.

**SECTION 4-1.13A WORK SITE MAINTENANCE**

**Add Section 4-1.13A Work Site Maintenance as follows:**

You agree, by acceptance of a Contract or issuance of permit, to properly maintain the work site in a safe, clean and neat condition at all times.

Prior to the end of each workday you must remove all equipment and construction materials from the public right-of-way and authorized encroachments to private property, except as may be authorized by such permits. The public right-off-way and encroachments to private property must be clean of any construction materials including but not limited to concrete, oils, asphalt, sand, aggregate, base, construction material packaging.

At the direction of the Engineer, use a self-loading motor street sweeper with spray nozzles to clean the right-of-way. Do not use street sweepers or blowers that use high velocity air to disperse or blow contaminants out of project area. Clean project area and surrounding perimeter including any other area impacted by this work.

Any traffic stripes or pavement markings that are removed or obliterated during work must be replaced with temporary tape, markers, or paint prior to opening the area to traffic. This maintenance and repair responsibility will run for the life of the encroachment and guarantee period. Replace with permanent striping and pavement markings in compliance with Section 84.

**SECTION 4-1.13B STOCKPILES**

**Add Section 4-1.13B Stockpiles as follows:**

Keep stockpile materials in the street to a minimum and remove by the end of each work day. Sweeping is required to remove stockpile residue either by hand, or at the direction of the Engineer, by mechanical street sweeper.

Provisions must be made for controlling dust, arising for whatever reason, from stockpile materials or work on the project. You are responsible for maintaining all stockpile areas in a neat and dust-free condition, with adequate storm water controls. Comply with Section 5-1.20B(4).

## **5 CONTROL OF WORK**

The Bidder's attention is directed to the provisions in Division I, Section 5, Control of Work, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 5, Control of Work, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 5-1.01 GENERAL**

**Replace the 9<sup>th</sup> paragraph in Section 5-1.01 General with the following:**

Whenever you change the normal agreed-to hours of work you must provide 24-hour notice to the Engineer. The Engineer may or may not approve such a change. If the change is not approved, any work you perform outside the normal hours of work and in the absence of the Engineer will be subject to rejection.

Normal hours of work fall between 7:00 A.M. and 5:00 P.M. Monday through Friday excluding City holidays. Obtain approval from the City for any work between the hours of 5 P.M. and 7 A.M., or on Saturday, Sunday or City holidays pursuant to Chapter 13 of Title 5 of the Emeryville Municipal Code.

### **SECTION 5-1.02 CONTRACT COMPONENTS**

**Replace Section 5-1.02 Contract Components with the following:**

A component in one contract part applies as if appearing in each. The parts are complementary and describe and provide for complete work. These standard specifications work in conjunction with:

1. project plans;
2. engineering standards;
3. standard plans;
4. manufacturer's recommendations.

Where materials and methods are specified, details in plans and standards are to be consulted to provide full information needed to complete installations.

If a discrepancy exists, the governing ranking of Contract parts in descending order is:

1. All Approved Contract Change Orders to the Agreement
2. Construction Agreement
3. Notice Inviting Bids
4. Bid or Proposal accepted by the City
5. project special provisions;
6. project plans;
7. Part B General Provisions
8. City engineering standards; Including Greenbook, 2015 Edition Parts 2 through 6
9. City standard specifications;
10. State standard specifications;
11. State standard plans;
12. Written numbers and notes on a drawing govern over graphics;
13. A detail drawing governs over a general drawing;
14. A detail specification governs over a general specification;
15. A Specification in a section governs over a specification referenced by that section.

Where manufacturer's recommendations for installation are more stringent than those prescribed in the standard specifications or the special provisions, the manufacturer's recommendations will take precedence. This condition may be waived at the discretion of the Engineer.

Working drawings must be submitted in compliance with the provisions in Section 5-1.23.

**SECTION 5-1.02B SEQUENCING**

**Add Section 5-1.02B Sequencing as follows:**

Work within any block must be finished and the right-of-way completely restored (including finished pavement) prior to commencing work at any other permitted location or along any other portion of a permitted route. The Engineer may grant exceptions for permitted activities with low impacts to traffic (e.g. directional bore).

**SECTION 5-1.09 PARTNERING**

**Delete Section 5-1.09 Partnering.**

**SECTION 5-1.12 ASSIGNMENT**

**Replace Section 5-1.12 Assignment with the following:**

The performance of all or any part of the Contract may not be assigned. Further, the right to receive any or all Contract payments may not be assigned.

**SECTION 5-1.13 SUBCONTRACTING**

**SECTION 5-1.13A GENERAL**

**Replace 5<sup>th</sup> paragraph in Section 5-1.13A General with the following:**

Perform work equaling at least 40 percent of the value of the original total bid with your employees, equipment, rental equipment with operator or rental equipment without operators.

**SECTION 5-1.13B DISADVANTAGED BUSINESS ENTERPRISE**

**Delete Section 5-1.13B Disadvantaged Business Enterprise.**

**SECTION 5-1.13C DISABLED VETERAN BUSINESS ENTERPRISES**

**Delete Section 5-1.13C Disabled Veteran Business Enterprises.**

**SECTION 5-1.13D NON-SMALL BUSINESSES**

**Delete Section 5-1.13D Non-Small Businesses.**

**SECTION-1.15 MEANS & METHODS**

**Add 5-1.15 Means and Methods**

The City will not have control over, be in charge of, nor be responsible for construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the work, since these are solely Contractor's responsibility.

The City or adjacent property owner may perform other work adjacent to or within the project area, concurrent with the Contractor's operations. The Contractor shall cooperate fully with the City in all operations which coincide with other work being performed and provide City with such scheduling and other information as may be required by the City to perform such other work. The Contractor shall conduct operations to minimize interference with the work of other forces or contractors performing such work. This work performed by a second contractor may include work which is incomplete or in dispute with the Contractor.



Any disputes or conflicts which may arise between the Contractor and any other forces or contractors retained by the City, causing delays or hindrance to each other, shall be referred to the Engineer for resolution.

The City shall have the right at any time during the progress of this work to take over and place in service any completed or partially completed portion of the work, notwithstanding the time for completion of the entire work or such portions which may not have expired; but such taking possession thereof shall not be deemed an acceptance of any of the work, nor work on those portions not completed in accordance with the Contract Documents.

**SECTION 5-1.16 REPRESENTATIVE**

**Add to Section 5-1.16 Representative with:**

If such project superintendent is not present, the City may deduct from the contract price an amount equivalent to the reasonable hourly rate for a superintendent for each hour or fraction thereof such person is not present on the project site.

**SECTION 5-1.17 CHARACTER OF WORKERS**

**Add to Section 5-1.17 Character of Workers the following:**

If in the opinion of the Engineer, any person associated with the Project including but not limited to an employee of the Contractor fails, to comply with Contract provisions after receiving either written or oral notification, at the discretion of the Engineer, that person must not again be employed on the work or project.

**SECTION 5-1.18 CHANGE DUE TO MATERIALLY DIFFERENT CONDITIONS**

**Add 5-1.18 Change Orders Due To Materially Different Conditions**

If any of the conditions set forth in Sections 5-1.16 "Hazardous Waste in Excavation" and 5-1.17 "Trenching Conditions" above, are encountered, the City will promptly investigate the conditions, and if it finds that (1) the conditions do materially differ, or do involve hazardous waste, and (2) cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work, the City will issue a change order under the procedures described in the Standard Specifications Section 4-1.03.

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

**SECTION 5-1.20B PERMITS, LICENSES, AGREEMENTS, AND CERTIFICATIONS**

**SECTION 5-1.20B(3) AFTER AWARD**

**Add to Section 5-1.20B(3) After Award as follows:**

Contractor is required to prepare and Submit a Waste Management Plan. On-line Plan Prep Tools are available at [www.emeryville.wastetracking.com](http://www.emeryville.wastetracking.com). Paper Plan Prep tool are available at <http://emeryville.org/DocumentCenter/View/10133>. As of August, 2018 online tools cost 1/3 of the paper tools cost.

**SECTION 5-1.20B(4) CONTRACTOR–PROPERTY OWNER AGREEMENT**

**Add to Section 5-1.20B(4) Contractor–Property Owner Agreement as follows:**

Obtain approval of City Engineer of a Construction Stormwater Pollution Prevention Plan in accordance with Article 3, Chapter 13, Title 6 of the City of Emeryville Municipal Code, and any permit that may be required in accordance with Chapter 5, Title 7 of the City of Emeryville Municipal Code, for the stockpiling of materials in the City. Dispose of all materials not used in work in a legal manner.

Prior to use, furnish the Engineer evidence that properties have required permits, licenses and clearances to be a temporary storage site for stockpiling.

**SECTION 5-1.20B(5) COMPLY WITH LOCAL, STATE AND FEDERAL REGULATIONS**

**Add Section 5-1.20B(5) Comply with Local, State and Federal Regulations as follows:**

You are responsible to comply with all local, state and federal rules, regulations and statutes as it relates to the work under the Contract in compliance with the Contract Documents.

Should you fail to meet the requirements of a permit or rule, regulation or statute as it pertains to work under the Contract, and the City has notice of an impending fine or mitigation measure to be levied or imposed against the City, the City may withhold payment or portions of payment in compliance with Section 9-1.16E in an amount sufficient to satisfy any fine or mitigation measure that may be levied or imposed on the City in addition to any other retention held.

**SECTION 5-1.20G CITY AUTHORIZATIONS AND PERMITS**

**Add Section 5-1.20G City Authorizations and Permits as follows:**

If you desire to discharge to the sanitary sewer, you must receive prior permission from the East Bay Municipal Utility District (EBMUD) Wastewater Collection Supervisor and the City. Flushing waterlines must comply with Section 77-3.

If permission to discharge requires an Industrial User Discharge Permit, you must submit an Industrial User Discharge Permit Application to EBMUD’s Wastewater Collection Supervisor and the City Environmental Programs Manager. You must comply with all conditions of the issued permit and pay all applicable fees. Maintain proof of authorization to discharge at the job site at all times and provide that information to Engineer upon request.

An Alameda County Fire Protection District (a.k.a. Fire Department) permit is required prior to crossing any liquid petroleum or high-pressure gas main. If a prior encroachment conflicts with the proposed work, you must arrange for any necessary removal or relocation with the prior permittee. Any such removal or relocation will be at no expense to the City.

Before using explosives in work, you must receive authorization from the Engineer and obtain a permit for use from the Alameda County Fire Protection District (a.k.a. Fire Department). You may also be required to increase the amount of insurance coverage if, in the opinion of the Engineer, your insurance does not include sufficient coverage for use of explosives.

**SECTION 5-1.23 SUBMITTALS**

**SECTION 5-1.23A GENERAL**

**Replace Section 5-1.23A General with the following:**

Submittals are required for (i) materials and equipment not specified by standards, or a trade name and number, (ii) for working drawings. Submittals are also required when specified in the contract documents, and Regulatory Requirements.

Where products are clearly identified by standards or trade names and no substitution is proposed, no submittal is required.

Submit adequate descriptive information, from which the Engineer can determine if the proposed (i) materials, (ii) equipment, or (iii) working drawings are in compliance to the design concept and in compliance with the contract documents. Submittal must consist of (i) drawings, (ii) specifications, (iii) calculations, (iv) descriptive data, (v) certificates, (vi) samples, (vii) MSDS sheets, (viii) test results, and (ix) information required in the specifications.

Submittal will be reviewed for general compliance with the design concept and general compliance with the information given in the contract documents. Submittals will not be reviewed for (i) quantities, (ii) dimensions, (iii) coordination with the work of other trades, or (iv) construction safety precautions, all of which are your sole responsibility. Review of a specific item does not indicate acceptance of an assembly of which the item is a component. The Engineer and contract designer are not required to review and will not be responsible for any deviations from the contract documents not clearly noted. Partial submittals and partial grouped submittals will not be reviewed.

#### **SECTION 5-1.23A(1) COORDINATION**

##### **Add Section 5-1.23A(1) Coordination as follows:**

Submittals must be furnished by you to the Engineer. You must coordinate, compile and submit all required submittals from suppliers and subcontractors to the Engineer. All communications between you and a contract designer must be written and submitted to the Engineer to furnish to contract designer.

#### **SECTION 5-1.23A(2) ORGANIZATION**

##### **Add Section 5-1.23A(2) Organization as follows:**

Submittals must be accompanied with a transmittal. Contractor and City shall coordinate regarding an appropriate and acceptable indexing system to accompany transmittals.

#### **SECTION 5-1.23D DEVIATION FROM CONTRACT**

##### **Add Section 5-1.23D Deviation from Contract as follows:**

If you propose to provide any material, equipment or working drawings which deviates from the contract requirements, indicate this on the transmittal form accompanying the submittal. In the transmittal provide a brief description of submittal and why the deviation is requested and compare the material, coatings, mechanical functions, energy efficiency and warranty differences between the material specified and the material submitted.

#### **SECTION 5-1.23E SUBMITTAL COMPLETENESS**

##### **Add Section 5-1.23E Submittal Completeness as follows:**

Submittals which do not contain all the information required to allow the Engineer to make a determination as to the submittal's acceptability and compliance with the project documents, will be returned without a complete review. A resubmittal must be made.

#### **SECTION 5-1.23F SUBMITTAL PACKAGE**

##### **Add Section 5-1.23F Submittal Package as follows:**

Group submittals are to be made to expedite the review process and to reduce the likelihood of conflicts among submittals. Submittals for various items must be made as a single submittal when the items taken together constitute a manufacturer's package or are so functionally related that expediency indicates checking or review of the group or package as a whole. Conversely, various items which are not functionally related must be submitted separately. Submittal packages which are not appropriately grouped will be returned without review. Provide one complete

portable document format (PDF) file of each submittal to the Engineer. If you are unable to provide electronic documents, provide two complete copies of each submittal to the Engineer. The Engineer will retain one copy of the submittal and make good faith efforts to return one package to you within three weeks. Submittals that require review by a City consultant designer will require one additional copy of the submittal as well as one additional week of review time. Submittals that require review by an outside agency or utility company will require one additional copy of the submittal and additional review time as determined by the outside agency or utility company.

### **SECTION 5-1.23G RETURNED SUBMITTALS**

#### **Add Section 5-1.23G Returned Submittals as follows:**

Returned submittals will indicate one of the following actions.

1. No Exceptions Taken – The review indicates that the material, equipment, or work method is in compliance with the design concept and complies with the contract documents. You may begin implementing the work method or incorporate the material or equipment covered by the submittal.
2. Make Corrections Noted – The review indicates limited corrections are required to the submittal in order for the material, equipment, or work method to be in compliance with the design concept and to comply with the contract documents. You may begin implementing the work method or incorporating the material and equipment covered by the submittal in compliance with the noted corrections. Where submittal information will be incorporated in Operation and Maintenance data, a corrected copy must be provided.
3. Revise and Resubmit – The review indicates that the submittal is insufficient or contains incorrect data. Except at your own risk, you may not undertake work covered by this submittal until it has been revised, resubmitted and returned marked either "No exceptions taken" or "Make corrections noted."
4. Rejected – The review indicates that the material, equipment, or work method is not in compliance with the design concept and not in compliance with the contract documents. Except at your own risk, you may not undertake the work covered by such submittals until a new submittal is made and returned marked either "No exceptions taken" or "Make corrections noted."
5. Information Only – The review indicates that the submittal contains contract required information.

### **SECTION 5-1.23H RESPONSIBILITY**

#### **Add Section 5-1.23H Responsibility as follows:**

Review of working drawings or submittals does not relieve Contractor of responsibility for errors and does not indicate an assumption of risks or liability by the City, or by any officer or employee of City, or by any consulting firm conducting the review on behalf of the City and Contractor shall have no claim under the Contract on account of the failure, or partial failure, of the method of work, material or equipment reviewed. A mark of "No exceptions taken" or "Make corrections noted" means that the City has no objection to you using the plan, method of work proposed or providing the materials or equipment proposed.

### **SECTION 5-1.23I CHARGES FOR THIRD PARTY SUBMITTAL REVIEW**

#### **Add Section 5-1.23I Charges for Third Party Submittal Review as follows:**

The Engineer will allow up to two reviews of each submittal. If Contractor is required to make a third or subsequent submittal for any item, then the costs of the additional reviews will be at Contractor's expense. The cost of the review will be deducted from payments due. The cost of the review by contract professional services will be on a time and materials basis at standard company billing rates. Billing for this expense will be in compliance with Section 9-1.23.

### **SECTION 5-1.26 CONSTRUCTION SURVEYS**

#### **Replace Section 5-1.26 Construction Surveys with the following:**

5-1.26A General

Contractor must provide the necessary horizontal and vertical survey control for the completion of the work. Survey work must be performed by a Licensed Land Surveyor or a Registered Civil Engineer.

Control must be provided for site grading, significant layout, or as directed by the Engineer. Control must be provided in the same system of units as shown. Contractor must provide surface grade control every 50 feet and at grade breaks and begin and end of curves. Contractor must mark the control points in the field and provide a printed sheet with the point information, site layout, and control point layout to the Engineer.

#### 5-1.26B Payment

Full compensation for work specified in Section 5-1.26A and applicable engineering standards is included in the payment for other bid items unless a bid item of work is shown on the bid item list.

### **SECTION 5-1.27E CHANGE ORDER BILLS**

**Replace Section 5-1.27E Change Order Bills with the following:**

Contractor must deliver all Change Order Bills and support documents and disputed work daily agreements in writing to the Engineer. A Change Order Bill will not be accepted by the Engineer unless prior approval for the work has been given. A change order is approved when Contractor and the Engineer have each approved it in writing.

### **SECTION 5-1.32 AREAS FOR USE**

**Add to Section 5-1.32A Areas for Use the following:**

Personal vehicles of contractor employees, construction equipment, and the contractor's vehicle must be parked in areas approved by the Engineer.

### **SECTION 5-1.36 PROPERTY AND FACILITIES PRESERVATION**

#### **SECTION 5-1.36A GENERAL**

**Add to Section 5-1.36A General the following:**

12. Infrastructure
13. street surfacing
14. traffic stripes
15. pavement markings and markers
16. survey monuments
17. bench marks
18. utilities
19. trees
20. traffic signal equipment including interconnecting conductors
21. other public fixtures
22. EV charging stations and related conduit.

Contractor shall comply with California Government Code § 4216 et seq. Contractor shall notify the Engineer at least 3 business days before Contractor contacts the regional notification center. Failure to contact the notification center prohibits excavation.

Restore facilities in kind in compliance with appropriate specifications, standards, and plans.

Monuments and bench marks must comply with Section 5-1.36.

Where trees or tree roots are present in the work area, tree protection must comply with Section 77-1.03A(2)(g) and Chapter 2 and Chapter 7 of Title 7 of the Emeryville Municipal Code.

The Engineer reserves the right to require you to video inspect any storm drain or sanitary sewer service line or mainline suspected of damage by your operation. The Engineer may require a video inspection of the damaged facility. Provide written notification to the property owner, with a copy to the Engineer, prior to any modification, repair or replacement of the damaged facility which, in the case of a damaged sanitary sewer service line or mainline, shall all be conducted in compliance with Chapter 8 of Title 7 of the Emeryville Municipal Code.

Damage to property and facilities must be reported immediately to the Engineer.

Prior to beginning work Contractor shall determine the location of any underground facilities. Contractor shall contact Underground Service Alert at 811 and request all utility lines to be marked.

**SECTION 5-1.36A(1) TRENCHLESS OPERATIONS**  
**Add Section 5-1.36A(1) Trenchless Operations as follows:**

When any trenchless method is used to install or repair a utility, all pressurized utility lines and sewer laterals that will be crossed must be pot-holed. Other State or Federal requirements may apply. When completing work by a directional bore, Contractor must field locate and verify the condition, type of material and depth of all service lines and mainlines to be crossed.

If the bore will provide at least 3 feet of clearance from sewer laterals, field locating of sewer laterals may be waived by the Engineer.

**SECTION 5-1.36B LANDSCAPE**  
**Add to Section 5-1.36B Landscape as follows:**

Contractor shall repair minor damage to turf by top dressing to create an even grade with amended topsoil and seeding with an approved seed mix. Damage to turf in excess of 100 square feet may be required to be replaced with sod in City's sole discretion.

**5-1.36C Railroad Property**  
**Add to Section 5-1.36C.**

If the Contract does not include an agreement with a railroad company, do not allow personnel or equipment on railroad property. Prevent material, equipment, and debris from falling onto railroad property.

**SECTION 5-1.36D NONHIGHWAY FACILITIES**  
**Replace Section 5-1.36D Nonhighway Facilities with the following:**

Before starting work that could damage or interfere with underground infrastructure, locate the infrastructure described in the Contract, including laterals and other appurtenances, and determine the presence of other underground infrastructure inferred from visible facilities, such as buildings, meters, and junction boxes.

Underground infrastructure described in the Contract may be in different locations from those described, and additional infrastructure may exist.

Upon discovering an underground main or trunk line not described in the Contract, immediately notify the Engineer and the infrastructure owner. If the Engineer orders the locating and protecting of the infrastructure, then the locating and protecting of the infrastructure is change order work. If ordered, Contractor shall repair infrastructure damage. If the damage is not due to Contractor's negligence, the repair is change order work.

Immediately notify the Engineer of a delay due to the presence of main-line underground infrastructure not described in the Contract or in a substantially different location.

Notify the Engineer if the infrastructure described in the Contract cannot be found. If after giving the notice, Contractor finds the infrastructure in a substantially different location from that described, efforts of Contractor to find the infrastructure is change order work.

The City may rearrange a nonhighway facility during the Contract. Rearrangement of a nonhighway facility includes installation, relocation, alteration, or removal of the facility.

The City may authorize facility owners and their agents to enter the highway to perform rearrangement work for their facilities or to make connections or repairs to their property. Coordinate activities to avoid delays. If necessary rearrangement of underground infrastructure is not described in the Contract, the Engineer may order Contractor to perform the work. The rearrangement is change order work.

Immediately notify the Engineer of a delay due to a rearrangement different from that described in the Contract.

If Contractor wants infrastructure rearrangement different from that described in the Contract, Contractor shall notify the Engineer, make an arrangement with the infrastructure owner, obtain authorization for the rearrangement from the Engineer and pay the infrastructure owner any additional cost.

The City does not adjust time or payment for a rearrangement different from that described in the Contract.

#### **SECTION 5-1.36E SURVEY MONUMENTS**

##### **Add to Section 5-1.36E Survey Monuments as follows:**

Contractor shall protect all survey monuments on and off the highway.

All survey and construction, maintenance or other work must be performed consistent with Section 8725 and 8771 of the California Business & Professions Code. Monuments and bench marks must be set by a Licensed Land Surveyor or a Registered Civil Engineer properly licensed to complete survey work. The City reserves the right to review the Land Surveyor or Engineer's license to determine its validity.

Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished. Anything that appears to be a monument or benchmark must be reported to the Engineer prior to construction or disturbance. A Licensed Land Surveyor must locate and reference known monuments or benchmarks that will be disturbed by construction activities. A corner record shall be filed with the County prior to construction for any monument or benchmark that will be disturbed by construction. The corner record must detail the location of the monument and any tie-outs. Should the existing survey monument be disturbed or destroyed during construction, it must be reset at the previous location. All tie-outs must be removed after the original monument is re-established. Should any existing benchmark be disturbed or destroyed during construction, a new one must be set at a nearby, but different, location than the existing, as determined by the Engineer prior to construction. For monuments, a corner record must be filed with the County and a copy delivered to the Engineer before and after construction. For benchmarks, documentation of the transferred benchmark, including a location map, field notes and surveyor certification, must be delivered to the Engineer prior the project acceptance. Damaged or disturbed property corners must be replaced by a Land Surveyor at the contractor's or owner's expense.

Upon discovery of a survey monument not identified and located immediately stop work near the monument and notify the Engineer. Do not resume work near the monument until authorized by the Engineer.

#### **SECTION 5-1.38 MAINTENANCE AND PROTECTION RELIEF**

##### **Add to Section 5-1.38 Maintenance and Protection Relief as follows:**

However, nothing in this Section 5-1.38 providing for relief from maintenance and responsibility will be construed as relieving Contractor of full responsibility for correcting any defective work or materials found at anytime.

**SECTION 5-1.39 DAMAGE REPAIR AND RESTORATION**

**SECTION 5-1.39A GENERAL**

**Add to Section 5-1.39A General as follows:**

Contractor must immediately repair or install approved alternate to any facility missing, damaged or non-operational as a result of its work, prior to continuing with the other Contract work. If the repairs are not made as required, Contractor agrees to the cost of those repairs made by others at the City's direction in compliance with Section 9-1.23.

**SECTION 5-1.39C LANDSCAPE DAMAGE**

**SECTION 5-1.39C(1) GENERAL**

**Add to the end of the 1st paragraph of Section 5-1.39C(1) General as follows:**

or permanent erosion control establishment.



## **6 CONTROL OF MATERIALS**

The Bidder's attention is directed to the provisions in Division I, Section 6, Control of Materials, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 6, Control of Materials, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 6-1.04 BUY AMERICA**

**Add to Section 6-1.04 Buy America as follows:**

This section is applicable only as directed in the special provisions.

### **SECTION 6-1.05 SPECIFIC BRAND OR TRADE NAME AND SUBSTITUTION**

**Replace Section 6-1.05 Specific Brand Or Trade Name And Substitution with the following:**

Whenever the specifications permit the substitution of a similar or equivalent material or article, no tests or action relating to the approval of the substitute material will be made until Contractor's request for substitution is made in writing accompanied by complete data as to the equality of the material or article proposed. The request must be made a minimum of ten working days prior to the bid opening date identified in the Notice to Bidders.

Substitutions requested after bid opening must be made in ample time to permit approval without delaying the work. Requests for substitutions must comply with Section 5-1.23.

Any substitutions that are approved must be furnished without additional cost to the City. If any changes are required for the proper installation and fit of alternative materials or equipment, or because of deviations from the contract plans and specifications, such changes must not be made without the consent of the Engineer and must be made without additional cost to the City.

### **SECTION 6-2 QUALITY ASSURANCE**

#### **SECTION 6-2.01 GENERAL**

#### **SECTION 6-2.01A GENERAL**

**Modify table in 7<sup>th</sup> paragraph regarding California Test for Relative compaction with the following:**

Testing method for Relative Compaction is:

1. ASTM D-1557
2. ASTM D-2922
3. ASTM D-3017

#### **SECTION 6-2.01B AUTHORIZED FACILITY AUDIT LISTS**

**Delete Section 6-2.01B Authorized Facility Audit Lists.**

#### **SECTION 6-2.01C AUTHORIZED MATERIAL LISTS**

**Delete Section 6-2.01C Authorized Material Lists.**

## **7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC**

The Bidder's attention is directed to the provisions in Division I, Section 7, Legal Relations And Responsibility To The Public, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 7, Legal Relations And Responsibility To The Public, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 7-1.02I(2) NONDISCRIMINATION**

**Replace Section 7-1.02I(2) Nondiscrimination with the following:**

Under 2 CA Code of Regs § 11105:

1. During the performance of this contract the recipient, contractor, and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
2. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article.
3. Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause.
4. Recipient, contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
5. The contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

Under 2 CA Code of Regs § 11122:

### **STANDARD CALIFORNIA NONDISCRIMINATION CONSTRUCTION CONTRACT SPECIFICATIONS (GOV. CODE SECTION 12990)**

These specifications are applicable to all state contractors and subcontractors having a construction contract or subcontract of \$5,000 or more.

1. As used in the specifications:
  - a. "Act" means the Fair Employment and Housing Act.
  - b. "Administrator" means Administrator, Office of Compliance Programs, California Department of Fair Employment and Housing, or any person to whom the Administrator delegates authority;
2. Whenever the contractor or any subcontractor subcontracts a portion of the work, it shall include in each subcontract of \$5,000 or more the nondiscrimination clause in this contract directly or through incorporation by reference. Any subcontract for work involving a construction trade shall also include the Standard California Construction Contract Specifications, either directly or through incorporation by

reference.

3. The contractor shall implement the specific nondiscrimination standards provided in paragraphs 6(a) through (e) of these specifications.
4. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer members of any group protected by the Act shall excuse the contractor's obligations under these specifications, Government Code section 12990, or the regulations promulgated pursuant thereto.
5. In order for the nonworking training hours of apprentices and trainees to be counted, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor or the California Department of Industrial Relations.
5. In order for the nonworking training hours of apprentices and trainees to be counted, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor or the California Department of Industrial Relations.
6. The contractor shall take specific actions to implement its nondiscrimination program. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor must be able to demonstrate fully its efforts under steps a. through e. below:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and at all facilities at which the contractor's employees are assigned to work. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligations to maintain such a working environment.
  - b. Provide written notification within seven days to the director of the DFEH when the referral process of the union or unions with which the contractor has a collective bargaining agreement has impeded the contractor's efforts to meet its obligations.
  - c. Disseminate the contractor's equal employment opportunity policy by providing notice of the policy to unions and training, recruitment and outreach programs and requesting their cooperation in assisting the contractor to meet its obligations; and by posting the company policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - d. Ensure all personnel making management and employment decisions regarding hiring, assignment, layoff, termination, conditions of work, training, rates of pay or other employment decisions, including all supervisory personnel, superintendents, general foremen, on-site foremen, etc., are aware of the contractor's equal employment opportunity policy and obligations, and discharge their responsibilities accordingly.
  - e. Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the equal employment opportunity policy and the contractor's obligations under these specifications are being carried out.
7. Contractors are encouraged to participate in voluntary associations that assist in fulfilling their equal employment opportunity obligations. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on equal employment opportunity in the industry, ensures that the concrete benefits of the program are reflected in the contractor's workforce participation, and can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the Contractor's.
8. The contractor is required to provide equal employment opportunity for all persons. Consequently, the contractor may be in violation of the Fair Employment and Housing Act (Government Code section 12990

- et seq.) if a particular group is employed in a substantially disparate manner.
9. The contractor shall not use the nondiscrimination standards to discriminate against any person because race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
  10. The contractor shall not enter into any subcontract with any person or firm decertified from state contracts pursuant to Government Code section 12990.
  11. The contractor shall carry out such sanctions and penalties for violation of these specifications and the nondiscrimination clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Government Code section 12990 and its implementing regulations by the awarding agency. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Government Code section 12990.
  12. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company equal employment opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by OCP and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, status, (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in any easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

**SECTION 7-1.02K LABOR CODE**

**SECTION 7-1.02K(1) GENERAL**

**SECTION 7-1.02K(2) WAGES**

**SECTION 7-1.02K(3) CERTIFIED PAYROLL RECORDS (LABOR CODE §1776)**

**Replace Section 7-1.02K(1) General, Section 7-1.02K(2) Wages, and Section 7-1.02K(3) Certified Payroll Records (Labor Code §1776) with the following:**

Work on the job site must comply with Labor Code §1720 et seq. and 8 CA Code of Regulations §16000 et seq. Work includes roadside production and processing of materials and hauling and delivery of ready-mix concrete.

**1. LABOR CODE REQUIREMENTS.** In the performance of this Contract, Contractor's attention is directed to the following requirements of the Labor Code:

A. Hours of Labor. Eight hours labor constitutes a legal day's work. Contractor shall forfeit, as penalty to City, \$25 for each worker employed in the performance of the Contract by Contractor or by any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight hours in any one day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code and in particular, Sections 1810 to 1815, inclusive. Work performed by employees of the Contractor in excess of eight hours per day and 40 hours during any one week shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one-and-one-half times the basic rate of pay, as provided in Section 1815.

B. Prevailing Wages. Contractor shall comply with California Labor Code Sections 1770 to 1780, inclusive. In accordance with Section 1775, the Contractor shall forfeit as a penalty to City an amount as determined by the Labor Commissioner not to exceed \$200 for each calendar day or portion thereof for each worker paid less than stipulated prevailing wage rates for such work or craft in which such worker is employed for any work done under the contract by him or by any subcontractor under it in violation of the revisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to Section 1775, the difference between such stipulated 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 stipulated prevailing wage rate shall be paid to each worker by Contractor. Pursuant to the provisions of Section 1773 of

the Labor Code, the City has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work applicable to the work to be done from the Director of the Department of Industrial Relations. Copies of the prevailing wage rates are on file at the City and are available for review upon request. Pursuant to §1773.2 of the Labor Code, the Contractor shall post general prevailing wage rates at a prominent place at the site of the work.

C. Payroll Records. Effective January 1, 2016, Contractor and each subcontractor shall submit electronic certified payroll records to the California Labor Commissioner in the manner and format set forth in California Labor Code Section 1771.4. The Contractor's attention is directed to the following provisions of Labor Code Section 1776. The Contractor shall be responsible for the compliance with these provisions by his subcontractors.

(a) Each contractor and subcontractor shall 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 him or her in connection with the public work.

Submitted certified payrolls for hauling and delivering ready-mixed concrete and other offsite batch mixed materials must be accompanied by a written time record. The time record must include:

1. Truck driver's full name and address
  2. Name and address of the factory or batching plant
  3. Time the concrete was loaded at the factory or batching plant
  4. Time the truck returned to the factory or batching plant
- Truck driver's signature certifying under penalty of perjury that the information contained in this written time record is true and correct

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

(i) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

(ii) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to the City, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(iii) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the City, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, subcontractor and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division.

(d) The Contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or the City, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor shall not be marked or obliterated.

(f) The Contractor shall inform the City of the location of records enumerated under subdivision (a), including the street address, city and County, and shall, within five working days, provide a notice of a change of location and address.

(g) In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty the State or the City, forfeit One Hundred Dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The penalties specified in subdivision (g) of Labor Code Section 1776 for noncompliance with the provisions of said Section 1776 may be deducted from any monies due or which may become due to the Contractor.

(h) The Contractor and each subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

D. Labor Non-discrimination. Attention is directed to Section 1735 of the Labor Code which provides that Contractor shall not discriminate against any employee or applicant for employment because of race or color, religion, physical or mental disability, national origin or ancestry, medical condition, marital status or sex of such persons, except as provided in Section 12940 of the Government Code. Contractor further agrees to include a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

E. Apprentices. The Contractor and all subcontractors shall comply with the requirements of California Labor Code Sections 1777.5, 1777.6 and 1777.7 regarding the employment and of apprentices.

F. Workers' Compensation. Pursuant to the requirements of Section 1860 of the California Labor Code, the Contractor will be required to secure the payment of workers' compensation to its employees in accordance with the provisions of Section 3700 of the Labor code.

Prior to commencement of work, the Contractor shall sign and file with the City, a certification in the following form:

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

Said certification is included in the Contract, and signature and return of the Contract as provided in Section G3.03, "Execution of Contract," of the General Conditions, shall constitute signing and filing of the said certificate.

**SECTION 7-1.02K(6) OCCUPATIONAL SAFETY AND HEALTH STANDARDS**  
**SECTION 7-1.02K(6)(B) EXCAVATION SAFETY**  
**Add to Section 7-1.02K(6)(b) Excavation Safety as follows:**

Comply with Labor Code 6705 and 6707. Comply with Public Contracts Code 7104.

**SECTION 7-1.02L PUBLIC CONTRACT CODE**

**SECTION 7-1.02L(1) GENERAL**

**Replace *Reserved* in Section 7-1.02L(1) General with the following:**

**1. CLAIMS PROCEDURES.** Compliance with all change order procedures is a prerequisite to filing a Public Contract Code Claim pursuant to this Section. Claims must be submitted no later than (a) 30 days after the dispute resolution process set forth in Section 5-1.43 is complete or (b) 30 days after the occurrence of the event giving rise to the claim.

In accordance with the procedures set forth in Public Contract Code Sections 9204 and 20104-20104.6, a Contractor may submit a claim by registered or certified mail with return receipt requested, for one or more of the following: (a) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the City; (b) payment by the City of money or damages arising from work done by, or on behalf of, the Contractor pursuant to this contract and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled; or (c) payment of an amount that is disputed by the City.

The Contractor shall furnish reasonable documentation to support the claim, including but not limited to: 1) a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provisions of the Contract upon which the claim is based, 2) a statement as to the amount of time and/or compensation sought pursuant to the claim; 3) whether the Contractor's claim arises from an ongoing occurrence, and if so a description of the specific Work activities affected by the claim, 4) a time impact analysis in the event that Contractor requests a time extension, 5) full and complete cost records supporting the amount of any claim for additional compensation, and 6) a notarized certification by the Contractor as follows: "Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act, Government Code Section 12650 et seq., the undersigned hereby certifies that the information contained herein is a true, accurate and complete statement of all features relating to the claim asserted." Failure by the Contractor to provide sufficient documentation will result in denial of the claim. The City reserves the right to request additional documentation, or clarification of the documentation provided.

Upon receipt of a claim, the City will conduct a reasonable review and provide a written statement to the Contractor identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim. The City and Contractor may, by mutual agreement, extend the 45 day time period. For any undisputed portion of a claim, the City must make payment within 60 days of its issuance of the written statement.

If the Contractor disputes the City's written statement, or if the City fails to respond, the Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute. The City will then schedule the meet and confer conference within 30 days of the demand. Within 10 business days following the meet and confer conference, the City will provide a written statement identifying the portion of the claim that remain in dispute. Any payment due on an undisputed portion of the claim will be made within 60 days of the meet and confer conference.

After the meet and confer conference, any disputed portion of the claim shall be submitted to non-binding mediation. Alternatively, upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable. If mediation is unsuccessful, the parts of the claim that remain in dispute shall be subject to applicable procedures set forth below.

Failure of a public entity to respond to a claim within the time periods described above shall result in the claim being deemed rejected in its entirety. Additionally, amounts not paid in a timely manner shall bear interest at 7 percent per year.

In the event that the mediation is unsuccessful, Contractor must file a government claim pursuant to Government Code Sections 910 et seq. in order to initiate a civil action.

In any civil action filed to resolve claims, the court shall submit the matter to nonbinding mediation within 60 days following the filing or responsive pleading, provided that the parties have not already participated in mediation of the claim as outlined above. If the matter remains in dispute after nonbinding mediation, the court shall submit the matter to judicial arbitration pursuant to Code of Civil Procedure Section 1141.10 et seq. If the matter remains in dispute after judicial arbitration, the City or the Contractor may request a trial de novo.

**2. UTILITY RELOCATION.** Pursuant to California Government Code Section 4215, if during the course of the work the Contractor encounters utility installations which are not shown or indicated in the contract plans or in the specifications or which are found in a location substantially different from that shown, and such utilities are not reasonably apparent from visual examination of the work site, then it shall promptly notify the City in writing. Where necessary for the work of the Contract, the City will amend the contract to adjust the scope of work and the compensation to allow the Contractor to make such adjustment, rearrangement, repair, removal, alteration, or special handling of such utility, including repair of the damaged utility. If the Contractor fails to give the notice specified above and thereafter acts without instructions from the City, then it shall be liable for any or all damage to such utilities or other work of the Contract which arises from its operations subsequent to the discovery, and it shall repair and make good such damage at its own cost.

**3. PUBLIC WORKS REGISTRATION.** The Contractor must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5. This Contract is subject to monitoring and enforcement by the DIR pursuant to Labor Code Section 1771.4. The Contractor shall furnish the records specified in Labor Code Section 1776 directly to the Labor Commissioner, monthly in a format prescribed by the Labor Commissioner.

**4. USE OF SUBCONTRACTORS.** Contractor shall not subcontract any work to be performed by it under this Contract without the prior written approval of the City. Contractor shall be solely responsible for reimbursing any subcontractors and City shall have no obligation to them. Attention is directed to the requirements of Sections 4100 to 4113, inclusive, of the California Public Contract Code which are applicable to this Contract. Each Contractor shall list the name and business address of each subcontractor to whom the Contractor proposes to subcontract a portion of the work in an amount in excess of one-half of one percent (0.5%) of the Total Contract Price, along with a description of the portion of the work which shall be done by each subcontractor, by executing the "List of Subcontractors" form attached to this Contract

**5. CONTRACTOR'S LICENSE REQUIREMENTS.** Contractor and any approved subcontractors shall hold such current and valid Contractor's Licenses as required by California Law.

**6. NON-COLLUSION DECLARATION.** Pursuant to Public Contract Code Section 7106, Contractor shall execute a Non-Collusion Declaration, in a form provided by City, which is attached and incorporated herein.

**7. EXCAVATION.** If applicable, in accordance with state law (Public Contract Code Section 7104), with respect to any work involving digging trenches or excavations that extend deeper than four feet, the Contractor shall notify the City promptly in writing of any of the following conditions: (a) material that the Contractor believes may be hazardous waste, as defined in California Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law; (b) subsurface or latent physical conditions at the site differing from those indicated; (c) unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. Contractor shall notify the City of such conditions prior to disturbing them and shall await direction from the City as to how to proceed.

**8. TRENCH SAFETY.** For all contracts over \$25,000, excavation for any trench 5 feet or more in depth shall not begin until the Contractor has received approval from the City, of the Contractor's detailed plan for



worker protection from the hazards of caving ground during the excavation of such trench. Such plan shall be submitted at least 5 days before the Contractor intends to begin excavation for the trench and shall show the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during such excavation. No such plan shall allow the use of shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the Division of Industrial Safety; and if such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil or Structural Engineer in the State of California. Attention is directed to the provisions of Section 6705 of the Labor Code concerning trench excavation safety plans.

**9. SOUND CONTROL REQUIREMENTS.** The Contractor shall comply with all State and local sound control and voice level rules, regulations and ordinances which apply to any work performed pursuant to the contract.

Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

General construction noise shall be limited to weekdays from 7:00 am to 6:00 pm. Pile Driving and similarly loud activities shall be limited to weekdays from 8:00 am to 5:00 pm.

Pre-construction noise including, but not limited to loading and unloading, cleaning of mechanical toilets, maintenance of vehicles, deliveries, truck idling, backup beeps, yelling and radios, is also limited to the general construction noise hours.

The Director may allow construction noise to occur beyond the general construction noise hours provided a noise waiver is granted pursuant to the Emeryville Municipal Code.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.

**10. PRESERVATION OF PROPERTY.** Attention is directed to Section 7 1.12, "Indemnification and Insurance," and to Section 8 1.10, "Utility and Non-Highway Facilities." Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs and other plants that are not to be removed.

Roadside trees, shrubs and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities and any other improvements or facilities within or adjacent to the highway shall be protected from injury or damage, and if ordered by the Engineer, the Contractor shall provide and install suitable safeguards, accepted by the Engineer, to protect the objects from injury or damage. If the objects are injured or damaged by reason of the Contractor's operations, the objects shall be replaced or restored at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by the Specifications accompanying the Contract, if any of the objects are a part of the work being performed under the Contract. The Engineer may make or cause to be made those temporary repairs that are necessary to restore to service any damaged highway facility. The cost of the repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due to the Contractor under the Contract.

**11. PAYMENT BOND.** For all contracts over \$25,000, the successful Bidder shall provide a payment bond in the amount equal to one hundred percent (100%) of the Total Contract Price and issued by a California admitted surety. The payment bond shall provide the City with security for Contractor's full payment to all subcontractors for costs of materials, equipment, supplies, and labor furnished in the course of the performance

of the Contract. Full compensation for furnishing the payment bond is included in the Total Contract Price.

**12. RETENTION OF PROGRESS PAYMENTS.** The City may retain five percent (5%) of the estimated value of the work done and five percent (5%) of the value of materials estimated to have been furnished and delivered and unused or furnished and stored as part security for the fulfillment of the Contract by the Contractor. Any time after fifty percent (50%) of the work has been completed, if the City finds that satisfactory progress is being made, the City may make any of the remaining progress payments in full for actual work completed in accordance with Public Contract Code Section 9203.

**13. SECURITIES IN LIEU OF RETENTION.** Pursuant to Public Contract Code Section 22300, the Contractor may elect, in lieu of having progress payments retained by the City, to deposit in escrow with the City, or with a bank acceptable to the City, securities eligible for investment under Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City. If the Contractor elects to submit securities in lieu of having progress payments retained by the City, the Contractor shall, at the request of any subcontractor performing more than 5% of the Contractor's total bid, make the same option available to the subcontractor.

**14. PROMPT PAYMENT TO CONTRACTOR.** The City will make progress payments within thirty (30) days after receipt of an undisputed and properly submitted progress payment invoice pursuant to Section 20104.50 of the Public Contract Code. No such payment will be made when, in the judgment of the Project Manager, (a) the work is not proceeding in accordance with the provisions of the Contract; (b) the Contractor is not complying with the requirements of the Contract; or (c) when the total value of the work done as shown on the invoice does not exceed Three Hundred Dollars (\$300.00). No such invoice or payment will be construed to be an acceptance of any work or materials. Before any progress payment or the final payment is made, the Contractor may be required to submit satisfactory evidence that he is not delinquent in payments to its employees, subcontractors, suppliers or other creditors for labor and materials incorporated into the work. Pursuant to Public Contract Code Section 20104.50, if the City fails to make a progress payment in a timely manner, it shall pay interest to the Contractor at the legal rate set forth in Section 685.010(a) of the California Code of Civil Procedure.

**15. PROHIBITION AGAINST CONTRACTING WITH DEBARRED SUBCONTRACTORS.** Contractor is prohibited 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.

**16. THIRD-PARTY CLAIMS.** Pursuant to Public Contracts Code Section 9201, City shall have full authority to compromise or otherwise settle any claim relating to the Contract at any time. City shall provide for timely notification to Design-Builder of the receipt of any third-party claim, relating to the contract. Notice shall be in writing and will be provided within thirty (30) days.

**17. IRAN CONTRACTING ACT.** The undersigned Bidder certifies that it is not, at the time of bidding, on the California Department of General Services (DGS) list of persons determined to be engaged in investment activities in Iran or otherwise in violation of the Iran Contracting Act of 2010 (Public Contract Code Section 2200-2208).

**18. ANTITRUST CLAIMS.** The Contractor's attention is directed to the following provision of Public Contract Code Section 7103.5(b) which shall be applicable to the Contractor and its subcontractors:

"In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all right, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or

materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties."

**19. RECORDS.** Pursuant to Government Code Section 8546.7, Contractor shall retain all project-related records for a period of five (5) years after final payment on this Contract, which shall be subject to audit or inspection by the City, ACTC or the State Auditor during this period.

Separate and apart from the obligations under Section 8546.7, the City shall have the right to audit project records at City discretion under the following circumstances: (a) submission of a Public Records Act request regarding the project; (b) inability to resolve a disputed contract change order; or (c) submission of a construction claim.

**20. TRADE NAMES AND ALTERNATIVES.** For convenience in designation in the Contract Documents, certain articles or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and its catalog information. Except in those instances where the product is designated to match others in use in a particular improvement, either completed or in the course of completion, the use of an alternative article or material which is of equal quality and of the required characteristics for the purpose intended may be permitted, subject to the following requirements:

- a. The Contractor shall submit its Bid for an alternative in writing. Such request shall be made in ample time to permit review and approval without delaying the work.
- b. No such Bid will be considered unless accompanied by complete information and descriptive data necessary to determine the equality of the offered materials, articles, or equipment. Samples shall be provided when requested by the Project Manager. The Contractor shall satisfy the Project Manager as to the comparative quality, suitability or performance of the offered materials, articles or equipment. In the event that the Project Manager rejects the use of such alternative materials, articles or equipment, ("material") then one of the particular products designated by brand name will be furnished.
- c. The burden of proof as to the quality and suitability of alternatives shall be upon the Contractor and he shall furnish all information necessary as required by the Project Manager. The Project Manager shall be the sole judge as to the quality and suitability of alternative articles, equipment or materials and its decisions shall be final. Where use of an alternative material, article or equipment involves redesign of, or changes to, other parts of the work, the cost and the time required to effect such redesign or changes will be considered in evaluating the suitability of the alter-native material, article or equipment. Cost of redesign by the Project Manager will be borne by the Contractor.
- d. Whenever classification, rating or other certification by a body such as UL or NEMA is a part of the specification for any material, proposal for use of alternative materials shall be accompanied by reports from the listed or equivalent recognized and industry accepted independent testing laboratory indicating compliance with specification requirements. The cost of all testing required to prove equality of the material proposed shall be borne by the Contractor. Approval of an alternative material shall be only for the characteristics or use named in such approval and shall not be used to change or modify any Contract requirement.

**21. PERMITS AND LICENSES.** The Contractor shall procure all permits and licenses (including OSHA permits pursuant to Labor Code Section 6500), pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work.

The Environmental Quality Act (Public Resources Code, Section 21000 to 21176) may be applicable to permits, licenses and other authorizations which the Contractor must obtain from State or local agencies in connection with performing the work of the Contract. The Contractor shall comply with the provisions of that Act in obtaining such permits, licenses and other authorizations and they shall be obtained in sufficient time to prevent delays to the work.

The Contractor shall comply with permits obtained by the City, if any, for the work.

**SECTION 7-1.03 PUBLIC CONVENIENCE**

**Add to end of Section 7-1.03 Public Convenience as follows:**

Public traffic includes all:

1. motorized vehicles
2. bicycles
3. pedestrian traffic
4. personal mobility devices.

Areas modified by you for use by pedestrians must provide adequate accessibility to meet Americans with Disabilities Act (ADA) requirements. Where walkways are damaged, alternate walkways must be placed around the work site or other materials may be used to allow use of the area. Where plywood is used it must be a minimum of  $\frac{3}{4}$  inch in thickness and beveled at the ends to prevent tripping, fastened down to prevent shifting and supported underneath as needed to prevent bowing. The Engineer may require cold mix to be placed to transition walkway to plywood.

Sidewalks must not be blocked without providing alternative path(s) of travel. Where excavations in pedestrian walkways are minor and do not restrict pedestrian walking area or create a hazard to the pedestrian, structurally sound walkways with safety railings must be provided over or around the excavated area. All walkway areas must comply with the Americans with Disabilities Act.

Where sidewalk and bike path facilities exist, a minimum width of four feet must be maintained at all times a must provide for a safe passage through the work area. At no time will pedestrians be diverted into a portion of the street used concurrently for motorized traffic. At locations where adjacent alternate walkways are not practical, the Engineer may approve sidewalk closures. Appropriate signs and barricades must be installed at the limits of construction and in advance of the closure at the nearest crosswalk or intersection to divert pedestrians across the street.

Provisions must be made to accommodate existing transit routes and stops. You must notify the Engineer at least 72 hours in advance of any work that will require rerouting or delay of a transit line or school bus. You must post any transit stop affected by the rerouting at least 48 hours in advance at the affected transit stop identifying the affected routes, days, and times.

Furnish the Engineer and utility companies with the names, addresses and telephone numbers of two individuals, before starting work that can be reached in case of emergency, 24 hours a day, throughout the duration of the job. These emergency contacts must be able to provide on-site response within one hour.

Do not close streets to traffic without written permission from the Engineer. However, in the absence of the Engineer, if the necessity for closing a street is absolute to prevent immediate danger to the public, you must immediately notify the:

1. Engineer
2. Police Department
3. Fire Department.

Provide access to and from all property adjacent to the work area where normal access existed prior to your work. All:

1. traffic lanes
2. driveways
3. sidewalks

4. street crossings
5. primary business entrances

must be usable at the end of the workday.

**Add between the 9th and 10th paragraphs of Section 7-1.03 Public Convenience the following:**

If a height differential of more than 0.04 foot is created by construction activities at a joint transverse to the direction of traffic on the traveled way or a shoulder subject to public traffic, construct a temporary taper at the joint with a slope complying with the requirements shown in the following table:

**Temporary Tapers**

| Height differential | Slope (horizontal:vertical)  |                                |
|---------------------|------------------------------|--------------------------------|
|                     | Taper use of 14 days or less | Taper use of more than 14 days |
| Greater than 0.08   | 100:1 or flatter             | 200:1 or flatter               |
| 0.04–0.08           | 70:1 or flatter              | 70:1 or flatter                |

For a taper on existing asphalt concrete or concrete pavement, construct the taper with minor HMA under Section 39-2.07.

Grind existing surfaces to accommodate a minimum taper thickness of 0.10 foot under either of the following conditions:

1. HMA material such as rubberized HMA, polymer-modified bonded wearing course, or open-graded friction course is unsuitable for raking to a maximum 0.02 foot thickness at the edge
2. Taper will be in place for more than 14 days.

For a taper on a bridge deck or approach slab, construct the taper with polyester concrete under Section 60-3.04B.

The completed surface of the taper must be uniform and must not vary more than 0.02 foot from the lower edge of a 12-foot straightedge when placed on its surface parallel and perpendicular to traffic.

If authorized, you may use alternative materials or methods to construct the required taper.

**SECTION 7-1.03A PUBLIC NOTIFICATION**

**Add Section 7-1.03A Public Notification as follows:**

In consultation with the Engineer, Contractor shall prepare and deliver notices to City regarding various stages of the work, including but not limited to initial start of the work, quarterly updates of work progress, and notification of work activities creating excessive noise, vibration and other disturbing qualities, for notification to properties adjacent to the work area. The notice must include:

1. a brief description of the work
2. date the work will start
3. date the work will end
4. potential impacts on the adjacent property
5. company representative's name
6. company representative's phone number where they can be reached or a message can be left.

Company representative must respond to all phone calls received within 24 hours of receipt with the requested information. Contractor shall provide notices to Engineer at least 72 hours in advance of the work. The Engineer must review and approve notice wording. Upon approval of notices by Engineer, **Contractor** shall distribute said notices to properties adjacent to the work area.

Attention is directed to Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part:

"Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two working days, but no more than 14 calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated . . . The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation."

Contractor shall contact the regional notification center, "Underground Service Alert," and schedule the work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities.

**7-1.03A(1) Street Maintenance**  
**Add Section 7-1.03A(1) as follows:**

Street maintenance activities, including:

1. overlays
2. reconstruction
3. slurry seal
4. micro-surfacing
5. other surfacing or seal coats

require you notify all residents and businesses within 300 feet or one block (whichever is a greater distance) of the work areas between three and five days in advance of the work. This notification must be in the form of a door hanger which is to be hand-delivered or placed on the front door of each business or residence. A sample door hanger is included in the appendix of the engineering standards.

**SECTION 7-1.03A(1) STREET CLOSURE**  
**Add Section 7-1.03A(1) Street Closure as follows:**

Where street closures are allowed either under the conditions of the special provisions or by separate authority of the Engineer, comply with the following conditions.

By noon Monday, submit a written schedule of planned closures for the following week period, defined as Friday noon through the following Friday noon.

The street closure schedule must show the:

1. locations
2. dates
3. times

of the proposed street closures. Street closure schedules submitted to the Engineer with any:

1. incomplete
2. unintelligible
3. inaccurate information

will be returned for correction and resubmittal. The Engineer will review and approve or return for corrections the street closure schedule. You may be required to coordinate with other parties as a condition of approval of the street closure schedule.

Provide notification of the street closure to:

1. police dispatch

2. bus services
3. garbage company
4. affected properties as described above.

Immediately notify the Engineer if a scheduled street closure will not take place. Amendments to the street closure schedule, including adding additional closures, must be submitted to the Engineer for review and approval, and must be done in writing at least three working days in advance of a planned street closure. Approval of amendments to the street closure schedule will be at the discretion of the Engineer. Approved closures that are cancelled due to unsuitable weather may be rescheduled at the discretion of the Engineer for the following working day.

Public traffic may only be restricted during those times when work is actually underway.

**SECTION 7-1.03A(2) NO PARKING**  
**Add Section 7-1.03A(2) No Parking as follows:**

Place "No Parking" signs at least 24 hours before beginning of work. In areas where vehicles may be in the way of construction, place and request the Police Department to verify "No Parking" signs at least 30 hours prior to the beginning of work to allow for the legal time required for notification prior to removing a vehicle.

Do not place "No Parking" signs more than five days in advance of the anticipated work without prior approval from the Engineer.

If no work is performed for five consecutive days, remove the "No Parking" signs and repost as stated above prior to the start of work.

"No Parking" signs must specify the following:

No Parking  
Construction Zone  
Tow Away  
Per Municipal Code EMC 4-9.17(f)  
Date: X22105 to XX22105  
Time: X22105 to XX22105  
Contractor:  
Contractor Office Number:

**SECTION 7-1.03B TRAFFIC CONTROL PLAN**

**Add Section 7-1.03B Traffic Control Plan as follows:**

Submit to the Engineer a traffic control plan for review and approval by the Engineer prior to any construction activities starting. Submit separate traffic control plans for each phase of the work requiring a change in traffic control. Allow a minimum of five working days for review of the submitted traffic control plan and five working days for review of any resubmitted plans. Do not begin work until the traffic control plan is approved by the Engineer.

Limited work hours may be imposed at any time. If the work impacts traffic flow on any:

1. major route, or
2. in the vicinity of schools, or
3. in the Pedestrian Priority Zone per figure 3-1 of the City's General Plan,

expect that work hour restrictions will be imposed by the Engineer.

Do not restrict the public right-of-way roadway without an approved traffic control plan. The Engineer must review the implemented traffic control for compliance with the approved traffic control plan, prior to the start of any work.

Provide adequate width to allow a bike lane adjacent to the travel lane or provide clear posting that the bicycle lane is closed.

Do not place traffic control devices or construction equipment in bike lanes or in sidewalk such that they are blocked, as determined by the Engineer, when these facilities are open for use.

**SECTION 7-1.04 PUBLIC SAFETY**

**Replace 15<sup>th</sup> paragraph of Section 7-1.04 Public Safety with:**

Notify the Engineer not less than five days and not more than 40 days before the anticipated start of an activity that will change the vertical or horizontal clearance available to traffic, including shoulders.

**SECTION 7-1.06 INSURANCE**

**SECTION 7-1.06B CASUALTY INSURANCE**

**SECTION 7-1.06G DEDUCTIBLES**

**SECTION 7-1.06I SELF INSURANCE PROGRAM**

**Delete Sections 7-1.06B Casualty Insurance, 7-1.06G Deductibles and 7-1.06I Self Insurance Program.**

**SECTION 7-1.11 FEDERAL LAWS FOR FEDERAL-AID CONTRACTS**

**SECTION 7-1.11A General**

**Add between the 1st and 2nd paragraphs of Section 7-1.11A General as follows:**

Comply with 46 CFR 381.7(a)-(b).

**7-1.12 Indemnification and Insurance**

The Contractor's obligations regarding indemnification of the City and the requirements for insurance shall conform to the provisions set forth in the Contract.

**7-1.13 Acceptance of Contract**

When the Engineer has made the final inspection as provided in Section 5 1.46, "Final Inspection and Contract Acceptance," and determines that the Contract work has been completed in all respects in accordance with the



Contract Documents, the Engineer will recommend that the City Council formally accept the Work as complete. Upon acceptance of the Contract as complete by the City Council, the said Council shall cause a Notice of Completion to be filed and recorded in the records of the Alameda County Recorder's Office.

#### **7-1.14 Sanitary Provisions**

Contractor shall conform to the rules and regulations pertaining to sanitary provisions established by the City. Toilets for use of employees on the work shall be furnished where needed and shall be maintained by Contractor. Their use shall be strictly enforced.

#### **7-1.15 Third Party Claims**

A. Pursuant to Public Contract Code Section 9201, City shall have full authority to compromise or otherwise settle any claim relating to the Contractor at anytime.

B. City shall provide for timely notification to the Contractor of the receipt of any third-party claim relating to the contract. Notice shall be in writing and will be provided within (30) days.

C. City shall be entitled to recover its reasonable costs incurred in providing the notification required by subdivision (b).

## 8 PROSECUTION AND PROGRESS

The Bidder's attention is directed to the provisions in Division I, Section 8, Prosecution And Progress, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 8, Prosecution And Progress, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 8-1.02 SCHEDULE**

#### **SECTION 8-1.02A GENERAL**

**Replace Section 8-1.02A General with the following:**

Submit the type of schedule specified in the special provisions. If no type is specified, submit a Level 1.

Submittal of a Schedule is not acceptance. The Engineer will accept the schedule upon review and determination of its compliance with Contract terms and City needs. The schedule will not relieve you of the responsibility for accomplishing the all the work in compliance with the contract.

You agree by submission of a bid, that the work can be completed within contract duration and working hour restrictions.

The Engineer will not accept a schedule which shows a project completion date in excess of the contract time duration. No progress payments will be paid until the Engineer has approved the project schedule.

Float time shown on the approved project schedule is not for exclusive use or benefit of either you or the Engineer. Float time is available for use by either you or the Engineer whoever needs it first in order to:

1. minimize the impact of project problems
2. delays
3. changes in the work.

You agree that float time may be used by the Engineer to resolve project problems. You agree that there will be no basis for any modification of the

1. project milestone dates
2. an extension of the contract time
3. a claim for additional compensation

as a result of any:

1. project problem
2. change orders
3. delay

that only results in the loss of available float on the project schedule.

On a monthly basis prior to application for payment, you must arrange a meeting with the Engineer to review your updated project schedule. Updates must include accurate progress data and be based upon your best judgment. Updates must be made to the project schedule in consultation with all subcontractors and suppliers.

### **SECTION 8-1.03 PRECONSTRUCTION CONFERENCE**

**Replace Section 8-1.03 Preconstruction Conference with the following:**

The City will execute the Contract with the successful Bidder upon receipt of:

1. bonds

2. insurance
3. signed Contract.

The Engineer will set a date for the pre-construction conference. The pre-construction conference will take place within 15 working days of the execution of the Contract by the City. Attendance by your representative is required.

**SECTION 8-1.04 START OF JOB SITE ACTIVITIES**

**SECTION 8-1.04B STANDARD START**

**Replace Section 8-1.04B Standard Start with the following:**

The Contract time, as stated in the special provisions, will begin on the date specified in the notice to proceed, generally the second Monday following the pre-construction conference. Work must commence within ten working days from the start of contract time. Failure to start work within the allotted time period, without written approval of the Engineer, is considered abandonment of the work and the Engineer may terminate your control over the work in compliance with Section 8-1.13.

Work must be diligently prosecuted to completion before the expiration of the Contract time provided in the special provisions, beginning on, and including, the start date given in the notice to proceed.

Do not start job site activities until the City authorizes or accepts your submittal for:

1. CPM baseline schedule
2. WPCP or SWPPP, whichever applies
3. Notification of DRA nominee and disclosure statement
4. Contingency plan for opening closures to traffic
5. Other submittals as called out in these Specifications.

You may enter the job site only to measure controlling field dimensions, take photos or videos, and locate utilities.

Do not start other job site activities until all the submittals from the above list are authorized or accepted and the following information is received by the Engineer:

1. Notice of Materials To Be Used form.
2. Written statement from the vendor that the order for structural steel has been received and accepted by the vendor. The statement must show the dates that the materials will be shipped.

You may start job site activities before the 20th day after Contract approval if you:

1. Obtain specified authorization or acceptance for each submittal before the Specified Date in the Notice to Proceed
2. Receive authorization to start.

Submit a notice 72 hours before starting job site activities. If the project has more than 1 location of work, submit a separate notice for each location.

**SECTION 8-1.05 TIME**

**Replace Section 8-1.05 Time with the following:**

You must complete all of the work called for under the Contract within the time set forth in the special provisions.

You must complete any designated portion of the project within the time as shown or specified.

Determination that a day is a non-working day by reason of inclement weather or conditions resulting therefrom will be made by the Engineer.

The Engineer will provide the status of working days on the monthly progress payment, including:

1. total days
2. days used
3. days remaining.

You are responsible to verify the days are correctly shown on the pay estimate. If you believe an error has been made, notify the Engineer in writing within 15 days of receipt of the pay estimate, or the status of days is deemed accepted as correct.

Complete all work including punch list items before the expiration of the Contract time.

Monthly status of working days will only be provided when working days are being charged and monthly payment is due to you.

### **SECTION 8-1.06 SUSPENSIONS**

**Replace Section 8-1.06 Suspensions with the following:**

The Engineer may suspend work wholly or in part due to conditions unsuitable for work progress. Provide for public safety and a smooth and unobstructed passageway through the work zone during the suspension in compliance with Sections 7-1.03 and 7-1.04.

The Engineer may suspend work wholly or in part due to your failure to:

1. fulfill the Engineer's orders
2. fulfill a Contract part
3. perform weather-dependent work when conditions are favorable so that weather-related unsuitable conditions are avoided or do not occur.

The Engineer may provide for a smooth and unobstructed passageway through the work during the suspension and deduct the cost from payments. No time adjustment will be made for the suspension.

Upon the Engineer's order of suspension, suspend work immediately. Resume work when ordered.

### **SECTION 8-1.07 DELAYS**

#### **SECTION 8-1.07C PAYMENT ADJUSTMENTS**

**Replace 1<sup>st</sup> paragraph in Section 8-1.07C Payment Adjustments with the following:**

For an excusable delay that affects your costs, the City may make a payment adjustment.

The City does not make a payment adjustment for overhead incurred during non-working days that extend the Contract into an additional construction season.

### **SECTION 8-1.10 LIQUIDATED DAMAGES**

**Replace the 3<sup>rd</sup> and 4<sup>th</sup> paragraph of Section 8-1.10A Liquidated Damages with the following:**

Liquidated Damages in the Amount of **\$1,500** per calendar day will be assessed for failure to complete the contract work within the number of workdays specified.

### **SECTION 8-1.10B FAILURE TO COMPLETE WORK PARTS WITHIN SPECIFIED TIMES**

#### **SECTION 8-1.10B(1) FAILURE TO COORDINATE SIGNAL TURN-ONS, STRIPING AND SIGNING**

**Add 8-1.10B(1) Failure To Coordinate Signal Turn-Ons, Striping And Signing as follows:**

If signal turn-on, road striping, and signing are not coordinated as required by the project specifications, damage will be sustained by the City and its residents. Since it is and will be impractical to determine the actual damage which the City and its residents will sustain by reason of your failure to comply with the project specifications, it is agreed that you will pay to the City the sum of \$500 per day for each:

1. day that you fail to stripe the road
2. day that you fail to install required signs after the third day after a signal is turned on
3. day that you fail to turn on a signal after the second day after striping the road
4. day that you fail to remove signs which conflict with new striping
5. day that you fail to install signs as shown or specified.

**SECTION 8-1.14 F TERMINATION OF CONTROL****Add Section 8-1.14F as follows:**

Whenever, in the opinion of the City, the Contractor has failed to supply an adequate force of labor, equipment, or materials of proper quality, or has failed in any other respect to prosecute the work with the diligence specified in the Contract; or if Contractor should refuse or fail to comply with laws, ordinances, or directions of the Engineer; or if Contractor should fail to make prompt payments to subcontractors or for labor or materials; or otherwise be in breach of this Contract; the City may give written notice of at least five (5) calendar days to the Contractor and Contractor's sureties that if the defaults are not remedied within a time specified in such notice, the Contractor's control over the work will be terminated.

If the Contractor should be adjudged as bankrupt or make an assignment for the benefit of Contractor's creditors, or if a receiver should be appointed on account of Contractor's insolvency, the City may declare the Contractor's control over the work terminated, and so notify the Contractor and Contractor's sureties.

Upon such termination, the City may take possession, and use all or any part, of the Contractor's materials, tools, equipment, and appliances upon the premises to complete the work; the City assuming responsibility for the final relinquishment of such equipment at the conclusion of the work, or sooner, at its option, in as good condition as when it was taken over, reasonable wear and tear excepted; and the City agrees to pay for such materials and the use of said equipment at a reasonable compensation.

If the Contractor's control over the work is terminated as provided above, the Contractor is not entitled to receive any portion of the amount to be paid under the Contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the City in finishing the work, plus all damages sustained, or to be sustained, by the City, plus any unpaid claims on account of labor, materials, tools, equipment, or supplies contracted for by the Contractor for the work herein contemplated, the excess not otherwise required by these Contract Documents to be retained shall be paid the Contractor.

The City reserves the right to terminate the work for its convenience upon written notice to Contractor. In such event, the Contractor shall be paid its reasonable costs for that portion of the work performed to the date of termination, reasonable costs associated with demobilization, plus fifteen percent (15%) of all such costs for overhead and profit.

## 9 PAYMENT

The Bidder's attention is directed to the provisions in Division I, Section 9, Payment, of the Caltrans Standard Specifications, 2015, as modified by these special provisions as set forth below for the requirements and conditions which he/she must observe in the preparation of the proposal form and the submission of the bid.

**Replace, Delete or Add to Division I, Section 9, Payment, of the Caltrans Standard Specifications, 2015, as follows:**

### **SECTION 9-1.02A GENERAL**

**Add to Section 9-1.02A General as follows:**

Final pay item quantities are designated with an "(F)" in the bid item list.

### **SECTION 9-1.03 PAYMENT SCOPE**

**Add to Section 9-1.03 Payment Scope as follows:**

When the Engineer does not retain a portion of the funds during the prosecution of the work, as required on federally funded projects, you may not retain a portion of the funds due to subcontractors when making progress payments.

The City does not pay interest on progress payment retentions.

Your bid prices include all items of work and materials as shown and called out in the project special provisions necessary to complete all the work. The contract prices for doing the work include full compensation for furnishing all:

1. labor
2. materials
3. tools
4. equipment
5. incidentals

to complete the work.

Any items of work that does not have a separate pay item is considered included in other items cost of work and no additional compensation will be paid.

### **9-1.04 FORCE ACCOUNT**

#### **9-1.04A GENERAL**

**Add to Section 9-1.04A General as follows:**

When force account or extra work is in dispute, you must still review your daily work report for the disputed work with the Engineer every day. The daily work must be signed by the Engineer daily to verify that your report has been reviewed. Final determination as to whether the work is included in the contract work or is extra work, may be decided after the work is completed.

#### **SECTION 9-1.04B LABOR**

**Add to Section 9-1.04B Labor as follows:**

For the purposes of calculating the cost of extra work or force account payment:

1. owner
2. superintendents

3. other salaried employees

performing work on the project must be billed at the prevailing wage corresponding to the type of work performed as shown in the current labor rate publication.

**SECTION 9-1.04D EQUIPMENT RENTAL**

**SECTION 9-1.04D(1) GENERAL**

**Add to Section 9-1.04D(1) General as follows:**

You must submit a list of equipment anticipated to be used on the project and the associated Caltrans equipment rental rate. If there is no established rate for equipment planned to be used, furnish that information to the Engineer. Provide equipment submittal with Caltrans rates at the pre-construction conference. The most current Caltrans equipment rental rate publication at the date of contract award will be used for the entire project.

**SECTION 9-1.07 PAYMENT ADJUSTMENTS FOR PRICE INDEX FLUCTUATIONS**

**Delete Section 9-1.07**

**SECTION 9-1.16 PROGRESS PAYMENTS**

**SECTION 9-1.16A GENERAL**

**Replace Section 9-1.16 with:**

The City, once in each month, shall cause an estimate in writing to be made by the Engineer. The estimate shall include the total amount of work done and acceptable materials furnished, provided the acceptable materials are listed as eligible for partial payment as materials in the special provisions and are furnished and delivered by the Contractor (provided that the Contractor furnishes evidence satisfactory to the Engineer that the materials are stored in an area subject to or under the control of the City, to the time of the estimate, and the value thereof). The estimate shall also include any amounts payable for mobilization. Daily extra work reports furnished by the Contractor less than 5 calendar days, not including Saturdays, Sundays and legal holidays, prior to the preparation of the monthly progress estimate shall not be eligible for payment until the following month's estimate.

The amount of any material to be considered in making an estimate will in no case exceed the amount thereof which has been reported by the Contractor to the Engineer on City approved forms, properly filled out and executed, including accompanying documentation as therein required, less the amount of the material incorporated in the work to the time of the estimate. Only materials to be incorporated in the work will be considered. The estimated value of the material established by the Engineer will in no case exceed the Contract price for the item of work for which the material is furnished.

Contractor shall submit to Engineer an itemized application for payment for the cost of the work in permanent place, which has been completed in strict accordance with the Contract Documents as of the last day of the preceding month, less amounts previously paid. The application for payment shall be prepared in a form acceptable to the Engineer and shall contain itemized amounts in accordance with the Contract Documents. The applications for payment shall not include requests for payment on account of changes which have not been authorized by Change Orders, or for amounts Contractor does not intend to pay a subcontractor because of a dispute or other reason.

If requested by the City, an application for payment shall be accompanied by a summary showing payment that will be made to subcontractors covered by such application, and unconditional waivers and releases of claims and stop notices, from each subcontractor listed in the preceding application for payment covering sums disbursed pursuant to that preceding application for payment.

Contractor warrants that upon submittal of an application for payment, all work has been performed in strict compliance with the Contract Documents, and all work for which certificates of payment have been previously

issued and payment has been received from City, shall be free and clear of all claims, stop notices, security interests, and encumbrances in favor of Contractor, subcontractors or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment related to the work.

Payment of all, or any part, of an application for payment may be withheld, a certificate of payment may be withheld, all or part of a previous certificate for payment may be nullified and that amount withheld from a current certificate for payment, or the City may withhold from payment, on account of any of the following:

1. Defective work not remedied;
2. Third-party claims against Contractor or City arising from the acts or omissions of Contractor or subcontractors;
3. Stop Notices;
4. Failure of Contractor to make timely payments due to subcontractors for material or labor;
5. Damage to the City or others for which Contractor is responsible;
6. Failure of Contractor to maintain, update, and submit record documents;
7. Failure of Contractor to submit schedules or their updates as required by the Contract Documents;
8. Performance of the work by Contractor without properly processed shop drawings;
- 9 Liquidated damages assessed;
10. Any other failure of Contractor to perform its obligations under the Contract Documents.

The request for a progress payment shall be turned into the City by the 20th of each month and the City shall process payment to be ready by the 20th of the following month. Pursuant to Public Contract Code Section 20104.50, if City fails to make a progress payment in a timely manner, it shall pay interest to Contractor at the legal rate set forth in the Code of Civil Procedure Section 685.010(e). Upon payment of a progress invoice, the City is hereby granted title and ownership to all work in progress, drawings, materials, equipment, machinery, fittings, items of outfit and furnished goods invoiced for as required by this Agreement, which shall be free of encumbrances.

**Add to Section 9-1.16A General as follows:**

Items Contractor wants Engineer to be eligible for progress payment even if they are not incorporated into the work shall be determined with a written change order.

Progress payments will provide you compensation for work and eligible materials through the last day of the month. No progress payment will be made when the work is not proceeding in compliance with the contract or when the total value of the work done since the last progress payment is less than \$1000, as determined by the Engineer.

**SECTION 9-1.16C MATERIALS ON HAND**

**Replace Section 9-1.16C Materials on Hand with the following:**

Materials on hand but not incorporated into the work are eligible for progress payment of fifty percent (50%) of the value of the materials furnished and delivered and unused. For materials to be eligible for progress payment:

1. the cost of the materials must be greater than \$20,000
2. an invoice is provided for the material clearly showing the material is for this current work and cost
3. the material is stored in a secure yard and made available to the Engineer for inspection
4. a request for partial payment is made

**SECTION 9-1.16E WITHHOLDS**

**Replace 1st paragraph in Section 9-1.16E(2) with:**

The City withholds 10 percent of a progress payment for noncompliant progress. Noncompliant progress occurs when:



1. Total days to date exceed 75 percent of the working days
2. Percent of working days elapsed exceeds the percent of value of work completed by more than 15 percent

**Add to Section 9-1.16E(2).**

The City may withhold a portion of your payment for fines and mitigation imposed by outside regulatory authorities, as a result of your failure to comply with regulations and permits.

Upon Contractor's request, City will make payment of funds withheld from progress payments pursuant to the requirements of Public Contract Code Section 22300, if Contractor deposits in escrow with City or with a bank acceptable to City, securities eligible for investment under Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Contractor and City, upon the following conditions:

- a. Contractor shall bear the expense of City and the escrow agent in connection with the escrow deposit made.
- b. Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to Contractor pursuant to this section.
- c. Contractor shall enter into an escrow Contract satisfactory to City, which Contract shall be substantially similar to the form provided in Public Contract Code Section 22300.
- d. Contractor shall obtain the written consent of the surety to such Contract.

**SECTION 9-1.16E(4) STOP NOTICE WITHHOLDS**

**Replace Section 9-1.16E(4) Stop Notice Withholds with the following:**

The City shall withhold payments to cover claims filed under Civil Code §9000 et seq. The City will withhold 125 percent of the value of all Stop Notices in accordance with Civil Code §9364.

Stop notice information may be obtained from the Engineer.

**SECTION 9-1.16F RETENTIONS**

**Replace Section 9-1.16F Retentions with the following:**

Public Contract Code 7202 does not apply to the City.

City shall retain five percent (5%) of the estimated value of the work completed and five percent (5%) of the value of materials estimated to have been furnished and delivered and unused or furnished and stored as part security for the fulfillment of the Contract by Contractor. Securities may be substituted as set forth in Public Contracts Code Section 22300. No such invoice or payment will be construed to be an acceptance of any work or materials. Before any progress payment or the final payment is made, Contractor may be required to submit satisfactory evidence that he is not delinquent in payments to his employees, subcontractors, suppliers or other creditors for labor and materials incorporated into the work.

**SECTION 9-1.17 PAYMENT AFTER CONTRACT ACCEPTANCE**

**SECTION 9-1.17C PROPOSED FINAL ESTIMATE**

**Delete 3<sup>rd</sup> paragraph in Section 9-1.17C Proposed Final Estimate.**

**SECTION 9-1.17D FINAL PAYMENT AND CLAIMS**

**SECTION 9-1.17D(1) GENERAL**

**Replace Section 9-1.17D(1) General with the following:**

If Contractor accepts the proposed final estimate or does not submit a claim statement within 30 days of receiving the proposed final estimate, the Engineer will process the proposed final estimate for payment. The final payment will not be due and payable until the expiration of 40 days from the date the notice of completion is filed with the City of Emeryville. The Notice of Completion will be filed within five days of formal acceptance of the work by the City Council or its designated representative, upon the recommendations of the Engineer. This final estimate and payment is conclusive except as specified in Sections 5-1.27, 6-3.06, and 9-1.21.

If Contractor submits a claim statement within 30 days of receiving the Engineer's proposed final estimate, the Engineer will process for payment the proposed final pay estimate for payment of the uncontested amount due. The Engineer will pay the uncontested amount due within 40 days from the date the notice of completion is filed with the City of Emeryville. The uncontested amount due estimate is conclusive as to the amount of work completed and the amount payable except as affected by the claims or as specified in Sections 5-1.27, 6-3.06, and 9-1.21.

**SECTION 9-1.17D(2) CLAIM STATEMENT**

**SECTION 9-1.17D(2)(A) GENERAL**

**Add to Section 9-1.17D(2)(a) General as follows:**

For each claim, submit a claim statement showing:

1. The identification number
2. Date the Initial Potential Claim was furnished to the Engineer
3. Date the Supplemental Potential Claim was furnished to the Engineer
4. The final amount of additional payment requested
5. Attach a copy of the Full and Final Potential Claim Record

Submit claims to:

City Engineer  
City of Emeryville – Public Works Department  
1333 Park Avenue  
Emeryville, CA 94608

**SECTION 9-1.17D(2)(D) WAIVER**

**Add to 1<sup>st</sup> paragraph in Section 9-1.17D(2)(d) Waiver as follows:**

1. You did not comply with applicable notice or protest requirements including but not limited to:  
Section 4-1.06;  
Section 5-1.06;  
Section 5-1.42; or  
Section 8-1.07.

**SECTION 9-1.17D(3) FINAL DETERMINATION OF CLAIMS**

**Delete 6<sup>th</sup> paragraph in Section 9-1.17D(3) Final Determination of Claims.**

**SECTION 9-1.22 ARBITRATION**

**Replace Section 9-1.22 Arbitration with the following:**

Section 9-1.22 Claim Resolution Procedure

1. For all claims contested by the Engineer and not included in the semifinal estimate, the Engineer may request additional information within 30 days of submittal of the semifinal estimate. A proof of mailing or delivery must be retained.

2. You must submit to the Engineer the information requested for each claim within 30 days of the date of mailing of the Engineer's request. Proof of mailing or Engineer's receipt will be retained for the submittal. Failure to timely submit the information requested is deemed a waiver of the claim.
3. The Engineer will submit a written response to you for each claim within 30 days after the date of mailing of your submittal, or if the Engineer did not request additional information, within 30 days of submittal of the semifinal estimate.
4. If you dispute the Engineer's written response to any claim, or the Engineer fails to respond within the time specified, you must notify the Engineer in writing, either within 15 days of the Engineer's response or the Engineer's failure to respond within the specified time period, and demand an informal meeting to discuss and attempt to settle the issues remaining in dispute. Upon receipt of such a demand, the Engineer will schedule such a meeting within 30 days.
5. Following the meeting if any claim or portion thereof remains in dispute, you may file a claim as provided in Government Code 910 and following.
6. Either party may request non-binding mediation at any time following the informal meeting in an attempt to settle any issues remaining in dispute. If both sides agree to mediation and agree on a mediator, the parties must pay equally the fees and expenses of the mediator.
7. If either party initiates litigation against the other, within 60 days, but no earlier than 30 days, following the filing of the responsive pleading, the court may submit the matter to nonbinding mediation unless both parties stipulate to waive this requirement. The parties must select a disinterested third person as mediator within 15 days following the 60<sup>th</sup> day after the filing of the responsive pleading, and the mediation must commence within 30 days of selection of the mediator, unless the parties stipulate otherwise, or the court, on a showing of good cause, orders a time extension. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator. The parties must pay equally the fees and expenses of the mediator. The court may, upon either party's request, order any witnesses to participate in the mediation process. The party requesting the appearance of any witness must pay the costs and expenses of the witness.

### **SECTION 9-1.23 CITY BILLING**

#### **Add Section 9-1.23 City Billing as follows:**

Where City staff and equipment are used for work, billing will be done at the hourly billing rate for particularly involved City staff. City materials and equipment will be billed in compliance with Section 9-1.04. Work performed by a third party will be billed at the amount charged to the City for the work plus an additional five percent markup. The total cost plus markup may be retained from contract or for private work billed to permittee.