

RESOLUTION NO. 24-152

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Contract With SYSERCO, Inc. In An Amount Of \$285,000 For Replacement Of The Existing BMS System (DELTA And BMS Upgrade/ Replacement) And Plumbing Repairs In The Civic Center In The City Of Emeryville Project No.15650018 And Authorized The City Manager To Increase The Contract By \$40,000 For A Total Amount Not Exceed \$325,000. CEQA Determination: Exempt Under Section 15061(b)(3)

WHEREAS, the existing BMS system needs to be replaced and upgraded to support the new HVAC System; and

WHEREAS, on July 9, 2024, and October 8, 2024, there were significant failures of critical components of the HVAC system; and

WHEREAS, on October 10, 2024, the City Manager authorized staff to issue solicitations directly to certain BMS contractors given an emergency situation as a result of two significant breakdowns of the existing HVAC system in 2024; and

WHEREAS, the City conducted a bidding procedure in compliance with the requirement that Public Works make every effort to solicit bids from qualified vendors in accordance with Administrative Instruction No.605 Section 6.3; and

WHEREAS, Staff directly solicited qualified contractors with a Request for Bid (RFB) due to the urgent nature of the work on October 18, 2024; and

WHEREAS, Potential bidders visited the project on October 24 and 29, 2024; and

WHEREAS, on November 1, 2024, two bids were received on the project, with the lowest responsive bid coming from SYSERCO, Inc. for \$285,000.00; and

WHEREAS, additional contingency work may be required during the course of the project; and

WHEREAS, sufficient funds are available in CIP book number FM-06 Project 15650018; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that the City Manager is authorized to enter into a contract with SYSERCO Inc. in an amount of \$285,000; and, be it, further

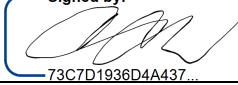
RESOLVED, by the City Council of the City of Emeryville that the City Manager is authorized to increase the contract by \$40,000 for a total amount not to exceed \$325,000; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that said Project is determined to be exempt under State CEQA Guidelines Section 15061(b)(3).

Resolution No. 24-152
Exhibit A – Syserco, Inc. Contract
City Council Meeting | December 10, 2024
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ADOPTED, by the City Council of the City of Emeryville at a special meeting held Tuesday, December 10, 2024, by the following vote:


AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____

Signed by:


 MAYOR

ATTEST:
 DocuSigned by:


 CITY CLERK

APPROVED AS TO FORM:
 DocuSigned by:


 CITY ATTORNEY

ATTACHMENTS

- Exhibit A – Syserco, Inc. Contract



City of Emeryville

CALIFORNIA

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (“Contract”) is effective as of _____ (the “Effective Date”), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, (“City”) and **SYSERCO INC** (“Contractor”), individually referred to as a “Party” and collectively as the “Parties”.

WITNESSETH THAT

WHEREAS, the City Manager authorized staff to issue solicitations directly to certain BMS contractors given an emergency situation as a result of two significant breakdowns of the existing BMS system in 2024 and;

WHEREAS, the City conducted a bidding procedure in compliance with the requirement that Public Works make every effort to solicit bids from qualified vendors in accordance with Administrative Instruction No.605 Section 6.3; and

WHEREAS, Contractor submitted the lowest responsible bid; and

WHEREAS, City staff issued a Purchase Order on December 2, 2024, to immediately begin the repair of the BMS system and staff are now seeking retroactive approval by the City Council to enter into a contract with the Contractor; and

WHEREAS, the City has determined that the Contractor is qualified by training and experience to render such services; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. CONTRACT DOCUMENTS

The following documents, including their respective exhibits and addenda (collectively "**Contract Documents**"), are by this reference incorporated in and made a part of this Contract in the following order of precedence:

- Construction Contract
 - Exhibit A –
 - 1) **Exhibit A(1)** – Addenda to Project Specifications (if applicable)
 - 2) **Exhibit A(2)** – Project Specifications
 - 3) **Exhibit A(3)** – Addenda to Project Plans (if applicable)
 - 4) **Exhibit A(4)** – Project Plans
 - 5) Contractor’s Bid and Proposal (as accepted by City)

FOR CITY USE ONLY			
Contract No.		CIP No.	
Resolution No.		Project No.	

- **Exhibit B** – Contract Insurance Requirements
- **Exhibit C** – City Supplemental Terms and Conditions
- **Exhibit D** – Required Bond Documents
- **Attachment A** – City of Emeryville Standard Specifications (online only)
 - <http://www.ci.emeryville.ca.us/132/City-Standards>
 - <http://www.ci.emeryville.ca.us/348/City-Standard-Specifications>
- **Attachment B** – State of California Department of Transportation Standard Plans (online only)
<http://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications>
- **Attachment C** – State of California Department of Transportation Standard Specifications (online only)
<http://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications>

Any and all future amendments to this Contract will be incorporated as Construction Contract Amendments as needed.

2. SCOPE OF WORK

In conformance with the Contract Documents, Contractor will furnish, all labor, materials, equipment, incidentals, transportation, and disposal for services required in order to perform and complete the Project.

3. PRICE

The total amount to be paid under this Contract for all of the work set forth in Section 2 above is exceed **TWO HUNDRED EIGHTY FIVE THOUSAND DOLLARS AND NO CENTS (\$285,000.00)** ("**Total Contract Price**"). This price includes all costs for labor, materials, tools, equipment, services, warranty, taxes, insurance, overhead, profit and all other costs necessary to perform the work in accordance with this Contract.

4. TIME FOR COMPLETION

After the Contract has been executed by City, Contractor shall begin work within **thirty (30) calendar days** after the effective date of the Notice to Proceed issued by City and shall diligently prosecute the work to completion within **one hundred twenty (120) working days** from the effective date of the Notice to Proceed. Liquidated Damages in the Amount of **\$250.00 per calendar day** will be assessed for failure to complete the contract work within the number of workdays specified.

5. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City and City's members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the City, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend the City, its members, officers, agents, employees and volunteers shall survive termination of this Contract. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the City or the City's agents, servants, or independent contractors who are directly responsible to the City, or for defects in design furnished by those persons

6. INSURANCE

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

7. NO WAIVER

Failure of City to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies or to properly notify Contractor in the event of breach, or the acceptance of or payment for any good hereunder, shall not release Contractor of any of the warranties or obligations of this Contract and shall not be deemed a waiver of any right of City to insist upon strict performance hereof.

8. NOTICES

Any notice required to be given by this Contract will be in writing and deemed effective upon personal delivery, or 1 business day after being sent via registered or certified mail return receipt requested or by overnight commercial courier providing next business day delivery and addressed to the following respective parties:

CITY	CONTRACTOR
Mohamed Alaoui 1333 Park Ave Emeryville, California 94608 Phone No: 510-596-4300 E-Mail : mohamed.alaoui@emeryville.org <i>with a copy to:</i> Ali Ahmadzadeh 1333 Park Ave Emeryville, California 94608 Phone No: 510-596-3742 E-Mail : ali.ahmadzadeh@emeryville.org	Derek Leverenz 215 Fourier Ave Fremont, CA 94539 Phone No: 510-359-0655 E-Mail : d.leverenz@syserco.com

9. ENTIRE CONTRACT

This Contract contains the entire agreement of the parties with respect to the subject matter of this Contract. Any modifications to this Contract shall be in writing.

10. AUTHORITY TO CONTRACT

Contractor covenants and declares that it has obtained all necessary approvals to bind Contractor to this Contract and that the representative signing the Contract is authorized to do so.

SIGNATURES ON FOLLOWING PAGE

City of Emeryville | Construction Contract
REV11/2024

11. SIGNATURE PAGE TO CONSTRUCTION CONTRACT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

DocuSigned by:
John Kennedy
209341002DB55467...

City Attorney

Dated: **CITY OF EMERYVILLE**

Adam W. Politzer, Interim City Manager

Dated: **SYSERCO INC.**

12/04/2024

Signed by:
Majd Khleif
A1B28F97D8FF45D
Majd Khleif, CEO (Signature)



A. Cover Letter

- a. City of Emeryville Civic Center BMS Replacement and Plumbing Repairs
- b. Syserco; 215 Fourier Avenue, Fremont, CA 94539
- c. 1974
- d. Derek Leverenz, Elliot Tham, Obehi Okoiye-Moore
- e. Derek Eggers
- f. Derek Leverenz
 - i. 215 Fourier Avenue, Fremont, CA 94539
 - ii. (510) 359-0655
 - iii. D.LEVERENZ@SYSERCO.COM

g. Derek Eggers

B. Contractor Qualifications Summary

- a. Dedicated group of over 200 employees who specialize in Energy Management, Building Automation and Customer Service.
- b. Customer base of over 2500 installed sites.
- c. Focused on Municipality, K12, Higher Education, Healthcare, Biopharmaceutical, commercial office and High-Technology Markets.
- d. We have been awarded a “Best Place to Work in the Bay Area” for 13 years straight.
- e. We are a union company and hire IBEW Electricians
- f. Local service team
- g. 24/7 Service Response Center
- h. Have worked with over 30 municipalities in the Bay Area. Please see some examples below:
 - i. Contra Costa County
 - ii. City of Fremont
 - iii. City of Santa Clara
 - iv. City of Napa
 - v. City of Gilroy
 - vi. City of Walnut Creek
- i. Subcontractor List
 - i. National Air Balance Company – Air and Water Test and Balance Company
 - ii. Legacy Mechanical – Mechanical and plumbing contractor
 - iii. Skyline Scaffold, Inc – Scaffolding Contractor

C. Project Approach

- a. Syserco is dedicated to improving the working environment for the City of Emeryville. While this will be an active construction site, it is our mission to ensure that this work will be done with minimal disruptions to the employees working in this space. We will achieve this by starting out this project by having a comprehensive scheduling meeting with the City of Emeryville team to ensure that everyone's expectations are met when it comes to scheduling and the quality of work provided. During this meeting it will also be our intention to develop the graphical user interface with the customer. We can provide template graphics to get buy in on what your teams graphics package will look and feel like. Allowing the customer to customize and make changes to the way they want to see their BMS controlled. During phase 1 of this project, we will begin with wire pulls throughout the space. Once our electrical infrastructure is in place we will begin doing our controller cutovers. We anticipate being able to cut over (5) VAV controllers pre night. This work will be done during off hours for the City of Emeryville staff with the intention of having the building remain operational throughout the life of the project. These controllers will be tested and have internal programming preloaded before install. Our controls technicians will work in conjunction with our plumbing subcontractor to ensure each unit is complete before moving onto the next. Following our VAV controller cutovers we will move onto the roof work. We will disconnect the existing controllers on the AC unit and Gas Boiler and install new controllers. These controllers will remain in place and operate the system until phase 2. We will create a temporary graphics package for this equipment so the city of Emeryville team will have visibility into the function of their system until these units are replaced in phase 2. At this point we will ensure that all controllers are communicating and that the staff is satisfied with the work provided while we wait for the new units to arrive and kick off phase 2. When the new units arrive for Phase 2 we will disconnect our existing controllers and reconnect them to the new units. We will install our new bypass valve and the flow meter to the HW system during this phase. Once the controllers are reinstalled, we will update the graphics package to reflect the new equipment. Our Test and Balance sub-contractor will begin the air and water balancing of the system at this time and once they are complete we will begin training on the new BMS with the facility team and prepare the project for close out. Please see attached scope of work documentation for more details.

October 31, 2024

To: Ali Ahmadzadeh | City of Emeryville

Re: City of Emeryville BMS Upgrade

Syserco Inc. is pleased to present the following proposed pricing and associated scope of work for the design, installation, programming and startup of a native BACnet System as follows.

This bid is based on the following contract documents:

- Mechanical Plans dated 06/17/2024
- RFB 5.0 dated 10/21/2024

Scope of Work Phase 1

1. Supply Delta native BACnet DDC Control System.
2. Provide Delta entiliWeb Software
3. DDC Control of the following Central Equipment:
 - a. (1) Existing AC Unit
 - i. Provide new controller
 - ii. Reuse all existing sensors
 - iii. Reuse existing wire
 - iv. Install existing control points on new controller
 - b. (1) Existing Gas Boiler
 - i. Provide new controller
 - ii. Reuse all existing sensors
 - iii. Reuse existing wire
 - iv. Install existing control points on new controller
 - c. (6) Existing Exhaust Fans
 - i. Provide new control components
 - ii. Start/Stop/Status
 - d. (1) Existing Server Room Split System
 - i. Monitor zone temperature of server room
 - ii. All control components for existing split system to remain
4. DDC Control of the following zones:
 - a. (30) Existing VAVs w/RH
 - i. Provide new controller, zone thermostat, SAT and belimo actuator
 - ii. Reuse existing valve
5. Provide shelter in place HVAC override function on graphics
6. Plumbing Scope:
 - a. Tighten connection unions and fittings for (30) VAVs
 - i. Additional repairs will be added as change orders to base scope of work
 - b. Labor to drain HW system
 - i. All repairs will be added as change orders to base scope of work when leak map is provided

Scope of Work Phase 2:

1. DDC Control of the following Central Equipment:
 - a. (1) New AC Unit
 - i. Single point BACnet connection to manufacturer furnished BACnet interface module
 - ii. Disconnect and reconnect existing controller provided in Phase 1
 - iii. Add pre and post filter differential pressure sensors
 - iv. Update Graphics package to reflect new equipment

- b. (1) New Gas Boiler
 - i. Single point BACnet connection to manufacturer furnished BACnet interface module
 - ii. Disconnect and reconnect existing controller provided in Phase 1
 - iii. Add new onicon flow meter
 - iv. Add new bypass valve
 - v. Update graphics package to reflect new equipment
- 2. Provide Air and Water Balance for new system

Assumptions/Clarifications:

1. All existing HW valves are assumed to be functional
2. VFDs are to be supplied with BACNet MS/TP Protocol Communications.
3. Virtual machine provided by others
4. Equipment specified to be integrated to the BAS are to be supplied with appropriate BACNet MS/TP Open Protocol translator.
5. Mechanical Contractor to provide all VRF Controls and Integration Hardware. VRF Manufacturer to provide startup technician to assist with integration to BAS.
6. Point availability from and specific sequences of operation and controllability of Equipment with Manufacturer provided controls is limited by Manufacturer. Syserco does not have the ability to modify Equipment Manufacturer sequences.
7. Ethernet Connectivity to all "Global" controllers to be provided by others prior to startup activities.
8. All concealed tubing is FR Poly.
9. Safe off and abandon existing wire in place
10. All equipment not specified above is excluded
11. All wire in walls, above ceilings, and in concealed areas is ran exposed in plenum cable. Wire installed in exposed ceiling areas is ran exposed and concealed on top of ductwork wherever possible. Wire in mechanical, electrical and service rooms is enclosed in EMT conduit raceway.
12. Syserco will use Div 25 duct and/or hangers and Div 26 conduit racks to support plenum cable and BAS conduit.
13. A one year warranty from date of system acceptance is included.

Exclusions: We specifically exclude all work not included in our Scope of Work above, including, but not limited to the following:

1. Commissioning Agent support is specifically excluded. This includes generation of TPs/TFs, IQ/OQ and/or PQ documents/procedures and/or execution/execution assistance of said procedures.
2. Smoke Control is specifically excluded and to be provided by Fire Alarm Contractor.
3. Smoke detectors supplied, installed, powered, controlled, interlocked to mechanical equipment by others.
4. Smoke Dampers and Smoke/Fire Dampers supplied, installed, powered, monitored and controlled by others.
5. All control wiring and/or installation of "ship loose" not directly connected to BAS hardware or BAS communications network is excluded unless noted above.
6. Automatic Control Dampers shall be supplied/installed by Mechanical Contractor.
7. 120V Power to all control and transformer panels is by Electrical Contractor.
8. All gauges, thermometers and other indicating devices supplied, installed, tubed by others.
9. Roof Penetrations, flashing, roof repair/patching and Wall/Floor cutting/patching/painting is excluded.
10. Motor Starters, Variable Frequency Drives and their installation is excluded.
11. The installation of all plumbing / inline devices and related items is excluded.
12. Cost for permits is excluded. If permits are needed they are to be procured by GC/Owner.

Terms and Conditions: This quotation is subject to acceptance within 45 calendar days and to all of the terms and conditions contained below.

1. This proposal will constitute the Scope of Work under Client's contract with Syserco Inc.

2. Syserco's quotation specifically excludes any "Pre-Payment" or "Early Payment" discounts. If contractor plans on enforcing any discount clause, the appropriate amount to offset any discount percentage is to be added to Syserco's final contract value.
3. A joint-check agreement is required between Syserco Inc. and Client unless Client has previously established satisfactory credit with Syserco Inc. Credit ratings are based solely on Syserco Inc.'s methods for determining credit worthiness and may change to reflect recent credit history.
4. Syserco is bondable, however the cost of bonds is not included and if required, shall be an additional expense to Client.
5. No work will commence on project, including engineering submittals until receipt of mutually agreeable contract that shall include, but not be limited to satisfactory progress payments, no special or limited consequential damages and all other terms no less favorable than the Contractor has with the owner.

I appreciate the opportunity to provide you with this proposal and look forward to our future involvement on this project. If you have any questions or additional requests, please do not hesitate to call me at (510) 359-0655.

Sincerely,

Derek Leverenz
Syserco Inc.

D. Project Team

- a. Ivan Jorgensen – Project Manager
- b. Erik Siemens – Electrical Foreman
- c. See attached resumes
- d. Ivan and Erik will both be managing the work for this project



Ivan Jorgensen

P.E.

Group Operations Manager

EDUCATION

- BS in Mechanical Engineering – California Polytechnic University

PROFESSIONAL AFFILIATIONS

- American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE)

CERTIFICATIONS/TRAINING

- Professional Engineer (License # M:34254)
- NICET Level One
- Lean Construction in Electrical Contracting
- Six Sigma Green Belt Certified
- ASHRAE Level 2 Energy Audits

TENURE

Ivan has been actively involved in the Building Automation and Management Industry since 2001.

GROUP OPERATIONS MANAGER

Ivan has nearly 20 years of industry experience. He has had experience in Energy Auditing, Engineering, Project Management, and Group Operations Management. Ivan is responsible for the management and oversight of an essential group of Syserco's Construction Operations Department.

KEY EXPERIENCE

Group Operations Manager, Syserco, Inc., Fremont, CA: 2017 – Present

- Management of Construction Personnel
- Management of Customer Satisfaction across multiple vertical markets
- Business and financial planning and management of Syserco's Construction Projects

Project Manager, Syserco, Inc., Fremont, CA: 2013 – 2017

- Oversight of project team and subcontractors
- Management of established resources and budgets

Applications Engineer, Syserco, Inc., Fremont, CA: 2012 – 2013

- Lead construction engineering on BMS controls projects
- Provide technical support to operations and project teams

Energy Auditor, ACCO Engineered Systems, San Leandro CA: 2005 – 2012

Energy Auditor, Air Systems, San Jose, CA: 2001 – 2005

NOTABLE PROJECTS

K-12

- o Fremont Unified High School District

MUNICIPALITY

- o 50 UN Plaza
- o CCC Detention Center
- o Northside Library

HIGHER EDUCATION

- o West Valley College
- o UC San Francisco
- o UC Santa Cruz

OFFICE / CORPORATE CAMPUS

- o Broadcom
- o Airbnb
- o SuperMicro
- o 650 Townsend

LAB / PHARMACEUTICAL

- o Alexandria Real Estate
- o Teleflex
- o 259 East Grand
- o 499 Illinois
- o Clorox
- o REC Technologies
- o Novartis
- o Sun Microsystems
- o SGI Campus
- o Thoratec
- o ZOMA
- o Amazon Data Center

HEALTHCARE

- o CPMC St. Luke's Hospital



Erik Simens

General Foreman

“Eric has worked with Syserco as an IBEW electrical installer for over 17 years.”

EDUCATION

- I.B.E.W. S and C apprenticeship - Electrical/Low Voltage - 1999-2001

CERTIFICATIONS

- Electrical Project Supervision - National Electric Contractors Association (Northern California Chapter)
- OSHA 30 - Bruce Costa #UO4799874, License 001727480

PROJECT EXPERIENCE

HEALTHCARE

- Kaiser Antioch
- Kaiser Redwood City
- Kaiser South San Francisco
- Alta Bates Oakland
- Lucile Packard Children's Hospital

BIOPHARMA

- Varian Building 4
- Clorox Buildings A,B,C,D,E
- CS Bio
- Pacific Biosciences
- Genomic Health Building 5

KEY EXPERIENCE

Syserco Inc., I.B.E.W. Inside Wireman General Foreman - March 2012 - Present

- Plans, prioritizes, supervises, reviews, and participates in all projects that are awarded to the Foreman.
- Establishes a means and methods for installing the Alerton product and related electrical material in a matter of being the most efficient and relevant to the contract.
- Participates in the development of goals, objectives and procedures; makes recommendations for changes and improvements to new and existing installation standards and procedures; monitors work activities to ensure compliance with established scope, spec and contract.
- Participates in the Union hiring process; job call outs; ensure new hire packets are with the hiring Foreman for the given day; ensure new hire packets are filled out correctly and return to the office in a timely manner.
- Assist and support Foreman; to ensure Foreman stay engaged at the work-site; minimize distractions from unnecessary office calls that are unrelated to the specific job at hand; works with Foreman and Journeyman to correct deficiencies; implements disciplinary measures; ensure projects are well equipped with tools and material to be most productive and efficient.
- Assist and support Installation, Project, Service and Sales managers; verify if work is actually ready for mobilization; job walks to capture any and all obstacles and or conditions a job may present to prevent future work to be unsuccessful; working with and inspecting sub-contractors work to ensure proper contract and scope installation is met to keep customer satisfaction at an optimum level.

Syserco Inc., I.B.E.W. Inside Wireman General Foreman - April 2006 - March 2012

- H.V.A.C. energy management system. Foreman working under the direction of my General Foreman and the Project Managers. Planning, organizing and executing the controls installation for multiple projects with the help of a Journeyman and an apprentice.

Syserco Inc., I.B.E.W. Intermediate Wireman Local 551 - July 2000 - April 2006

- H.V.A.C. Energy Management System. Journeyman working under the direction of a Foreman installing controls. Working on projects alone. Assisting in the start up process.

Syserco Inc., Sound and communication apprentice Local 595 - July 1999 - July 2000

- Working under the direction of an electrical Journeyman pulling plenum cable and terminating devices.

Baxter International Inc. Healthcare, Picking, Packing, Shipping and Receiving - June 1991 - July 1999



Pricing:

Labor and Material Scope:	\$196,000.00
Air and Water Balance Scope:	\$30,000.00
Scaffolding Scope:	\$4,000.00
Painting Scope:	\$0.00
Plumbing Scope:	\$55,000.00
Total Base RFB:	\$285,000.00

Add Alternate:

Unit price for (1) VAV HW Valve Replacement:	\$1,650.00
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City of Emeryville

CALIFORNIA

EXHIBIT B

Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **YSERCO INC.**

1. MINIMUM REQUIREMENTS

Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work or Services required by the Contract hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage, as checked below:

1.1 *Minimum Scope of Insurance*

Coverage shall be at least as broad as the latest version of the following:

- General Liability**
Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- Automobile Liability**
Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto) or if Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the General Liability Policy.
- Professional Liability / Errors and Omissions**
Written on a policy form specifically designed to protect against acts, errors or omissions of the Contractor wherein "Covered Professional Services" as designated in the policy must specifically include Services performed under this Contract.
- Workers' Compensation and Employer's Liability**
Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.
- Pollution Liability Insurance**
Pollution Liability insurance for claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater. This shall

City of Emeryville | Contract Insurance Requirements (Exhibit B)

REV 08/2020

include on and off-site clean up and emergency response costs and claims arising from above ground and below ground storage tanks.

1.2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

General Liability

All Contract Types

\$1,000,000.00 per occurrence and **\$2,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability.

OR

Construction Specific

\$2,000,000.00 per occurrence and **\$4,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability, and coverage for explosion, collapse and underground property damage hazards.

Automobile Liability

\$2,000,000.00 per accident for bodily injury and property damage.

Professional Liability / Errors and Omissions

\$2,000,000.00 per claim and aggregate.

Workers' Compensation and Employer's Liability

Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\$1,000,000.00** each accident, policy limit bodily injury or disease, and each employee bodily injury or disease.

Pollution Liability Insurance

\$2,000,000.00 per occurrence and **\$2,000,000.00** aggregate.

Except for the professional liability / errors and omissions policy, defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the Parties required to be named as additional insureds pursuant to this Contract.

2. INSURANCE ENDORSEMENTS

The insurance policies shall contain the following provisions, if checked, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions, if checked, to the insurance policies:

City of Emeryville | Contract Insurance Requirements (Exhibit B)

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General Liability

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 or CG20 37, or endorsements providing the exact same coverage, with respect to the work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it; and (4) the insurance coverage shall contain standard separation of insureds provisions.

Automobile Liability

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

Professional Liability Coverage

Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and Contractor agrees to maintain continuous coverage through a period no less than three years after termination of the Contract.

City of Emeryville | Contract Insurance Requirements (Exhibit B)

REV 08/2020

Workers' Compensation and Employer's Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

Pollution Liability Coverage

(1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

ALL COVERAGES

Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3. NO SPECIAL LIMITATIONS

The required insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

4. DEDUCTIBLES AND SELF-INSURANCE RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

City of Emeryville | Contract Insurance Requirements (Exhibit B)

REV 08/2020

5. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

6. VERIFICATION OF COVERAGE

Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing any work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

8. REPORTING OF CLAIMS

Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the work performed under this Contract.

*Attach:
Insurance Certificate and Endorsements*



City of Emeryville

CALIFORNIA

EXHIBIT C

City Supplemental Terms and Conditions

As used in this Exhibit C, Contractor refers to **YSERCO INC.**

1. **INSURANCE**

Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

2. **PAYMENT OF TAXES**

2.1 ***Taxes Included***

The lump sum and rates set forth in **Exhibit A** shall include full compensation for all taxes which Contractor is required to pay, whether imposed by Federal, State or local government, including, without being limited to, Federal excise tax. No tax exemption certificate nor any document designed to exempt Contractor from payment of any tax will be furnished to Contractor by City, as to any tax on labor, services, materials, transportation, or any other items furnished pursuant to the Contract. Contractor shall withhold and pay any and all sales and use taxes, withholding taxes, whether State or Federal, Social Security taxes, State Unemployment Insurance charges and all other taxes which are now or hereafter may be required to be paid or withheld under any laws.

2.2 ***Business Tax***

Contractor has and shall maintain a current business license with City of Emeryville during the term of this contract. Contractor shall insert in each of its subcontract Contracts a provision which requires its subcontractors to present proof that the subcontractor has obtained a current business license with City of Emeryville during the term of this contract.

3. **PERMITS AND LICENSES**

Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Contract.

Contractor shall comply with all permits applicable to the Work. Contractor has and shall maintain the appropriate State Contractor's License, pursuant to [Chapter 9 of Division 3 of the California Business and Professions Code](#).

4. CALIFORNIA LABOR CODE REQUIREMENTS

- A. Contractor is aware of the requirements of [California Labor Code](#) Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.
- B. If the Work is being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Work must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

City of Emeryville | City Supplemental Terms and Conditions

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- C. This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Work, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

- D. Pursuant to the requirements of section 1860 of the California Labor Code, Contractor will be required to secure the payment of workers' compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:
 - "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."

- E. Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

5. COMPLIANCE WITH LAWS

All Work performed by Contractor under this Contract shall be in accordance with applicable federal, state and local requirements, including, but not limited to environmental laws and laws regarding disposal of hazardous wastes.

6. NONCOLLUSION DECLARATION

By executing this Contract, Contractor declares that only persons or parties interested in this Contract are those named in Contractor's bid or proposal and that such bid or proposal was not made in the interest of or on behalf of any undisclosed person, firm or organization; that the bid or proposal was genuine and not collusive or sham; that the signatory to this Contract has not directly or indirectly induced or solicited others to put in a sham bid or proposal, or to refrain from bidding or proposing; and that the signatory to this Contract has not in any manner sought by collusion to secure for itself an advantage over other potential proposers.

7. DISCRIMINATION PROHIBITED

Contractor covenants and agrees that in performing the Work required under this Contract, Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

8. BONDS (REQUIRED FOR CONTRACT PRICES \$25,000 AND GREATER)

8.1 Payment Bond

Required / **Not Required**

If required for this Contract, before beginning the Work, Contractor shall provide a labor and materials bond in the amount of one hundred percent (100%) of the Total Compensation, and which conforms with the requirements of Civil Code section 9550 et seq., as may be amended from time to time.

8.2 Performance Bond

Required / **Not Required**

If required for this Contract, before beginning the Work, Contractor shall provide a performance bond in the amount of one hundred percent (100%) of the Total Compensation to guarantee the faithful performance of the Work.

8.3 Bond Provisions

Any and all bonds required for this Contract shall be in a form acceptable to the City Attorney. Any such bond must be issued by a corporate surety which is an admitted surety insurer in the State of California. 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 its 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.

9. CITY LABOR REQUIREMENTS

- A. As of the Effective Date, compliance with the City's living wage ordinance is **required** / **not required** for this Contract. If this Contract provides for compensation to Contractor of \$25,000 or more within a single fiscal year for providing services to the City, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.
- B. Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to [Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.
- C. Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Contract and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.
- D. Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$18.54 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.
- E. In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

10. RECORDS

Contractor will permit City to audit, examine, and make copies of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract.

11. NO PERSONAL LIABILITY

No member, official or employee of the City shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

12. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that,

WHEREAS, the City of Emeryville, a municipal corporation located in Alameda County, State of California (hereinafter referred to as "City"), has entered into a Contract with _____, (hereinafter referred to as "Principal"), for **REPLACEMENT OF THE EXISTING BMS HVAC SYSTEM (DELTA BMS UPGRADE/REPLACEMENT) AND PLUMBING REPAIRS IN THE CIVIC CENTER IN CITY OF EMERYVILLE, PROJECT NO. 15650018**; and

WHEREAS, the Principal is required under the terms of the Contract to furnish a bond for the faithful performance of said Contract.

NOW, THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the City in the penal sum of (\$ _____), lawful money of the United States of America, being not less than one hundred percent (100%) of the Contract Amount, to be paid to the City or its successors and assigns; for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above-bound Principal, or its heirs, executors, administrators, successors, transferees, or assigns approved by the City, shall promptly and faithfully perform the covenants, conditions, and agreements in the Contract until completion, during the original term and any extensions thereof as may be granted by the City, with or without notice to Surety, and shall also promptly and faithfully perform all covenants, conditions, and agreements of any alteration of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, provided on the Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers employees and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

FURTHERMORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that upon Final Completion of the Contract, the above obligation shall be reduced to the amount of _____ Dollars, (\$ _____), being not less than twenty percent (20%) of the Contract Amount, and shall hold for a period of two (2) years, during which time if the above bound Principal, or its heirs, executors, administrators, successors, transferees, or assigns shall fail to make full, complete and satisfactory repair and replacements or totally to protect the City from loss or damage made evident during said period from the date of Final Completion of the Contract, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, or failure to satisfy the warranty as set forth in the Contract, the above obligation in said sum of \$ _____, shall remain in full force and effect, otherwise the above obligation shall be void.

Whenever Principal shall be declared by the City to be in default under the Contract, Surety shall promptly remedy the default, or shall promptly do one of the following at the City's election:

1. Undertake through its agents or independent Contractors, reasonably acceptable to the City, to complete the Contract in accordance with its terms and conditions and to pay and perform

all obligations of Principal under the Contract, including without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages.

2. Reimburse the City for all costs the City incurs in completing the Contract, and in correcting, repairing or replacing any defects in materials or workmanship and/or materials and workmanship which do not conform to the specifications in the Contract.

Further, the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall release or exonerate the Surety on this bond or in any way affect its obligations under this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the Contract Documents.

The Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against the Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing the City's rights against the others.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City or its successors or assigns.

In the event the City, or its successors or assigns, shall be the prevailing party in an action brought upon this bond, then in addition to the penal sum hereinabove specified, Principal and the Surety, jointly and severally, agree to pay to the City or its successors or assigns, a reasonable sum on account of its attorney's fees incurred in such action, which sum shall be fixed by the court.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal

Name

Title

Signature

(SEAL)

Surety

Name

Title

Signature

(SEAL)

**Note: To be considered complete, both the Principal and an admitted Surety Insurer authorized by the California Insurance Commissioner to transact surety business in the State of California must sign the Performance Bond. In addition, the Surety's signature must be notarized and a copy of the Surety's Power of Attorney*

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS, that

WHEREAS, the City of Emeryville, a municipal corporation located in Alameda County, State of California (hereinafter "City"), has awarded a contract to _____, (hereinafter "Principal"), **REPLACEMENT OF THE EXISTING BMS HVAC SYSTEM (DELTA BMS UPGRADE/REPLACEMENT) AND PLUMBING REPAIRS IN THE CIVIC CENTER IN CITY OF EMERYVILLE, PROJECT NO. 15650018**; and

WHEREAS, the Principal is required to furnish a bond in connection with the Contract, providing that if Principal, or any of it or its subcontractors, shall fail to pay for any materials, provisions, or other supplies or teams used in, upon, for or about the performance of the Work contracted to be done, for any work or labor thereon of any kind, or claims to which reference is made in Section 9554 of the Civil Code, the Surety of this bond will pay the same to the extent hereinafter set forth.

NOW, THEREFORE, we, the undersigned Principal, and _____, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars, (\$ _____), lawful money of the United States of America, being not less than one hundred percent (100%) of the Contract Amount, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal, or its heirs, executors, administrators, successors, transferees, assigns, or subcontractors, shall fail to pay any of the persons named in Section 9100 of the Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under this Contract, or any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Contractors and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding the sum specified in this bond and will also pay, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

This bond shall inure to the benefit of any and all persons named in Section 9100 of the Civil Code so as to give a right of action to them or their assigns in any suit brought upon this bond.

This bond is given to comply with Sections 9550 and 9554 of the Civil Code. The liability of the PRINCIPAL and SURETY hereunder is governed by the provisions of said Code, all acts amendatory thereof, and all other statutes referred to therein, including Section 8152 of the Civil Code.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same shall in any way affect its obligations on this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Contract Documents.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this ____ day of _____ 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Principal

Name

Title

Signature

(SEAL)

Surety

Name

Title

Signature

(SEAL)

**Note:*

To be considered complete, both the Principal and an admitted Surety Insurer authorized by the California Insurance Commissioner to transact surety business in the State of California must sign the Payment Bond. In addition, the Surety's signature must be notarized and a copy of the Surety's Power of Attorney must be attached.

END OF DOCUMENT