

SONOMA CLEAN POWER AUTHORITY

SANTA ROSA, CALIFORNIA

CONTRACT DOCUMENTS AND SPECIFICATIONS FOR

4TH STREET ROOF OVERLAY

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00 11 16 – NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN that the Board of Directors of the Sonoma Clean Power Authority (“Owner” or “Agency”) invites and will receive sealed Bids up to but not later than **10:00 am on Wednesday, September 2 , 2026**, according to the clock in the Agency lobby, at the office of the Agency, located at 431 E Street, Santa Rosa, California, for the furnishing to Agency of all labor, equipment, materials, tools, services, transportation, permits, utilities, and all other items necessary for 4th Street Roof Overlay (the “Project”). At said time, Bids will be publicly opened and read aloud at the Agency Office. Bids received after said time shall be returned unopened. Bids shall be firm offers valid for a period of 90 calendar days after the Bid opening date.

Project Description: The Work consists of a roof overlay on an existing commercial building located at 733-741 4th Street, Santa Rosa, CA 95404. The Work includes, but is not limited to, providing and installing a roof overlay, new perimeter edge metal, flashings, and other miscellaneous items typical of a roof overlay, temporary removal and reinstallation of rooftop equipment, including but not limited to commercial HVAC units and appurtenances, as may be needed or appropriate for the roofing work. Work shall be completed within 90 Days from the date when Contract Time commences to run. Bidding Documents contain the full description of the Work.

Contact Information:

Mailing address and Office:
Sonoma Clean Power Authority
431 E Street Santa
Rosa, CA 95404

Phone: 707-890-8487

Website address:
<https://sonomacleanpower.org/>

Email: projects@sonomacleanpower.org
Online Solicitation:
<https://sonomacleanpower.org/solicitations-business-opportunities>

Bids must be submitted on the Agency’s Bid Forms. Bidders may obtain a copy of the Contract Documents from <https://sonomacleanpower.org/solicitations-business-opportunities>. To the extent required by section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, the Agency shall provide an electronic copy of the Contract Documents at no charge to the contractor plan room.

It is the responsibility of each prospective bidder to download and print all Bid Documents for review and to verify the completeness of Bid Documents before submitting a bid. Any Addenda will be posted on <https://sonomacleanpower.org/solicitations-business-opportunities>. It is the responsibility of each prospective bidder to check <https://sonomacleanpower.org/solicitations-business-opportunities> on a daily basis through the close of bids for any applicable addenda or updates. The Agency does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents. Information on <https://sonomacleanpower.org/solicitations-business-opportunities> may change without notice to prospective bidders. The Contract Documents shall supersede any information posted or transmitted by <https://sonomacleanpower.org/solicitations-business-opportunities>.

Each Bid shall be accompanied by cash, a certified or cashier's check, or Bid Bond secured from a surety company satisfactory to the Agency, the amount of which shall not be less than ten percent (10%) of the submitted Total Bid Price, made payable to Sonoma Clean Power Authority as bid security. The bid security shall be provided as a guarantee that within ten (10) working days after the Agency provides the successful bidder the Notice of Award, the successful Bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful Bidder fails to comply within said time. No interest will be paid on funds deposited with Agency.

A non-mandatory Pre-Bid Site Visit(s) is scheduled as listed below to review the Project's existing conditions at 733-741 4th Street, Santa Rosa, CA 95404. Each Proposer shall schedule exact time within the timeframes below by contacting projects@sonomacleanpower.org. No access is allowed unless as scheduled for an approved day and time. All access to the Site shall be accompanied by Agency representative.

Time	Date
10:00 am- 3:30pm	Monday, August 17, 2026
10:00 am- 3:30pm	Friday, August 21, 2026

Bidders will be provided the opportunity to investigate conditions or otherwise conduct investigations, explorations, tests, or studies at the Pre-Bid Site Visit, subject to delivering an executed Section 00 21 21 (Indemnity and Release Agreement) and providing an insurance certificate as described therein prior to the Pre-Bid Site Visit. This will be the Bidders' only opportunity to access the Site for purposes of investigating Site conditions.

Questions raised from Bidders not specifically addressed within this Bidding Documents shall be answered in writing, and shall be published on the Agency's website <https://sonomacleanpower.org/solicitations-business-opportunities>.

The successful Bidder will be required to furnish a Faithful Performance Bond and a Labor and Material Payment Bond each in an amount equal to one hundred percent (100%) of the Contract Price. Each bond shall be in the forms set forth herein, shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the successful Bidder may substitute certain securities for funds withheld by Agency to ensure its performance under the contract.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents. To Bid on this Project, a contractor must be registered to perform public work pursuant to Labor Code section 1725.5. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at Agency's Office and are deemed included in the Bidding Documents. Upon request, Agency will make available copies to any interested party. Also, the successful Bidder shall post the applicable prevailing wage rates at the Site in addition to all other job site notices prescribed by regulations.

In bidding on this Project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its Bid.

Unless otherwise provided in the Instructions for Bidders, each Bidder shall be a licensed contractor pursuant to sections 7000 et seq. of the Business and Professions Code in the following classification(s) throughout the time it submits its Bid and for the duration of the contract: California "B" General Building Contractor and "C-39" Roofing Contractor's License.

Substitution requests shall be made within 35 calendar days after the award of the contract by submitting a request with the form provided in 00 63 24 (Substitution Request Form [During Procurement]). Pursuant to Public Contract Code Section 3400(b), the Agency may make findings designating that certain additional materials, methods or services by specific brand or trade name other than those listed in the Standard Specifications be used for the Project. Such findings, if any, as well as the materials, methods or services and their specific brand or trade names that must be used for the Project may be found in 00 73 13 Special Conditions.

Pursuant to Public Contract Code section 3400(b), if the Agency has made any findings designating certain materials, products, things, or services by specific brand or trade name, such findings and the materials, products, things, or services and their specific brand or trade names will be set forth in the Special Conditions.

Agency shall award the contract for the Project to the lowest responsive, responsible Bidder as determined by the Agency from the Base Bid alone.

Agency reserves the right, in its sole discretion, to reject any or all bids, to re-bid, or to waive any irregularities or informalities in any bids or in the bidding process.

For further information, contact the Director of Capital Projects and Engineering, at projects@sonomacleanpower.org.

END OF SECTION

00 21 13 – INSTRUCTIONS TO BIDDERS

ARTICLE 0. SECURING DOCUMENTS

Bids must be submitted to the Agency on the Bid Forms which are a part of the Bid Package for the Project. Bid and Contract Documents may be obtained from <https://sonomacleanpower.org/solicitations-business-opportunities> in the Notice Inviting Bids.

Any Addenda will be posted on <https://sonomacleanpower.org/solicitations-business-opportunities>. Failure to acknowledge all addenda may make a bid nonresponsive and not eligible for award of the contract.

ARTICLE 1. EXAMINATION OF SITE AND CONTRACT DOCUMENTS

At its own expense and prior to submitting its Bid, each Bidder shall visit the site of the proposed work and fully acquaint itself with the conditions relating to the construction and labor required so that the Bidder may fully understand the work, including but not limited to difficulties and restrictions attending the execution of the work under the contract. Each Bidder shall carefully examine the Drawings, and shall read the Specifications, Contract, and all other documents referenced herein. Each Bidder shall also determine the local conditions which may in any way affect the performance of the work, including local tax structure, contractors' licensing requirements, availability of required insurance, the prevailing wages and other relevant cost factors, shall familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work, and shall make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site or where work is to be performed as may be required. Bidders are responsible for consulting the standards referenced in the Contract. The failure or omission of any Bidder to receive or examine any contract documents, forms, instruments, addenda, or other documents, or to visit the site and acquaint itself with conditions there existing shall in no way relieve any Bidder from any obligation with respect to its Bid or to the contract and no relief for error or omission will be given except as required under State law. The submission of a Bid shall be taken as conclusive evidence of compliance with this Article.

ARTICLE 2. INTERPRETATION OF DRAWINGS AND DOCUMENTS

Prospective Bidders unclear as to the true meaning of any part of the Drawings, Specifications or other proposed contract documents may submit to the Director of Capital Projects and Engineering of the Agency a written request for interpretation. The prospective Bidder submitting the request is responsible for prompt delivery. Interpretation of the Drawings, Specifications or other proposed contract documents will be made only by a written addendum duly issued and a copy of such addenda will be provided at <https://sonomacleanpower.org/solicitations-business-opportunities>. The Agency will not be responsible for any other explanation or interpretations of the proposed documents. If a prospective Bidder becomes aware of any errors or omissions in any part of the Contract Documents, it is the obligation of the prospective Bidder to promptly bring it to the attention of the Agency.

ARTICLE 3. NOT USED

ARTICLE 4. ADDENDA

The Agency reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the Agency shall be included in the Bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the Agency issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of Bids, the Agency will extend the deadline for submission of Bids. The Agency may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. The Bidder shall indicate the Addenda received prior to bidding in the space provided in the Bid Form. Failure to indicate all Addenda will be cause for rejecting the Bid.

ARTICLE 5. ALTERNATE BIDS

If alternate bid items are called for in the Contract Documents, the time required for completion of the alternate bid items has already been factored into the Contract duration and no additional Contract time will be awarded for any of the alternate bid items. The Agency may elect to include one or more of the alternate bid items, or to otherwise remove certain work from the Project scope of work. Accordingly, each bidder must ensure that each bid item contains a proportionate share of profit, overhead, and other costs or expenses which will be incurred by the bidder.

ARTICLE 6. COMPLETION OF BID FORMS

Bids shall only be prepared using copies of the Section 00 41 43 (Bid Form) Bid Forms. The use of substitute Bid Forms other than clear and correct photocopies of those provided by the Agency will not be permitted. Bids shall be executed by an authorized signatory as described in these Instructions to Bidders. In addition, Bidders shall fill in all blank spaces (including inserting "N/A" where applicable), and initial all interlineations, alterations, or erasures to the Bid Forms. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms nor make substitutions thereon. **USE OF BLACK OR BLUE INK, INDELIBLE PENCIL, OR A TYPEWRITER IS REQUIRED.** Deviations in the Bid Forms may result in the Bid being deemed non-responsive.

ARTICLE 7. MODIFICATIONS OF BIDS

Each Bidder shall submit its Bid in strict conformity with the requirements stated herein. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Bid Forms, or make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

ARTICLE 8. SUBCONTRACTORS

Bidder shall set forth the name, address of the place of business, Department of Industrial Relations Registration Number, and contractor license number of each subcontractor who will perform work, labor, furnish materials or render services to the bidder on said contract and each subcontractor licensed by the State of California who, under subcontract to bidder, specially fabricates and installs a portion of the Work described in the Drawings and Specifications in an amount in excess of one half of one percent (0.5%) of the total bid price, and shall indicate the

portion of the work to be done by such subcontractor in accordance with Public Contract Code Section 4104.

ARTICLE 9. LICENSING REQUIREMENTS

Pursuant to Business and Professions Code Section 7028.15 and Public Contract Code Section 3300, all bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Business and Professions Code Section 7028.15, the Agency shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the Agency shall reject the Bid. The Agency shall have the right to request, and Bidders shall provide within ten (10) calendar days, evidence satisfactory to the Agency of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract.

Notwithstanding anything contained herein, if the Work involves federal funds, the Contractor shall be properly licensed by the time the Contract is awarded, pursuant to the provisions of Public Contract Code section 20103.5.

ARTICLE 10. BID GUARANTEE (BOND)

Each bid shall be accompanied by: (a) cash; (b) a certified or cashier's check made payable to Sonoma Clean Power Authority; or (c) a Bid Bond secured from a surety company satisfactory to the Agency, the amount of which shall not be less than ten percent (10%) of the Total Bid Price, made payable to Sonoma Clean Power Authority as bid security. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The bid security shall be provided as a guarantee that within ten (10) working days after the Agency provides the successful bidder the Notice of Award, the successful bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful bidder fails to comply within said time, and Agency may enter into a contract with the next lowest responsive responsible bidder, or may call for new bids. No interest shall be paid on funds deposited with the Agency. Agency will return the security accompanying the bids of all unsuccessful bidders no later than 60 calendar days after award of the contract.

ARTICLE 11. IRAN CONTRACTING ACT OF 2010

In accordance with Public Contract Code Section 2200 *et seq.*, the Agency requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the Agency with respect to goods or services of one million dollars (\$1,000,000) or more, certify at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

The form of such Iran Contracting Certificate is included with the bid package and must be signed and dated under penalty of perjury.

ARTICLE 12. NONCOLLUSION DECLARATION

Bidders on all public works contracts are required to submit a declaration of noncollusion with their bid. This form is included with the bid package and must be signed and dated under penalty of perjury.

ARTICLE 13. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors form.

ARTICLE 14. BIDDER INFORMATION AND EXPERIENCE FORM

Each Bidder shall complete the questionnaire provided herein and shall submit the questionnaire along with its Bid. Failure to provide all information requested within the questionnaire along with the Bid may cause the bid to be rejected as non-responsive. The Agency reserves the right to reject any Bid if an investigation of the information submitted does not satisfy the Director of Capital Projects and Engineering that the Bidder is qualified to properly carry out the terms of the contract.

ARTICLE 15. WORKERS' COMPENSATION CERTIFICATION

In accordance with the provisions of Labor Code Section 3700, Contractor shall secure the payment of compensation to its employees. Contractor shall sign and file with the Agency the following certificate prior to performing the work under this Contract:

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

The form of such Workers' Compensation Certificate is included as part of this document.

ARTICLE 16. COMPLIANCE WITH CARB REGULATIONS

The Agency is a Public Works Awarding Body, as defined under Title 13 California Code of Regulations section 2449(c)(46). Accordingly, Bidders must submit, with their Bids, a valid Certificate of Reported Compliance ("CRC") for the Bidder's and its listed subcontractors' fleet (including any applicable leased equipment or vehicles). Bidder must complete and submit the Fleet Compliance Certification, on the form included in the bid package. Failure to provide a valid CRC for the Bidder's fleet, and for the fleets of all listed subcontractors, or failure to complete the

Fleet Compliance Certification, may render the Bid non-responsive.

ARTICLE 17. SIGNING OF BIDS

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

If a Bidder is a joint venture or partnership, it may be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising therefrom. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

ARTICLE 18. SUBMISSION OF SEALED BIDS

Once the Bid and supporting documents have been completed and signed as set forth herein, they shall be placed, along with the Bid Guarantee and other required materials, in a sealed envelope, addressed and delivered or mailed, postage prepaid, to the Capital Projects and Engineering Department of the Agency. Mailed items must be received before the time and day set for the receipt of bids. The envelope shall bear the title of the work and the name of the bidder. No oral or telephonic bids will be considered. No forms transmitted via the internet, e-mail, facsimile, or any other electronic means will be considered unless specifically authorized by the Agency as provided herein. Bids received after the time and day set for the receipt of bids shall be returned to the bidder unopened. The envelope shall also contain the following in the lower left-hand corner thereof:

**Bid of _____ (Bidder's Name)
for the 4th Street Roof Overlay**

Only where expressly permitted in the Notice Inviting Bids may bidders submit their bids via electronic transmission pursuant to Public Contract Code sections 1600 and 1601. Any acceptable method(s) of electronic transmission shall be stated in the Notice Inviting Bids. Agency may reject any bid not strictly complying with Agency's designated methods for delivery.

ARTICLE 19. OPENING OF BIDS

At the time and place set for the opening and reading of bids, or any time thereafter, each and every bid received prior to the time and day set for the receipt of bids will be publicly opened and read. The Agency will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the bidder. It is the bidder's sole responsibility to ensure that its Bid is received as specified. Bids may be submitted earlier than the date(s) and time(s) indicated.

The public reading of each bid will include the following information:

A. The business name of the bidder.

B. The bid amount.

Bidders or their representatives and other interested persons may be present at the opening of the bids. The Agency may, in its sole discretion, elect to postpone the opening of the submitted Bids.

ARTICLE 20. WITHDRAWAL OF BID

Any bid may be withdrawn either personally or by written request, incurring no penalty, at any time prior to the scheduled closing time for receipt of bids. Requests to withdraw bids shall be worded so as not to reveal the amount of the original bid. Withdrawn bids may be resubmitted until the time and day set for the receipt of bids, provided that resubmitted bids are in conformance with the instructions herein.

Bids may be withdrawn after bid opening only by providing written notice to Agency within five (5) working days of the bid opening and in compliance with Public Contract Code Section 5100 *et seq.*, or as otherwise may be allowed with the consent of the Agency.

ARTICLE 21. BIDDERS INTERESTED IN MORE THAN ONE BID

No Bidder shall be allowed to make, file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders. No person, firm, corporation, or other entity may submit a sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

ARTICLE 22. SUBSTITUTION OF SECURITY

The Contract Documents call for monthly progress payments based upon the percentage of the Work completed. The Agency will retain a percentage of each progress payment as provided by the Contract Documents. At the request and expense of the successful Bidder, the Agency will substitute securities for the amount so retained in accordance with Public Contract Code Section 22300.

ARTICLE 23. PREVAILING WAGES

The Agency has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract. These rates are on file at Agency's Office or may be obtained online at <http://www.dir.ca.gov>. Bidders are advised that a copy of these rates must be posted by the successful Bidder at the job site(s).

ARTICLE 24. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter

of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

ARTICLE 25. INSURANCE REQUIREMENTS

Prior to commencing work, the successful bidder shall purchase and maintain insurance as set forth in the General Conditions.

ARTICLE 26. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

The successful bidder will be required to furnish a Labor and Material Payment Bond and a Faithful Performance Bond each in an amount equal to one hundred percent (100%) of the contract price. Each bond shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and is admitted by the State of California. Each bond shall be accompanied, upon the request of Agency, with all documents required by California Code of Civil Procedure Section 995.660 to the extent required by law. All bonding and insurance requirements shall be completed and submitted to Agency within ten (10) working days from the date the Agency provides the successful bidder with the Notice of Award.

ARTICLE 27. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by agencies having jurisdiction in the jurisdiction in which the Work will be located, unless otherwise expressly provided by the Contract Documents.

ARTICLE 28. PERMIT AND INSPECTION FEE ALLOWANCE

[Reserved]

ARTICLE 29. FILING OF BID PROTESTS

Bidders may file a "protest" of a Bid with the Agency's Director of Capital Projects and Engineering. In order for a Bidder's protest to be considered valid, the protest must:

- A. **Be filed in writing within five (5) calendar days after the issuance of the Notice of Intent to Award;**
- B. **Clearly identify the specific alleged irregularity or accusation;**
- C. Clearly identify the specific Agency staff determination or recommendation being protested;
- D. Specify in detail the grounds for protest and the facts supporting the protest; and
- E. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, the Agency may reject the protest

without further review.

Only Bidders who Agency otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other Bidder will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, Agency may evaluate all information contained in any protesting Bidder's Bid, and conduct the same investigation and evaluation as Agency is entitled to take regarding an Apparent Low Bidder.

The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

If the protest is timely and complies with the above requirements, the Agency's Director of Capital Projects and Engineering, or other designated Agency staff member, shall review the protest, any response from the challenged Bidder(s), and all other relevant information. The Director of Capital Projects and Engineering will provide a written decision to the protestor.

The procedure and time limits set forth in this Article are mandatory and are the sole and exclusive remedy in the event of a Bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the Bid protest, including filing a Government Code claim or legal proceedings.

ARTICLE 30. BASIS OF AWARD; BALANCED BID

The Agency shall award the Contract to the lowest responsible Bidder submitting a responsive Bid. The lowest Bid will be determined on the basis of the Total Bid Price.

The Agency may reject any Bid which, in its opinion when compared to other Bids received or to the Agency's internal estimates, does not accurately reflect the cost to perform the Work. The Agency may reject as non-responsive any Bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular bid items.

ARTICLE 31. AWARD PROCESS

Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the Board of Directors may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once the Agency notifies the Bidder of the award via issuance of the Notice of Award, the Bidder will have ten (10) working days from the date of this notification to execute the Contract and supply the Agency with all of the required documents and certifications. Once the Agency receives all of the properly drafted and executed documents and certifications from the Bidder, the Agency shall issue a Notice to Proceed to that Bidder. Contract time shall begin to run as of the date of the Notice to Proceed.

ARTICLE 32. EXECUTION OF CONTRACT

As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The Agency may require appropriate evidence that the persons executing the Contract are duly empowered to do so. The Contract and bond forms to

be executed by the successful Bidder are included within these Specifications and shall not be detached.

ARTICLE 33. QUESTIONS

Questions regarding this Notice Inviting Bids may be directed to Director of Capital Projects and Engineering, at projects@sonomacleanpower.org. No other members of the Agency's staff or Board of Directors shall be contacted about this procurement during the bidding process. Any and all inquiries and comments regarding this Bid must be communicated in writing, unless otherwise instructed by the Agency. The Agency may, in its sole discretion, disqualify any Bidder who engages in any prohibited communications.

END OF SECTION

00 30 00- GEOTECHNICAL DATA AND EXISTING CONDITIONS

ARTICLE 1 – REPORTS AND INFORMATION ON EXISTING CONDITIONS

1.1 Inspection of Reports:

- A. Agency, its consultants, and prior contractors may have collected documents providing a general description of the Site and conditions of the Work. These documents may consist of geotechnical reports for and around the Site, contracts, contract specifications, tenant improvement contracts, as-built drawings, utility drawings, information regarding hazardous materials, and information regarding Underground Facilities (collectively, “Existing Conditions Data”).
- B. Bidders may inspect Existing Conditions Data. These documents are listed in Section 01 10 00 (Summary) and are available for review as identified therein. Copies may be obtained for the cost of reproduction and handling upon Bidder’s payment for the costs.
- C. Existing Conditions Data is for information only and does not describe labor, materials, or equipment furnished by Contractor, but rather, information regarding conditions of the Work. Such Existing Conditions Data is not a Contract Document.

ARTICLE 2 – USE OF EXISTING CONDITIONS DATA

2.1 Aboveground Existing Conditions:

- A. Agency makes no warranty or representation of existing aboveground conditions, as-built conditions, or other aboveground actual conditions verifiable by reasonable independent investigation. These conditions are verifiable by Bidder by the performance of its own independent investigation that Bidder must perform prior to bidding, and Bidder must not rely on the information supplied by Agency regarding existing conditions.
- B. Bidder represents and agrees that in submitting its Bid, it is not relying on any information regarding aboveground existing conditions supplied by Agency.

2.2 Underground Facilities:

- A. Information supplied regarding existing Underground Facilities at or contiguous to the Site is based on information furnished to Agency by others (e.g., the builders of such Underground Facilities or others).
- B. Agency assumes responsibility for only the general accuracy, completeness, or thoroughness of information regarding Underground Facilities owned by Agency. This express assumption of responsibility applies only if Bidder has conducted the independent investigation required of it under Section 00 72 13 (General Conditions) and discrepancies were not apparent. Bidder is solely responsible for any interpretation or conclusion drawn from this information.
- C. Agency is not responsible for information regarding Underground Facilities owned by others.

2.3 Hazardous Materials Surveys:

- A. Bidders may rely on Existing Conditions Data for general accuracy regarding the locations of potentially hazardous materials that may be encountered as part of Work. Agency does not warrant and makes no representation regarding the completeness or thoroughness of any data or information regarding existing conditions or hazardous materials including, but not limited to, quantities, characteristics, volumes, or associated structural features. Bidder represents and agrees that in submitting a Bid it is not relying on any such data, information, or deductions.
- B. Data and information regarding the locations of hazardous materials are not part of Contract Documents.

2.4 Geotechnical Data:

- A. Bidder may rely upon the general accuracy of the “technical data” contained in the Existing Conditions Data, but only insofar as it relates to subsurface conditions, provided Bidder has conducted the independent investigation required of it and discrepancies were not apparent.
- B. The term “technical data” shall include actual reported depths, reported quantities, reported soil types, reported soil conditions, and reported material, equipment, or structures that were encountered during subsurface exploration. The term “technical data” does not include, and Bidder may not rely upon, any other data, interpretations, opinions or information shown or indicated in such drawings or reports that otherwise relate to subsurface conditions or described structures. The term “technical data” shall not include the location of Underground Facilities.
- C. Bidder may not rely on the completeness of reports and drawings for the purposes of bidding or construction. Bidder is solely responsible for any interpretation or conclusion drawn from any “technical data” or any other data, interpretations, opinions, or information contained in supplied Existing Conditions Data.
- D. Except as expressly set forth in this Section 00 30 00, Agency does not warrant, and makes no representation regarding, the accuracy or thoroughness of any Existing Conditions Data.
- E. Bidder represents and agrees that in submitting its Bid, it is not relying on any geotechnical data supplied by Agency, except as specifically set forth herein.

ARTICLE 3 - INVESTIGATIONS

3.1 Required Investigations:

- A. Before submitting a Bid, each Bidder shall be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise, which may affect cost, progress, performance, or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of Contract Documents.
- B. Bidders shall advise Agency in writing during the Bid period of any questions, suppositions, inferences, or deductions Bidders may have for Agency’s review and

response.

- C. Agency has provided time in the period prior to bidding for Bidder to perform these investigations.

3.2 Access to Site for Investigations:

- A. Proposers seeking access to the Project site for purposes of site and bid due diligence may be permitted access, subject to separate written agreement from Agency and subject to terms and conditions, including releases as to existing site conditions and indemnification of Agency with regard to such access and any activities that occur as part of such access.

END OF SECTION

00 41 43 – BID FORMS

1.1 Bid.

NAME OF BIDDER: _____

To the Board of Directors
of the Sonoma Clean Power Authority
431 E Street, Santa Rosa, CA 95404

The undersigned hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all addenda, if any for the following Project:

4th Street Roof Overlay

We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project, as described and in strict conformity with the Drawings, and these Specifications for TOTAL BID PRICE indicated herein.

The undersigned acknowledges receipt, understanding, and full consideration of the following addenda to the Contract Documents:

Addenda No(s). _____

1. Attached is the required Bid Security in the amount of not less than 10% of the Total Bid Price.
2. Attached is the completed Designation of Subcontractors form.
3. Attached is the fully executed Noncollusion Declaration form.
4. Attached is the completed Iran Contracting Act Certification form.
5. Attached is the completed Public Works Contractor Registration Certification form.
6. Attached is the completed Contractor's Certificate Regarding Workers' Compensation form.
7. Attached is the completed Bidder Information and Experience form.
8. Attached is the completed Fleet Compliance Certification form.

A. TOTAL BID PRICE:

TOTAL BID PRICE BASED ON BID SCHEDULE TOTAL OF UNIT PRICES

FOR 4th Street Roof Overlay Project

\$ _____

Total Bid Price in Numbers

Total Bid Price in Written Form

In case of discrepancy between the written price and the numerical price, the written price shall prevail.

The undersigned agrees that this Bid Form constitutes a firm offer to the Agency which cannot be withdrawn for the number of calendar days indicated in the Instructions to Bidders from and after the Bid opening, or until a Contract for the Work is fully executed by the Agency and a third party, whichever is earlier.

The successful bidder hereby agrees to sign the contract and furnish the necessary bonds and certificates of insurance within ten (10) working days after the Agency provides the successful bidder with the Notice of Award.

Upon receipt of the signed contract and other required documents, the contract will be executed by the Agency, after which the Agency will prepare a letter giving Contractor Notice to Proceed. The official starting date shall be the date of the Notice to Proceed, unless otherwise specified. The undersigned agrees to begin the Work within ten (10) working days of the date of the Notice to Proceed, unless otherwise specified.

The undersigned has examined the location of the proposed work and is familiar with the Drawings and Specifications and the local conditions at the place where work is to be done.

If awarded the contract, the undersigned agrees that there shall be paid by the undersigned and by all subcontractors to all laborers, workers and mechanics employed in the execution of such contract no less than the prevailing wage rate within Sonoma County for each craft, classification, or type of worker needed to complete the Work contemplated by this contract as established by the Director of the Department of Industrial Relations. A copy of the prevailing rate of per diem wages are on file at the Agency's Administration Office and shall be made available to interested parties upon request.

Enclosed find cash, bidder's bond, or cashier's or certified check No. _____ from the _____ Bank in the amount of _____, which is not less than ten percent (10%) of this bid, payable to Sonoma Clean Power Authority as bid security and which is given as a guarantee that the undersigned will enter into a contract and provide the necessary bonds and certificates of insurance if awarded the Work.

The bidder furthermore agrees that in case of bidder's default in executing said contract and furnishing required bonds and certificates of insurance, the cash, bidder's bond, or cashier's or certified check accompanying this proposal and the money payable thereon shall become and shall remain the property of the Sonoma Clean Power Authority.

Bidder is an individual _____, or corporation _____, or partnership _____, organized under the laws of the State of _____.

Bidder confirms license(s) required by California State Contractor's License Law for the performance of the subject project are in full effect and proper order. The following are the Bidder's applicable license number(s), with their expiration date(s) and class of license(s):

If the Bidder is a joint venture, each member of the joint venture must include the required licensing information.

Sureties that will furnish the Faithful Performance Bond and the Labor and Material Payment Bond, in the form specified herein, in an amount equal to one hundred percent (100%) of the contract price within ten (10) working days from the date the Agency provides the successful bidder the Notice of Award. Sureties must meet all of the State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and must be authorized by the State of California.

The insurance company or companies to provide the insurance required in the contract documents must have a Financial Strength Rating of not less than "A-" and a Financial Size Category of not less than "Class VII" according to the latest Best Key Rating Guide, with the exception of the California Compensation Insurance Fund. At the sole discretion of the Agency, the Agency may waive the Financial Strength Rating and the Financial Size Category classifications for Workers' Compensation insurance.

(signatures continued on next page)

I hereby certify under penalty of perjury under the laws of the State of California that all of the information submitted in connection with this Bid and all of the representations made herein are true and correct.

Executed at _____, on this ____ day of _____, ____.

(Bidders Name – Print or Type)

(Name and Title)

(Corporate Seal)

(Signature)

Names of individual members of firm or names and titles of all officers of corporation and their addresses are listed below:

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

1.2 **BID SECURITY FORM**

[Note: Not required when other form of Bidder's Security, e.g. cash, certified check or cashier's check, accompanies bid.]

KNOW ALL BY THESE PRESENTS:

That the undersigned [name of contractor] as Principal and the undersigned as surety are held and firmly bound unto the SONOMA CLEAN POWER AUTHORITY, a public agency of the state of California ("Owner" or "Agency"), as obligee, in the penal sum of _____ Dollars (\$) lawful money of the United States of America being at least ten percent (10%) of the aggregate amount of said Principal _____'s bid, for the payment of which, well and truly to be made, we bind ourselves, our successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal is submitting a bid for 4th Street Roof Overlay.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the bid submitted by the said Principal be accepted and the Contract be awarded to said Principal and said Principal shall within the required periods enter into the Contract so awarded and provide the required Construction Performance Bond, Construction Labor and Material Payment Bond, insurance certificates, Guarantee, and all other endorsements, forms, and documents required under **SECTION 00 11 16 – NOTICE INVITING BIDS and 00 21 13 – INSTRUCTIONS TO BIDDERS**, then this obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument this_ day of _____, 20____.

(Corporate Seal)

Contractor/Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

(Attache Attorney-in-Fact Certificate)

Title _____

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

Name(s) of Signer(s)

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

Title or Type of Document

- ☐ Partner(s) ☐ Limited
 ☐ General

Number of Pages

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF BID BOND

1.3 **List of Subcontractors**

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Bidder shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number unless exempt pursuant to Labor Code Sections 1725.5 and 1771.1, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Bidder shall list each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If a Bidder fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Bidder shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of Work

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of Work

(Attach additional sheets if necessary)

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

1.4 Bidder Information and Experience Form

ARTICLE 1. INFORMATION ABOUT BIDDER

(Indicate not applicable ("N/A") where appropriate.)

NOTE: Where Bidder is a joint venture, pages shall be duplicated and information provided for all parties to the joint venture.

a. Name of Bidder: _____

b. Type, if Entity: _____

c. Bidder Address: _____

Facsimile Number

Telephone Number

Email Address

d. How many years has Bidder's organization been in business as a Contractor? _____

e. How many years has Bidder's organization been in business under its present name? _____

a. Under what other or former names has Bidder's organization operated? _____

a. If Bidder's organization is a corporation, answer the following:

a. Date of Incorporation: _____

b. State of Incorporation: _____

1.1 President's Name: _____

1.2 Vice-President's Name(s): _____

1.3 Secretary's Name: _____

1.4 Treasurer's Name: _____

6. If an individual or a partnership, answer the following:

a. Date of Organization: _____

b. Name and address of all partners (state whether general or limited partnership):

7. If other than a corporation or partnership, describe organization and name principals:

8. List other states in which Bidder's organization is legally qualified to do business.

9. What type of work does the Bidder normally perform with its own forces?

10. Has Bidder ever failed to complete any work awarded to it? If so, note when, where, and why:

11. Within the last five years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

12. List Trade References:

13. List Bank References (Bank and Branch Address):

14. Name of Bonding Company and Name and Address of Agent:

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

ARTICLE 2. LIST OF CURRENT PROJECTS (BACKLOG)

[**Duplicate Page if needed for listing additional current projects.**]

Project	Description of Bidder's Work	Completion Date	Cost of Bidder's Work

ARTICLE 3. LIST OF COMPLETED PROJECTS – LAST THREE YEARS

[**Duplicate Page if needed for listing additional completed projects.**]

Please include only those projects which are similar enough to demonstrate Bidder's ability to perform the required Work.

Project	Description of Bidder's Work	Completion Date	Cost of Bidder's Work

ARTICLE 4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE

Personnel:

The Bidder shall identify the key personnel to be assigned to this project in a management, construction supervision or engineering capacity.

A. List each person's job title, name and percent of time to be allocated to this project:

B. Summarize each person's specialized education:

C. List each person's years of construction experience relevant to the project:

D. Summarize such experience:

Bidder agrees that personnel named in this Bid will remain on this Project until completion of all relevant Work, unless substituted by personnel of equivalent experience and qualifications approved in advance by the Agency.

Changes Occurring Since Prequalification

If any substantive changes have occurred since Bidder submitted its prequalification package for this Project, Bidder shall list them below. If none are listed, Bidder certifies that no substantive changes have occurred.

Additional Bidder's Statements:

If the Bidder feels that there is additional information which has not been included in the questionnaire above, and which would contribute to the qualification review, it may add that information in a statement here or on an attached sheet, appropriately marked:

ARTICLE 5. VERIFICATION AND EXECUTION

These Bid Forms shall be executed only by a duly authorized official of the Bidder:

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

Name of Bidder _____

Signature _____

Name _____

Title _____

Date _____

1.5 Non-Collusion Declaration

The undersigned declares:

I am the _____ of _____, the party making the foregoing Bid.

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

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

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

Name of Bidder_____

Signature_____

Name_____

Title_____

1.6 Iran Contracting Act Certification.

(Public Contract Code section 2200 et seq.)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

☐ The Contractor is not:

1. identified on the current list of person and entities engaged in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
2. a financial instruction that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

☐ The Agency has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the Agency will be unable to obtain the goods and/or services to be provided pursuant to the Contract.

☐ The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signature: _____

Printed Name: _____

Title: _____

Firm Name: _____

Date: _____

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

1.7 Public Works Contractor Registration Certification

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations or is otherwise exempt under applicable law and regulation.¹

Name of Bidder: _____

DIR Registration Number: _____

DIR Registration Expiration: _____

Small Project Exemption: _____ Yes or _____ No

Unless Bidder is exempt pursuant to the small project exemption, Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

¹ If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

1.8 Contractor's Certificate Regarding Workers' Compensation.

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

Name of Bidder _____

Signature _____

Name _____

Title _____

Dated _____

1.9 Fleet Compliance Certification

Bidder hereby acknowledges that they have reviewed the California Air Resources Board's policies, rules and regulations and are familiar with the requirements of Title 13, California Code of Regulations, Division 3, Chapter 9, effective on January 1, 2024 (the "Regulation"). Bidder hereby certifies, subject to penalty for perjury, that the option checked below relating to the Bidder's fleet, and/or that of their subcontractor(s) ("Fleet") is true and correct:

- ☐ The Fleet is subject to the requirements of the Regulation, and the appropriate Certificate(s) of Reported Compliance have been attached hereto.
- ☐ The Fleet is exempt from the Regulation under section 2449.1(f)(2), and a signed description of the subject vehicles, and reasoning for exemption has been attached hereto.
- ☐ Bidder and/or their subcontractor is unable to procure R99 or R100 renewable diesel fuel as defined in the Regulation pursuant to section 2449.1(f)(3). Bidder shall keep detailed records describing the normal refueling methods, their attempts to procure renewable diesel fuel and proof that shows they were not able to procure renewable diesel (i.e. third party correspondence or vendor bids).
- ☐ The Fleet is exempt from the requirements of the Regulation pursuant to section 2449(i)(4) because this Project has been deemed an Emergency, as defined under section 2449(c)(18). Bidder shall only operate the exempted vehicles in the emergency situation and records of the exempted vehicles must be maintained, pursuant to section 2449(i)(4).
- ☐ The Fleet does not fall under the Regulation or are otherwise exempted and a detailed reasoning is attached hereto.

Name of Bidder: _____

Signature: _____

Name: _____

Title: _____

Date: _____

00 50 50- NOTICE OF INTENT TO AWARD FOR CONSTRUCTION

DATE POSTED: _____

PROJECT TITLE: 4th Street Roof Overlay

The Director of Capital Projects and Engineering of the Sonoma Clean Power Authority, intends to recommend to the Board of Directors of the Sonoma Clean Power Authority the award of the above-referenced Project to

_____.

SONOMA CLEAN POWER AUTHORITY

By: _____
Rebecca Simonson
Director of Capital Projects and Engineering

Date: _____

END OF SECTION

00 51 00- NOTICE OF AWARD

Dated _____

TO: _____

ADDRESS: _____

CONTRACT FOR: 4th Street Roof Overlay

The Contract Sum of your contract is _____ Dollars (\$_____).

1. One copy of the proposed Contract and Bond Forms accompany this Notice of Award.
2. You must comply with the following conditions precedent by 5:00 p.m. of the 10th working day following the date of this Notice of Award, that is, by [month day, year].
 - a. Deliver to Agency one fully executed counterpart of Section 00 52 13 (Contract) with your original signature on the signature page.
 - b. Deliver to Agency one original of Section 00 61 13 (Performance Bond Form), executed by you and your surety.
 - c. Deliver to Agency one original of Section 00 61 13 (Payment Bond Form), executed by you and your surety.
 - d. Deliver to Agency one original copy of Section 00 65 36 (Warranty Form), executed by you.
 - e. Deliver to Agency original set of the insurance certificates with endorsements required under Section 00 72 13 (General Conditions).
3. Failure to comply with these conditions within the time specified will entitle Agency to consider your Bid abandoned, to annul this Notice of Award, and to declare your Bid security forfeited.
4. Upon receipt of all required deliverables, Agency will return to you one fully signed counterpart of Section 00 52 13 (Agreement) with 2 copies of the Project Manual (including Specifications and Drawings) and 2 sets of full-size Drawings.
5. Before you may start any Work at the Site, you must attend a preconstruction conference. The preconstruction conference may be arranged through the Director of Capital Projects and Engineering (____) ____-_____.] Questions

regarding bonds and insurance may be directed to [_____] at the same number. All other inquiries regarding the Project should be directed to [_____]. In accordance with Section 01 32 16 (Construction Progress Schedule), at the preconstruction conference you must provide your baseline Progress Schedule.

6. Upon commencement of the Work, you and each of your Subcontractors shall certify, maintain, and furnish payroll records as required by the Division of Labor Standards Enforcement, in accordance with California Labor Code section 1776.

SONOMA CLEAN POWER AUTHORITY

BY: _____
Rebecca Simonson
Director of Capital Projects and
Engineering

END OF SECTION

00 52 13 – CONTRACT

This CONTRACT, 4th Street Roof Overlay is made and entered into this ____ day of _____, 20__, by and between Sonoma Clean Power Authority, sometimes hereinafter called "Agency," and [____], sometimes hereinafter called "Contractor."

In consideration of the mutual covenants hereinafter set forth, Contractor and Agency agree as follows:

1. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, supervision, administration, handling, materials, equipment, tools, utility services, and transportation to complete all Work required in strict compliance with the Contract Documents, below, for the following Project:

Project Name: 4th Street Roof Overlay

Project Location: 733-741 4th Street, Santa Rosa, CA 95404

Project includes all work necessary and appropriate to deliver and complete the Project, including, but not limited to, providing and installing a roof overlay, new perimeter edge metal, flashings, and other miscellaneous items typical of a roof overlay, temporary removal and reinstallation of rooftop equipment, including but not limited to, commercial HVAC units and appurtenances, and reinstallation of rooftop equipment.

The Contractor and its surety(s) shall be liable to the Agency for any damages arising as a result of the Contractor's failure to comply with this obligation.

2. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the Agency's Notice to Proceed (the "Commencement Date"). By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

Contractor shall achieve Substantial Completion of the entire Work within 60 Days from the Commencement Date.

Contractor shall achieve Final Completion of the entire Work 90 Days from the Commencement Date.

3. **CONTRACT PRICE.** The Agency shall pay to the Contractor as full compensation for completion of the Work in accordance with the Contract Documents, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of [spelled out dollars] (\$____.____). Payment shall be made as set forth in the General Conditions.

4. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the Agency as set forth below for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the Agency may deduct that amount from any money due or that may become due the

Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

As liquidated damages for delay, Contractor shall pay Agency one-thousand dollars (\$1,000.00) for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion of the entire Work, until achieved.

As liquidated damages for delay, Contractor shall pay Agency five hundred dollars (\$500.00) for each Day that expires after the time specified herein for Contractor to achieve Final Completion of the entire Work, until achieved.

5. **COMPONENT PARTS OF THE CONTRACT.** The "Contract Documents" consist of the following documents, including all changes, Addenda, and modifications thereto:

Contract
Notice of Award
Notice to Proceed
Performance Bond
Payment (Labor and Materials) Bond
General Conditions
Special Conditions
Technical Specifications
Addenda
Standard Specifications for Public Works Construction "Greenbook", latest edition, excluding Sections 1-9
Approved and fully executed change orders
All other documents expressly referenced or incorporated into the Contract

There are no Contract Documents other than those as stated in this Document 00 52 13. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties as to the Project.

6. Contractor has listed the following Subcontractors pursuant to the Subcontractor Listing Law, California Public Contract Code section 4100 et seq.:

Name of Subcontractor and Location of Mill or Shop	Description of Work: Reference To Bid Items	Subcontractor's License No.

7. Agency's Project Manager:

Agency has designated Rebecca Simonson, Director of Capital Projects and Engineering, as its Owner's Project Manager and as Agency's Representative in all matters relating to the Contract Documents.

Agency's Project Manager shall have final authority over all matters pertaining to the Contract Documents and shall have sole authority to modify the Contract Documents on behalf of Agency, to accept work, and to make decisions or actions binding on Agency, and shall have sole signature authority on behalf of Agency.

Agency's Project Manager and all other Agency's Representative(s), if any, are the beneficiary of all Contractor obligations to Agency, including without limitation, all releases and indemnities.

8. Contractor's Project Manager:

Contractor has designated _____ as its project manager and as its representative in all matters relating to the Contract Documents.

9. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

10. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

11. **PREVAILING WAGES.** Contractor shall comply with all applicable prevailing wage requirements under the California Labor Code and related regulations, including as set forth in the General Conditions.

10. **MISCELLANEOUS**

TERMS. Terms and abbreviations used in this Contract are defined in the General Conditions and will have the meaning indicated therein.

INDEPENDENT CONTRACTOR. Nothing contained in these Contract Documents or inferable therefrom shall be deemed or construed to make Contractor the servant or employee of Agent, or create any partnership, joint venture, or other association between Owner and Contractor.

NO PERSONAL LIABILITY. It is understood and agreed that in no instance are the persons signing this Contract for or on behalf of Agency or acting as an employee, agent, or representative of Agency, liable on this Contract or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of Agency is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, effective as of the day and year above written.

[]

**SONOMA CLEAN POWER
AUTHORITY**

Name of Contractor

By _____

By _____

Geof Syphers, CEO

Name and Title:

Date:

License No.

Date:

**(CONTRACTOR'S SIGNATURE MUST BE
NOTARIZED AND CORPORATE
SEAL AFFIXED, IF APPLICABLE)**

Approved as to form this _____ day of _____ 20____.

Attorney for Sonoma Clean Power Authority

END OF CONTRACT FORM

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

00 61 13 – BOND FORMS

1.1 PERFORMANCE BOND FORM

THIS CONSTRUCTION PERFORMANCE BOND ("Bond") dated _____, is in the penal sum of _____ [which is one hundred percent of the Contract Price], and is entered into by and between the parties listed below to ensure the faithful performance of the Contract listed below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 12, attached to this page. Any singular reference to _____ [insert name of Contractor] ("Contractor"), _____ [insert name of Surety] ("Surety"), Sonoma Clean Power Authority, a public agency ("Owner" or "Agency"), or other party shall be considered plural where applicable.

CONTRACTOR:

Name _____

Address _____

City/State/Zip**SURETY:**

Name _____

Principal Place of Business _____

City/State/Zip**CONTRACT:****[FULL PROJECT NAME]**

at _____, California

Signed _____, 20____ in the Amount of \$_____ (the "Penal Sum")

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)SURETY
Company: (Corp. Seal)

Signature: _____

Name and Title: _____

Signature: _____

Name and Title: _____

BOND TERMS AND CONDITIONS

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Agency for the complete and proper performance of the Contract, which is incorporated herein by reference.
2. If Contractor completely and properly performs all of its obligations under the Contract, Surety and Contractor shall have no obligation under this Bond.
3. If there is no Agency Default, Surety's obligation under this Bond shall arise after:
 - 3.1. Agency has declared a Contractor Default under the Contract pursuant to the terms of the Contract; and
 - 3.2. Agency has agreed to pay the Balance of the Contract Price:
 - 3.2.1. To Surety in accordance with the terms of this Bond and the Contract; or
 - 3.2.2. To a contractor selected to perform the Contract in accordance with the terms of this Bond and the Contract.
4. When Agency has satisfied the conditions of Paragraph 3, Surety shall promptly (within 30 Days) and at Surety's expense elect to take one of the following actions:
 - 4.1. Arrange for Contractor, with consent of Agency, to perform and complete the Contract (but Agency may withhold consent, entirely within its discretion, in which case the Surety must elect an option described in Paragraphs 4.2, 4.3, or 4.4, below); or
 - 4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; provided that Surety may not select Contractor as its agent or independent contractor without Agency's consent; or
 - 4.3. Undertake to perform and complete the Contract by obtaining bids from qualified contractors acceptable to Agency for a contract for performance and completion of the Contract and, upon determination by Agency of the lowest responsive and responsible Bidder, arrange for a contract to be prepared for execution by Agency and the contractor selected with Agency's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract; and, if Surety's obligations defined in Paragraph 6, below, exceed the Balance of the Contract Price, then Surety shall pay to Agency the amount of such excess upon Agency's demand; or

- 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances and, after investigation and consultation with Agency, tender the full penal sum of the bond.
5. If Surety does not proceed as provided in Paragraph 4, above, then Surety shall be deemed to be in default on this Bond ten Days after receipt of an additional written notice from Agency to Surety demanding that Surety perform its obligations under this Bond. At all times Agency shall be entitled to enforce any remedy available to Agency at law or under the Contract, including without limitation, and by way of example only, rights to perform work, protect Work, mitigate damages, advance critical Work to mitigate schedule delay, or coordinate Work with other consultants or contractors.
6. Surety's monetary obligation under this Bond is limited by the amount of this Bond identified herein as the Penal Sum. This monetary obligation shall augment the Balance of the Contract Price. Subject to these limits, Surety's obligations under this Bond are commensurate with the obligations of Contractor under the Contract. Surety's obligations shall include, but are not limited to:
 - 6.1. The responsibilities of Contractor under the Contract for completion of the Contract and correction of Defective Work;
 - 6.2. The responsibilities of Contractor under the Contract to pay liquidated damages, and for damages for which no liquidated damages are specified in the Contract, actual damages caused by non-performance of the Contract including, but not limited to, all valid and proper backcharges, offsets, payments, indemnities, or other damages;
 - 6.3. Additional legal, design professional, and delay costs resulting from Contractor Default or resulting from the actions or failure to act of the Surety under Paragraph 4, above (but excluding attorney's fees incurred to enforce this Bond).
7. No right of action shall accrue on this Bond to any person or entity other than Agency or its successors or assigns.
8. Surety hereby waives notice of any change, alteration or addition, to the Contract or to related subcontracts, purchase orders, and other obligations, including changes of time. Surety consents to all terms of the Contract, including provisions on changes to the Contract. No extension of time, change, alteration, Modification, deletion, or addition to the Contract Documents, or of the Work required thereunder, shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond.
9. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between Agency and Contractor regarding the Contract, or in the courts of the County of Sonoma, or in a court of competent jurisdiction in the location in which the Work is located. Communications from Agency to Surety under Paragraph 3.1 of this Bond shall be deemed to include the necessary agreements under Paragraph 3.2 of this Bond unless expressly stated otherwise.

10. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Agency shall be mailed or delivered as provided in the Contract. Actual receipt of notice by Surety, Agency or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.
11. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.
12. Definitions.
 - 12.1. Balance of the Contract Price: The total amount payable by Agency to Contractor pursuant to the terms of the Contract after all proper adjustments have been made under the Contract, for example, deductions for progress payments made, and increases/decreases for approved Modifications to the Contract.
 - 12.2. Contract: The agreement between Agency and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.
 - 12.3. Contractor Default: Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract including, but not limited to, "default" or any other condition allowing a termination for cause as provided in General Conditions.
 - 12.4. Agency Default: Material failure of Agency, which has neither been remedied nor waived, to pay Contractor progress payments due under the Contract or to perform other material terms of the Contract, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Contract.

END OF SECTION

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

END OF PERFORMANCE BOND

1.2 PAYMENT BOND FORM (Labor and Materials).

THIS CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND ("Bond") is dated _____[date], is in the penal sum of [one hundred percent of the Contract Sum], and is entered into by and between the parties listed below to ensure the payment of claimants under the Contract listed below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 13, attached to this page. Any singular reference to _____[insert name of Contractor] ("Contractor"), _____[insert name of Surety] ("Surety"), Sonoma Clean Power Authority, a public agency ("Owner" or "Agency"), or other party shall be considered plural where applicable.

CONTRACTOR:

Name_____

Address_____

City/State/Zip_____

SURETY:

Name_____

Principal Place of Business_____

City/State/Zip_____

CONTRACT:

[FULL PROJECT NAME]

at _____, California

Signed_____, 20___ in the Amount of \$_____ (the "Penal Sum")

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)

SURETY
Company: (Corp. Seal)

Signature:_____

Name and Title:_____

Signature:_____

Name and Title:_____

BOND TERMS AND CONDITIONS

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Agency and to Claimants, to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Agency, this obligation shall be null and void if Contractor:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants; and
 - 2.2. Defends, indemnifies, and holds harmless Agency from all claims, demands, liens, or suits by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Agency has promptly notified Contractor and Surety (at the address set forth on the signature page of this Bond) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Agency Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly through its Subcontractors, for all sums due Claimants. If Contractor or its Subcontractors fail to pay any of the persons named in section 9100 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to Work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor or Subcontractors pursuant to section 13020 of the Unemployment Insurance Code, with respect to such Work and labor, then Surety shall pay for the same, and also, in case suit is brought upon this Bond, a reasonable attorney's fee, to be fixed by the court.
4. Consistent with the California Mechanic's Lien Law, Civil Code section 8000, *et seq.*, Surety shall have no obligation to Claimants under this Bond unless the Claimant has satisfied all applicable notice requirements.
5. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety under this Bond.
6. Amounts due Contractor under the Contract shall be applied first to satisfy claims, if any, under any Construction Performance Bond and second, to satisfy obligations of Contractor and Surety under this Bond.
7. Agency shall not be liable for payment of any costs, expenses, or attorney's fees of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
8. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations. Surety further 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 materials or equipment to be furnished thereunder or the Specifications accompanying the same, shall in any way

affect its obligations under this Bond, and it does hereby waive any requirement of notice or any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications or any other changes.

9. Suit against Surety on this Bond may be brought by any Claimant or its assigns at any time after the Claimant has furnished the last of the labor or materials or both, but, per Civil Code section 9558, must be commenced before the expiration of six months after the period in which stop notices may be filed as provided in Civil Code section 9356.
10. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Agency shall be mailed or delivered as provided in the Contract. Actual receipt of notice by Surety, Agency, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.
11. This Bond has been furnished to comply with the California Mechanic's Lien Law including, but not limited to, Civil Code sections 9550, 9554, et seq. Any provision in this Bond conflicting with said statutory requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirements shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
13. Definitions.
 - 13.1.1 Claimant: An individual or entity having a direct contract with Contractor or with a Subcontractor of Contractor to furnish labor, materials, or equipment for use in the performance of the Contract, as further defined in California Civil Code section 9100. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural, and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a stop notice might be asserted. The term Claimant shall also include the Unemployment Development Department as referred to in Civil Code section 9554(b).
 - 13.1.2 Contract: The agreement between Agency and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.
 - 13.1.3 Agency Default: Material failure of Agency, which has neither been remedied nor waived, to pay Contractor as required by the Contract, provided that failure is the cause of the failure of Contractor to pay the Claimants and is sufficient to justify termination of the Contract.

END OF SECTION

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

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CAPACITY CLAIMED BY SIGNER

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 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF PAYMENT BOND

00 63 24- SUBSTITUTION REQUEST FORM (DURING PROCUREMENT)

To: **Rebecca Simonson**, Sonoma Clean Power Authority

Email: projects@sonomacleanpower.org

Project: 4th Street Roof Overlay

Contractor:

Subcontractor/Supplier:

Drawing Sheet Reference/Detail No:

Specification Section:

The undersigned Bidder submits for consideration the following equipment instead of the specified item for the above Project:

Section	Paragraph	Specified Item
---------	-----------	----------------

Proposed Substitution:

The undersigned encloses the information required herein. If this Document 002600 is being submitted by a Bidder wishing to use "equal" item(s) as provided in the Instructions to Bidders, the undersigned Bidder must also enclose the technical information (other than cost) otherwise required for a post-Award of Contract Request for Substitution ("RFS") under Section 016000 (Product Requirements). However, if this Document 002600 is being submitted under provisions of Contract Documents after Award of Contract, the undersigned Contractor must include all information (including cost) required under Section 016000 (Product Requirements).

The undersigned has (a) attached manufacturer's literature, including complete technical data and laboratory test results, if applicable, (b) attached an explanation of why proposed substitution is a true equivalent to specified item, (c) included complete information on changes to Contract Documents that the proposed substitution will require for its proper installation, and (d) filled in the blanks below:

A. Does the substitution affect dimensions shown on Drawings?

B. Are the manufacturer's guarantees and warranties on the proposed substitution items identical to those on the specified items? If there are differences, please specify each and every difference in detail.

C. What effect does the substitution have on other contractors, trades, or suppliers?

D. What are the differences between the proposed substitution and the specified item? If proposed substitution has a color or pattern, provide a color board showing proposed substitution in relation to the other adjacent colors and patterns.

E. Will granting the requested substitution cause any schedule delay? (If yes, please explain)

The undersigned Bidder certifies that the function, appearance, and quality of the proposed substitution are equivalent or superior to those of the specified item.

Submitted by:
Bidder/ Contractor:

Name:

Signature:

Date:

Address:

City/State/Zip:

Telephone:

For Use by Sonoma Clean Power Authority:

**Accepted____. Not Accepted____. Accepted as noted____. Received
too late____.**

By:

Project Manager's Supervisor

Date:

Remarks:

END OF DOCUMENT

00 63 25- SUBSTITUTION REQUEST FORM [DURING CONSTRUCTION]

To: Rebecca Simonson
Capital Projects and Engineering
Sonoma Clean Power Authority

Substitution Request By:	Company Name:
-----------------------------	---------------

PROJECT:

[Full Project Name]

Contractor:

Transmittal Record	Attn:	Company Name:	Date Sent:	Date Rec'd:	Date Due:
Contractor to Owner					
Owner to Consultant (if applicable)					

Consultant to Owner (if applicable)

Owner to Contractor

We hereby submit for your consideration the following product instead of the specified item for the Project:

Section / Drawing	Paragraph	Specified Item
-------------------	-----------	----------------

Proposed Substitution:

We have (a) attached manufacturer's literature, including complete technical data and laboratory test results, if applicable, (b) attached an explanation of why proposed substitution is a true equivalent to specified item, (c) included complete information on changes to Contract Documents that the proposed substitution will require for its proper installation, and (d) filled in the blanks below:

Contractor to complete questions that follow and certifies to the accuracy of all answers:

A.	Does the substitution affect dimensions shown on Drawings? Yes ___ / No ___. If No, please explain proposed mitigation and why substitution is equivalent to originally specified item:
B.	Will the undersigned be responsible for additional Project costs for design and construction resulting from the proposed substitution? Yes ___ / No ___. If No, please state reasons explain why substitution is equivalent to originally specified item:
C.	Will substitution cause change to Project Schedule, or to critical delivery dates? Add? Shorten? If the substitution will add to schedule dates or affect critical activities, please explain why substitution is equivalent to originally specified item:
D.	Please describe differences between proposed substitution and specified item. Please explain and identify any and all differences, and please explain why substitution is equivalent to originally specified item:
E.	What is the Cost Differential to Contractor in original specified item and proposed substitution including all mark-ups?
F.	Are Manufacturer's warranties for the proposed item the same as for item specified? Yes ___; No ___. If No, please explain why substitution is equivalent to originally specified item. Provide the proposed warranty form with Project-specific references signed by the manufacturers authorized representative:
G.	Does Contractor accept full responsibility for delays caused by redesign of other items of the Work necessitated by substitution? Yes ___ / No ___. If No, please state reasons and explain why substitution is equivalent to originally specified item:

H. Does Contractor certify that the function, appearance, and quality are equivalent or superior to the specified item? Yes _ / No _. If No, please explain why substitution is equivalent to originally specified item:

I. Does the substitution meet or exceed performance standards of proposed item? Yes __ / No . If No, explain why why substitution is equivalent to originally specified item:

We certify that the function, appearance, and quality of the proposed substitution are equivalent or superior to those of the specified item, except as we may specifically state otherwise in this request.

Submitted by: _____

Signature: _____

Company Name: _____

Date: _____

Address: _____
Email: _____

Phone/ Fax: _____

Remarks:

Owner Response:

- ☐ Accepted
- ☐ Not Accepted
- ☐ Accepted As
Noted
- ☐ Received Too
Late

Remarks:

By:

END OF SECTION

00 65 23- AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS

THIS AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS ("Agreement and Release"), made and entered into this _____ [date] day of _____ [month], _____ [year], by and between the Sonoma Clean Power Authority, a public agency ("Owner" or "Agency"), and _____ [name of Contractor] ("Contractor"), whose place of business is at _____ [address of Contractor].

RECITALS

- A. Agency and Contractor entered into Contract for 4th Street Roof Overlay (the "Contract").
- B. The Work under the Contract has been completed.

Now, therefore, it is mutually agreed between Agency and Contractor as follows:

AGREEMENT

1. Contractor will not be assessed liquidated damages except as detailed below:

Original Contract Sum \$ _____

Modified Contract Sum \$ _____

Payment to Date \$ _____

Liquidated Damages \$ _____

Payment Due Contractor \$ _____

2. Subject to the provisions of this Agreement and Release, Agency will forthwith pay to Contractor _____ the _____ sum _____ of \$ _____ Dollars and _____ Cents (\$ _____) under the Contract, less any amounts withheld under the Contract or represented by any Notice to Withhold Funds on file with Agency as of the date of such payment.

3. Contractor acknowledges and hereby agrees that there are no unresolved or outstanding claims in dispute against Agency arising from the Contract, except for the claims described in Paragraph 4 herein. It is the intention of the parties in executing this Agreement and Release that this Agreement and Release shall be effective as a full, final and general release of all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities of Contractor against Agency, and all of its agents, employees, consultants, inspectors, representatives, assignees and transferees, except for the Disputed Claims set forth in Paragraph 4 herein. Nothing in this Agreement and Release shall limit or modify Contractor's continuing obligations described in Paragraph 6 herein.

4. The following claims submitted under Document 0072 13 (General Conditions) are disputed (hereinafter, the "Disputed Claims") and are specifically excluded from the operation of this Agreement and Release:

<u>Claim No.</u>	<u>Date Submitted</u>	<u>Description of Claim</u>	<u>Amount of Claim</u>
------------------	-----------------------	-----------------------------	------------------------

[Insert information, including attachment if necessary]

- | | | | |
|----|---|--|--|
| 5. | Consistent with California Public Contract Code Section 7100, Contractor hereby agrees that, in consideration of the payment set forth in Paragraph 2 herein, Contractor hereby releases and forever discharges Agency, and all of its agents, employees, consultants, inspectors, assignees and transferees from any and all liability, claims, demands, actions or causes of action of whatever kind or nature arising out of or in any way concerned with the Work under the Contract | | |
| 6. | Guarantees and warranties for the Work, and any other continuing obligation of Contractor, shall remain in full force and effect as specified in the Contract Documents. | | |
| 7. | Contractor shall immediately defend, indemnify and hold harmless Agency, any Agency's Representatives, and all of their agents, employees, consultants, inspectors, assignees and transferees, from any and all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities that may be asserted against them by any of Contractor's suppliers and/or Subcontractors of any tier and/or any suppliers to them for any and all labor, materials, supplies and equipment used, or contemplated to be used in the performance of the Contract, except for the Disputed Claims set forth in Paragraph 4 herein. | | |
| 8. | Contractor hereby waives the provisions of California Civil Code Section 1542, which provide as follows: | | |

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Contractor has read the foregoing waiver and understands that the releases here granted by Contractor apply to and include all known and unknown and unexpected claims. Contractor intends, by signing this Agreement and Release, to release and assume the risk of unknown claims.

By: _____
Contractor initials

9. The provisions of this Agreement and Release are contractual in nature and not mere recitals and shall be considered independent and severable, and if any such provision or any part thereof shall be at any time held invalid in whole or in part under any federal, state, Agency, municipal or other law, ruling, or regulation, then such provision, or part thereof shall remain in force and effect only to the extent permitted by law, and the remaining provisions of this Agreement and Release shall also remain in full force and effect, and shall be enforceable.
10. Contractor represents and warrants that it is the true and lawful owner of all claims and other matters released pursuant to this Agreement and Release, and that it has full right, title and authority to enter into this instrument. Each party represents and warrants that it has been represented by counsel of its own choosing in connection with this Agreement and Release.

11. All rights of Agency shall survive completion of the Work or termination of the Contract, and execution of this Agreement and Release.

***** CAUTION: THIS IS A RELEASE - READ BEFORE EXECUTING *****

SONOMA CLEAN POWER AUTHORITY,
A Public Agency

By:

Geof Syphers, CEO

[CONTRACTOR]

By:

Name:

Its:

By:

Name:

Its:

REVIEWED AS TO FORM:

County Counsel

, 20

END OF DOCUMENT

00 65 36- WARRANTY FORM

To the Sonoma Clean Power Authority ("Owner" or "Agency"), for the construction of

4th Street Roof Overlay

at 733-741 4th Street, Santa Rosa, California.

The undersigned Contractor hereby guarantees all construction performed on this Project and also guarantees all material and equipment incorporated therein.

Contractor hereby grants to the Agency for a period of one year (1) year following the date of Substantial Completion of the Work, or such longer period specified in the Contract Documents ("Warranty period"), its unconditional warranty of the quality and adequacy of all of the Work including, without limitation, all labor, materials and equipment provided by Contractor and its Subcontractors of all tiers in connection with the Work.

Neither final payment nor use or occupancy of the Work performed by Contractor shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve Contractor of liability in respect to any express guarantees, warranties or responsibilities for faulty materials or workmanship. Contractor shall remedy any defects in the Work and pay for any damage resulting there from which shall appear within the Warranty period.

If at any time during the Warranty period any Work is found to be Defective, Contractor shall promptly (within forty-eight [48] hours of notification by County, but no later than five [5] days following notification by County), without cost to Agency and in accordance with Agency's written instructions, correct such Defective Work. Contractor shall remove any Defective Work identified by Agency and replace it with Work that is not Defective, and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Agency may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, Agency shall have all rights and remedies granted by law.

Inspection of the Work shall not relieve Contractor of any of its obligations under the Contract Documents. Even though equipment, materials, or Work required to be provided under the Contract Documents have been inspected, accepted, and estimated for payment, Contractor shall, at its own expense, replace or repair any such equipment, material, or Work found to be Defective or otherwise not to comply with the requirements of the Contract Documents up to the end of the Warranty period.

This Guaranty is in addition to any other warranties of Contractor contained in the Contract Documents, and not in lieu of, any and all other liability imposed on Contractor under the Contract Documents and at law with respect to Contractor's duties, obligations, and performance under the Contract Documents. In the event of any conflict or inconsistency between the terms of this Warranty and any warranty or obligation of Contractor under the Contract Documents or at law, such inconsistency or conflict shall be resolved in favor of the higher level of obligation of Contractor.

All abbreviations and undefined terms used in this Guaranty shall have the meanings set forth in the Contract Documents, including, without limitation, Document 00 72 13 (General Conditions).

[Contractor's Name]

By:
[Signature]

[Please Print Name Here]

Title:

Business Address:

Date:

END OF DOCUMENT

00 72 13 – GENERAL CONDITIONS

ARTICLE 1. CONTRACT DOCUMENTS

- A. **Contract Documents.** The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.
- B. **Order of Precedence of Documents.**
1. In the case of discrepancy or ambiguity in the Contract Documents, the following order of precedence shall prevail:
 - a. Modifications (addenda, approved changed order) in inverse chronological order (i.e., most recent first), and in the same order as specific portions they are modifying;
 - b. Agreement (Section 00 52 13), and terms and conditions referenced therein;
 - c. Special Conditions (Section 00 73 13 et seq), if included;
 - d. General Conditions (Section 00 72 13);
 - e. Division 1 Specifications, if included;
 - f. Drawings and Technical Specifications (Division 2 and above);
 - g. Written numbers over figures, unless obviously incorrect;
 - h. Figured dimensions over scaled dimensions;
 - i. Large-scale Drawings over small-scale Drawings.
 2. Any conflict between Drawings and Technical Specifications (Division 2 and above) will be resolved in favor of the document of the latest date (i.e., the most recent document), and if the dates are the same or not determinable, then in favor of Specifications.
 3. Any conflict between a bill or list of materials shown in the Contract Documents and the actual quantities required to complete Work required by Contract Documents, will be resolved in favor of the actual quantities.

All Technical Specifications included in the Project Manual shall be included within the Contract Documents unless identified otherwise.

ARTICLE 2. CONTRACT DOCUMENTS: COPIES & MAINTENANCE

Contractor will be furnished, free of charge, **two (2)** copies of the Contract Documents. Additional copies may be obtained at cost of reproduction.

Contractor shall maintain a clean, undamaged set of Contract Documents, including submittals, at the Project site.

ARTICLE 3. EXAMINATION OF DRAWINGS, SPECIFICATIONS AND SITE OF WORK

- A. **Examination of Contract Documents.** Before commencing any portion of the Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site, and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict, or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work notwithstanding any such error, inconsistency or ambiguity, or lack of sufficient detail or explanation, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.
- B. **Additional Instructions.** After notification of any error, inconsistency, ambiguity, conflict, or lack of detail or explanation, the Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.
- C. **Quality of Parts.** Construction and Finish. All parts of the Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish.

ARTICLE 4. EXISTENCE OF UTILITIES AT THE WORK SITE

- A. The Agency has endeavored to determine the existence of utilities at the Project site from the records of the owners of known utilities in the vicinity of the Project. The positions of known utilities as derived from such records are shown on the Plans.
- B. Unless indicated otherwise on the Plans and Specifications, no excavations were made to verify the locations shown for underground utilities. The service connections to these utilities are not shown on the Plans. Water service connections may be shown on the Plans showing general locations of such connections. It shall be the responsibility of the Contractor to determine the exact location of all service connections. The Contractor shall make its own investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing Work which could result in damage to such utilities. The Contractor shall immediately notify the Agency in writing of any utility discovered in a different position than shown on the Plans or which is not shown on the Plans.
- C. If applicable, all water meters, water valves, fire hydrants, electrical utility vaults, telephone vaults, gas utility valves, and other subsurface structures shall be relocated or adjusted to final grade by the Contractor. Locations of existing utilities shown on the Plans are approximate and may not be complete. The Contractor shall be responsible for coordinating its Work with all utility companies during the construction of the Work.
- D. Notwithstanding the above, pursuant to section 4215 of the Government Code, the Agency has the responsibility to identify, with reasonable accuracy, main or trunkline facilities on the plans and specifications. In the event that main or trunkline utility facilities are not identified with reasonable accuracy in the plans and specifications made a part of the invitation for Bids, the Agency shall assume the responsibility for their timely removal, relocation, or protection. Consistent with Government Code

Section 4215, as between Agency and Contractor, Agency will be responsible for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Project site only if such utilities are not identified in the Contract Documents or any existing condition information provided by Agency. Agency will compensate for the cost of locating and repairing damage not due to Contractor's failure to exercise reasonable care, removing and relocating such main or trunk line utility facilities not indicated in the Contract Documents or any existing condition information with reasonable accuracy, and equipment on the Project necessarily idled during such work. Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of Agency or the utility to provide for removal or relocation of such utility facilities.

- E. Contractor, except in an emergency, shall contact the appropriate regional notification center, at 811 or 1-800-642-2444 or on-line at www.digalert.org at least two working days prior to commencing any excavation if the excavation will be performed 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 Agency, and obtain an inquiry identification number from that notification center. No excavation shall be commenced or carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the Agency has been given the identification number by the Contractor.

ARTICLE 5. SOILS INVESTIGATIONS

- A. **Reports and Drawings.** The Special Conditions identify:

- those reports known to the Agency of explorations and tests of subsurface conditions at or contiguous to the site; and
- those drawings known to the Agency of physical conditions relating to existing surface or subsurface structures at the site (except Underground Facilities).

- B. **Limited Reliance by Contractor on Technical Data Authorized.** Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, which were expressly not created or obtained to evaluate or assist in the evaluation of constructability, and are not Contract Documents. Contractor shall make its own interpretation of the "technical data" and shall be solely responsible for any such interpretations. Except for reliance on the accuracy of such "technical data," Contractor may not rely upon or make any claim against the Agency, Agency's Representative, or Engineer of Record, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

- the completeness of such reports and drawings for Contractor's purposes, including without limitation any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
- other data, interpretations, opinions, conclusions and information contained in such reports or shown or indicated in such drawings; or

- any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

ARTICLE 6. CONTRACTOR’S SUPERVISION

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent acceptable to the Agency. Superintendent must be able to proficiently speak, read and write in English and shall have the authority to make decisions on behalf of the Contractor. Contractor shall continuously provide efficient supervision of the Project.

ARTICLE 7. WORKERS

- A. Contractor shall not employ on the Project any unfit person or anyone not skilled in the Work assigned to him or her.
- B. Any person in the employ of the Contractor whom the Agency may deem incompetent or unfit shall be dismissed from the Work and shall not be employed on this Project.

ARTICLE 8. INDEPENDENT CONTRACTORS

Contractor shall be an independent contractor for the Agency and not an employee. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, or agents of Agency and are not entitled to benefits of any kind normally provided employees of Agency, including but not limited to, state unemployment compensation or workers’ compensation. Contractor assumes full responsibility for the acts and omissions of its employees or agents related to the Work.

ARTICLE 9. SUBCONTRACTS

- A. Subcontract agreements shall preserve and protect the rights of Owner under the Contract Documents so that subcontracting will not prejudice such rights. To the extent of the Work to be performed by a Subcontractor, Contractor shall require the Subcontractor’s written agreement (1) to be bound to the terms of Contract Documents and (2) to assume vis-à-vis Contractor all the obligations and responsibilities that Contractor assumes toward Owner under the Contract Documents. (These agreements include for example, and not by way of limitation, all warranties, claims procedures and rules governing submittals of all types to which Contractor is subject under the Contract Documents.) Contractor shall be as fully responsible to the Agency for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the Agency.
- B. **The Agency reserves the right to accept all subcontractors.** The Agency’s acceptance of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.
- C. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

- D. Contractor shall provide for the assignment to Owner of all rights any Subcontractor (of any tier) may have against any manufacturer, supplier, or distributor for breach of warranties and guarantees relating to the Work performed by the Subcontractor under the Contract Documents. Subcontracts shall provide and acknowledge Owner as an intended third-party beneficiary of each subcontract and supply contract (of any tier).

E. Contingent Assignment of Subcontracts:

1. Contractor hereby assigns to Agency each Subcontract for a portion of the Work, provided that:
 - The assignment is effective only after Agency's termination of Contractor's right to proceed under the Contract Documents (or portion thereof relating to that Subcontract) as set forth herein;
 - The assignment is effective only for the Subcontracts which Agency expressly accepts by notifying the Subcontractor in writing;
 - The assignment is subject to the prior rights, if any, of the Surety, obligated by Section 00 61 13 (Performance Bond Form) provided under the Contract Documents, where the Surety exercises its rights to complete the Contract;
 - After the effectiveness of an assignment, Contractor shall, at its sole cost and expense (except as otherwise provided in this Section 00 72 13), sign all instruments and take all actions reasonably requested by Agency to evidence and confirm the effectiveness of the assignment in Agency; and
 - Nothing in this Paragraph shall modify or limit any of Contractor's obligations to Agency arising from acts or omissions occurring before the effectiveness of any Subcontract assignment including, but not limited to, all defense, indemnity, and hold-harmless obligations arising from or related to the assigned Subcontract.

ARTICLE 10. VERIFICATION OF EMPLOYMENT ELIGIBILITY

- A. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986 ("ICRA"), as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the Agency or its representatives for inspection and copy at any time during normal business hours. The Agency shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

- B. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.
- C. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the Agency to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.
- D. In addition, Contractor agrees to indemnify, defend and hold harmless Agency, its agents, officers, and employees, from any liability, damages, or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's Subcontractors.

ARTICLE 11. REQUESTS FOR SUBSTITUTION

- A. For the purposes of this provision, the term "substitution" shall mean the substitution of any material, method or service substantially equal to or better in every respect to that indicated in the Standard Specifications or otherwise referenced herein.
- B. Pursuant to Public Contract Code section 3400(b), the Agency may make a finding that is described in the Notice Inviting Bids that designates certain products, things, or services by specific brand or trade name.
- C. Unless specifically designated in the Special Conditions, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer for substitution any material, process, or article which may be substantially equal to or better in every respect to that so indicated or specified in the Contract Documents. However, the Agency has adopted uniform standards for certain materials, processes, and articles.
- D. The Contractor shall submit substitution requests, together with substantiating data, for substitution of any "or equal" material, process, or article no later than thirty-five (35) calendar days after award of Contract. Provisions regarding submission of substitution requests shall not in any way authorize an extension of time for the performance of this Contract. If a substitution request is rejected by the Agency, the Contractor shall provide the material, method or service specified herein. The Agency shall not be responsible for any costs incurred by the Contractor associated with substitution requests. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The Engineer has the complete and sole discretion to determine if a material, process, or article is substantially equal to or better than that specified and to approve or reject all substitution requests.

- E. Substantiating data as described above shall include, at a minimum, the following information:
- A signed affidavit from the Contractor stating that the material, process, or article proposed as a substitution is substantially equal to or better than that specified in every way except as may be listed on the affidavit.
 - Illustrations, specifications, catalog cut sheets, and any other relevant data required to prove that the material, process, or article is substantially equal to or better than that specified.
 - A statement of the cost implications of the substitution being requested, indicating whether and why the proposed substitution will reduce or increase the amount of the contract.
 - Information detailing the durability and lifecycle costs of the proposed substitution.
- F. Failure to submit all the required substantiating data detailed above in a timely manner so that the substitution request can be adequately reviewed may result in rejection of the substitution request. The Engineer is not obligated to review multiple submittals related the same substitution request resulting from the Contractor's failure to initially submit a complete package.
- G. Time limitations within this Article shall be strictly complied with and in no case will an extension of time for completion of the contract be granted because of Contractor's failure to provide substitution requests at the time and in the manner described herein.
- H. The Contractor shall bear the costs of all Agency work associated with the review of substitution requests.
- I. If substitution requests approved by the Engineer require that Contractor furnish materials, methods or services more expensive than that specified, the increased costs shall be borne by Contractor.

ARTICLE 12. SHOP DRAWINGS

- A. Contractor shall check and verify all field measurements and shall submit with such promptness as to provide adequate time for review and cause no delay in its own Work or in that of any other contractor, subcontractor, or worker on the Project, one (1) copy of all shop drawings, calculations, schedules, and materials list, and all other provisions required by the Contract Documents. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Engineer. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the transmittal letter of the submittal.
- B. Contractor shall make any corrections required by the Engineer. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for deviations from the Contract Documents unless Contractor has, in writing, called Engineer's attention to such deviations at time of submission and has secured the

Engineer's written acceptance. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for errors in shop drawings.

ARTICLE 13. SUBMITTALS

- A. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the Contract Documents. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.
- B. Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.
- C. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

ARTICLE 14. MATERIALS

- A. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.
- B. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.
- C. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of the Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.
- D. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all work to deliver the Project, to the Agency free from any claims, liens, or charges.
- E. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the Agency or any independent contractor.
- F. Contractor shall verify all measurements, dimensions, elevations, and quantities before ordering any materials or performing any Work, and the Agency shall not be liable for Contractor's failure to do so. No additional compensation, over and above payment for the actual quantities at the prices set out in the Bid Form, will be allowed because of differences between actual measurements, dimension, elevations and

quantities and those indicated on the Plans and in the Specifications. Any difference therein shall be submitted to the Engineer for consideration before proceeding with the Work.

ARTICLE 15. PERMITS AND LICENSES

- A. Unless otherwise required by AHJ, Contractor shall obtain all necessary permits and licenses for the construction of the Project, including encroachment permits, and shall pay all fees required by law and shall comply with all laws, ordinances, rules and regulations relating to the Work and to the preservation of public health and safety. Before Final Acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the Agency.
- B. [Reserved].

ARTICLE 16. TRENCHES

- A. **Trenches Five Feet or More in Depth.** Contractor shall submit to the Engineer at the preconstruction meeting, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from hazards of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from shoring system standards established by the Construction Safety Orders of the California Code of Regulations, Department of Industrial Relations, the plan shall be prepared by a California registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations. The Contractor shall designate in writing the "competent person" as defined in Title 8, California Code of Regulations, who shall be present at the Work Site each day that trenching/excavation is in progress. The "competent person" shall prepare and provide daily trenching/excavation inspection reports to the Engineer. Contractor shall also obtain and submit a copy of its California Occupational Safety and Health Administration (Cal/OSHA) trench/excavation permit for any trenches or excavations that are five feet or more in depth and into which a person is required to descend.
- B. **Excavations Deeper than Four Feet.** If any of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall give a written Notice of Differing Site Conditions to Owner promptly before conditions are disturbed, except in an emergency as set forth in this Section 00 72 13, and in no event later than seven Days after first observance of:
- Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
 - Subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents.

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

The Agency shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

In the event that a dispute arises between the Agency and the Contractor as to 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 the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

ARTICLE 17. TEMPORARY FACILITIES AND CONTROLS

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide all temporary utilities, including without limitation, electricity, water, natural gas, lighting, heating, cooling and ventilating devices, telephone, sanitary facilities, barriers, fences and enclosures, tree and plant protection, fire protection, pollution, erosion, Storm Water Pollution Prevention controls, noise and traffic control, and any other necessary services required for construction, testing, or completion of the Work.
- B. See Technical Specifications, Section 01 50 00 Temporary Facilities and Controls for additional requirements.

ARTICLE 18. TRAFFIC CONTROL

- A. Traffic control plan(s) for the Work may be required by the Agency(s) Having Jurisdiction ("AHJ"). Traffic control plans, if required, shall be prepared at Contractor's expense, and Contractor shall abide by traffic controls approved by the AHJ at Contractor's expense in accordance with the requirements of the AHJ.
- B. Protections. Roads subject to interference by the Work shall be kept open or suitable temporary passages through the Work shall be provided and maintained by the Contractor. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient flasher lights, flag persons, danger signals, and signs, and shall take all necessary precautions for the protection of the Work and the safety of the public. No construction work along public or private roads may proceed until the Contractor has proper barricades, flasher lights, flag persons, signals, and signs in place at the construction site.
- C. All warning signs and safety devices used by the Contractor to perform the Work shall conform to the requirements contained in the State of California, Department of Transportation's current edition of "Manual of Traffic Controls for Construction and Maintenance Work Zones" or to the requirements of the local agency. The Contractor shall also be responsible for all traffic control required by the agency having jurisdiction

over the project on the intersecting streets. Contractor must submit a traffic control plan to the AHJ over the project for approval prior to starting work.

- D. The Contractor shall make every effort to minimize the amount of public parking temporarily eliminated due to construction in areas fronting businesses. No equipment or stockpiles of pipe or other material will be allowed in traveled right-of-ways after working hours unless otherwise approved by the Engineer.

ARTICLE 19. DIVERSION OF RECYCLABLE WASTE MATERIALS

Contractor shall divert all Recyclable Waste Materials to appropriate recycling centers as required for compliance with all AHJ waste diversion ordinances. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by Agency or other applicable agencies to document Contractor's compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.

ARTICLE 20. DISCOVERY OF HAZARDOUS MATERIALS

Should Contractor encounter material reasonably believes to be polychlorinated biphenyl (PCB) or other toxic waste or hazardous material not already identified in the Special Conditions which have not been rendered harmless at the Project site, the Contractor shall immediately stop work at the affected Project site and shall report the condition to the Agency in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Agency and Contractor.

ARTICLE 21. SANITARY FACILITIES

Contractor shall provide sanitary temporary toilet buildings and hand washing facilities for the use of all workers. All toilets and hand washing facilities shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets and hand washing facilities shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by Cal/OSHA regulations. The toilets and hand washing facilities shall be maintained in a sanitary condition at all times. Use of toilet and hand washing facilities in the Work under construction shall not be permitted. Any other Sanitary Facilities required by Cal/OSHA shall be the responsibility of the Contractor.

ARTICLE 22. AIR POLLUTION CONTROL

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes, including, but not limited to, those required by the Bay Area Air Quality Management District. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

ARTICLE 23. STORM WATER CONTROL

- A. The Contractor shall perform all construction operations in such a manner as to comply, and ensure all subcontractors to comply, with all applicable Federal, State, and local laws, orders, and regulations concerning the control and abatement of water

pollution; and all terms and conditions of any applicable permits issued for the Project. In the event there is a conflict between Federal, State, and local laws, regulations, and requirements, the most stringent shall apply.

- B. Contractor violations. If noncompliance should occur, the Contractor shall report this to the Agency Representative immediately, with the specific information submitted in writing within 2 Days. Consistent violations of applicable Federal, State, or local laws, orders, regulations, or Water Quality Standards may result in Agency stopping all site activity until compliance is ensured. The Contractor shall not be entitled to any change in Contract Price or Contract Times, claim for damage, or additional compensation by reason of such a work stoppage. Corrective measures required to bring activities into compliance shall be at the Contractor's expense.
- C. In addition to compliance with the State Water Resources Control Board (SWRCB), Order No. –2009-0009 – DWQ, National Pollutant Discharge Elimination System (NPDES) Permit, Contractor shall comply with the lawful requirements of any applicable municipality, district, drainage district, flood control district, and other local agencies regarding discharges of storm water, surface water, groundwater or other nuisance waters off of the Project site.

ARTICLE 24. LAYOUT AND FIELD ENGINEERING

All field engineering required for laying out the Work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense.

ARTICLE 25. TESTS AND INSPECTIONS

- A. If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or AHJ requires any part of the Work to be tested or Approved, Contractor shall provide the Engineer at least two (2) working days' notice of its readiness for observation or inspection. If inspection is by a public authority other than the Agency, Contractor shall promptly inform the Agency of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for Agency testing and Agency inspection shall be paid by the Agency. Except as specifically noted, scheduling, conducting and paying for such inspections shall be solely Contractor's responsibility. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.
- B. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents.
- C. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the Agency, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.
- D. In advance of manufacture of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the Agency so that the Agency may arrange

for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into the Work.

- E. If the manufacture of materials to be inspected or tested will occur in a plant or location greater than sixty (60) miles from the Agency, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.
- F. **Reexamination of Work may be ordered by the Agency.** If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the Agency shall pay the costs of reexamination and reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.

ARTICLE 26. PROTECTION OF WORK, PERSONS, AND PROPERTY

- A. Contractor shall be responsible for initiating, maintaining, and supervising all safety and Site security precautions and programs in connection with Work, and shall develop and implement a Site security and safety plan throughout construction. Contractor shall comply with all safety requirements specified in any safety program established by Owner, or required by state, federal, or local laws and ordinances. The Contractor shall be responsible for all damages or injuries to the Work, persons, or property, either on the Site or constituting the Work (e.g., materials in transit), arising from Contractor's acts or omission or from performance of the Work. Contractor shall be responsible for the proper care and protection of all materials delivered, Site conditions, and Work performed until completion and Final Acceptance by the Agency. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as necessary. Contractor shall comply with all applicable safety laws and regulations to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.
- B. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the Agency. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the Agency and the Contractor.

ARTICLE 27. CONTRACTOR'S MEANS AND METHODS

- A. In exercising its responsibilities and authorities under the Contract Documents, Agency does not assume any duties or responsibilities to any Subcontractor or supplier and does not assume any duty of care to Contractor, Contractor's Subcontractors or suppliers. Except as expressly set forth in the Contract Documents, in exercising their respective responsibilities and authorities under the Contract Documents, neither Engineer nor any Agency's Representative assumes any duties or responsibilities to any Subcontractor, sub-Subcontractor or

supplier nor assumes any duty of care to Contractor or any Subcontractor, sub-Subcontractor or suppliers.

- B. Work shall be performed under Agency's general observation and administration. Contractor shall comply with Agency's directions and instructions in accordance with the terms of Contract Documents, but nothing contained in these General Conditions shall be taken to relieve Contractor of any obligations or liabilities under the Contract Documents. Agency's failure to review or, upon review, failure to object to any aspect of Work reviewed, shall not be deemed a waiver or approval of any non-conforming aspect of Work.
- C. Agency may engage an independent consultant or architect (collectively for purposes of this Paragraph, "Consultant") to assist in administering the Work. If so engaged, Consultant will advise and consult with Agency, but will have authority to act on behalf of Agency only to extent provided in the Contract Documents or as set forth in writing by Agency. Consultant will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with Work. Consultant will not be responsible for or have control over the acts or omissions of Contractor, Subcontractors or their agents or employees, or any other persons performing Work.
- D. Contractor shall supervise, inspect, and direct Work competently and efficiently, devoting the attention and applying such personal skills and expertise as may be required and necessary to perform Work in accordance with Contract Documents. Contractor shall be solely responsible for and have control and charge of construction means, methods, techniques, sequences and procedures, safety precautions and programs in connection with the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards. Contractor shall be responsible to see that the completed Work complies accurately with Contract Documents.

ARTICLE 28. COMPLIANCE WITH CALIFORNIA AIR RESOURCES BOARD REGULATIONS

- A. Contractor shall comply, and shall ensure all subcontractors comply, with all applicable requirements of the most current version of the regulations imposed by California Air Resources Board ("CARB") including, without limitation, all applicable terms of Title 13, California Code of Regulations Division 3, Chapter 9 and all pending amendments ("Regulation").
- B. Throughout the Project, and for three (3) years thereafter, Contractor shall make available for inspection and copying any and all documents or information associated with Contractor's and its subcontractors' fleets including, without limitation, the Certificates of Reported Compliance ("CRCs"), fuel/refueling records, maintenance records, emissions records, and any other information the Contractor is required to produce, keep or maintain pursuant to the Regulation upon two (2) calendar days' notice from the Agency.
- C. Contractor shall be solely liable for any and all costs associated with compliance with the Regulation as well as for any and all penalties, fines, damages, or costs associated with any and all violations, or failures to comply with the Regulation. Contractor shall defend, indemnify and hold harmless the Agency, its officials, officers, employees and

authorized volunteers free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Regulation.

ARTICLE 29. AUTHORIZED REPRESENTATIVES

The Agency shall designate representatives, who shall have the right to be present at the Project site at all times. The Agency may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

ARTICLE 30. HOURS OF WORK

- A. As provided in Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Contractor stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract is limited and restricted to eight (8) hours during any one calendar day and 40 hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.
- B. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the Agency and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- C. The Contractor shall pay to the Agency a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- D. Any work necessary to be performed after regular working hours, or on Saturdays and Sundays or other holidays, shall be performed without additional expense to the Agency.
- E. Agency may inspect during normal working hours from 8:00 a.m. to 4:30 p.m. Monday through Friday, at no charge. Inspection before or after this time will be charged to the Contractor as reimbursable inspection time. Inspections on weekends requires two days' notice for review and approval. Upon written request and approval the 8.5 hour working day may be changed to other limits subject to city/county ordinance.
- F. There shall be no operation, use, or allowance of operation or use, of any of the following at the Project site, other than between the hours of 7:00 a.m. to 5:00 p.m.,

Monday through Friday, with no Work allowed on the Agency-observed holidays, unless otherwise approved by the Agency:

- Powered Vehicles
- Construction Equipment
- Loading and Unloading Vehicles
- Domestic Power Tools

ARTICLE 31. PAYROLL RECORDS

- A. Pursuant to Labor Code section 1776, Contractor and all subcontractors shall maintain weekly certified payroll records, showing the names, addresses, Social Security numbers, work classifications, 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 them in connection with the Work under this Contract. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.
- B. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In accordance with Labor Code section 1771.4 and unless exempt thereunder, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations ("DIR") on the specified interval and format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement.
- C. 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 subject to any applicable liquidated damages and shall not be compensable by the Agency. Contractor shall defend, indemnify and hold the Agency, 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. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the Agency. The Contractor shall also provide the following:
 - A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
 - A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the DIR.

- E. Unless submitted electronically, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement ("DLSE") of the DIR or shall contain the same information as the forms provided by the DLSE.
- F. Except where required by law, any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the Agency, 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 awarded the Contract or performing the contract shall not be marked or obliterated.
- G. In the event of noncompliance with the requirements of this Article, the Contractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of one hundred dollars (\$100.00) 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 payment then due.
- H. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 32. PREVAILING WAGE REQUIREMENTS

- A. The Contractor is aware of the requirements of Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall pay to persons performing labor in and about Work provided for in the Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Owner to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Contract. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Contract from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov. In the alternative, the Contractor may view a copy of the prevailing rate of per diem wages which are on file at the Agency's Administration Office and shall be made available to interested parties upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold the Agency, its officials, officers, employees and authorized volunteers free and harmless from any claims, liabilities, costs, penalties

or interest arising out of any failure or allege failure to comply with the Prevailing Wage Laws. Contractor stipulates that it shall comply with all applicable wage and hour laws, including without limitation, California Labor Code sections 1725.5, 1776, and 1811. Failure to so comply shall constitute a default under this Contract.

- B. The Contractor shall forfeit as a penalty to the Agency not more than Two Hundred Dollars (\$200.00), pursuant to Labor Code section 1775, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the Department of Industrial Relations for such work or craft in which such worker is employed for any public work done under the Contract by it or by any subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
- C. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

ARTICLE 33. PUBLIC WORKS CONTRACTOR REGISTRATION

Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its subcontractors must be registered with the Department of Industrial Relations and qualified to perform public work prior to the execution of a contract to perform public works, subject only to the allowances of Labor Code sections 1725.5 and 1771.1. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in all subcontracts and ensure that all subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

ARTICLE 34. EMPLOYMENT OF APPRENTICES

- A. Contractor and all subcontractors shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.
- B. Information regarding apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- C. Knowing violations of Labor Code section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100.00) for each calendar day of non-compliance, pursuant to Labor Code section 1777.7.
- D. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 35. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Labor Code section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment

because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law on this Project. The Contractor will take affirmative action to ensure that employees are treated during employment or training without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law.

ARTICLE 36. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code section 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

ARTICLE 37. LABOR/EMPLOYMENT SAFETY

The Contractor shall comply with all applicable laws and regulations of the federal, state, and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

The Contractor shall maintain emergency first aid treatment for its employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. The Contractor shall ensure the availability of emergency medical services for its employees in accordance with California Code of Regulations, Title 8, Section 1512.

The Contractor shall submit the Illness and Injury Prevention Program and a Project site specific safety program to the Agency prior to beginning Work at the Project site. Contractor shall maintain a confined space program that meets or exceeds regulatory requirements (CCR Title 8, Division 1, Chapter 4) and industry standards. Contractor shall adhere to an acceptable lock out tag out program.

ARTICLE 38. INSURANCE

The Contractor shall obtain, and at all times during performance of the Work of Contract, maintain all of the insurance described in this Article and Article 39. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the Agency that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the Contractor that the subcontractor has secured all insurance required under this Article. If Contractor fails to maintain Insurance which is required pursuant to the Contract Documents, it shall be deemed a material breach. The Agency, at its sole option, may terminate the Contract for default and obtain damages from Contractor resulting from said breach. Alternatively, the Agency may purchase the required Insurance, and without further notice to Contractor, the Agency may deduct from sums due to Contractor any premium costs advanced by the Agency for such insurance. Contractor shall furnish Agency with original certificates of insurance and endorsements effective coverage

required by this Contract on forms satisfactory to the Agency. 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 acceptable to the Agency. All certificates and endorsements must be received and approved by the Agency before Work commences.

- A. **Additional Insureds; Waiver of Subrogation.** The Agency, its officials, officers, employees, agents and authorized volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and, Automobile Liability, and Pollution insurance, including any excess and umbrella coverages, using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG forms 20 10 and 20 37 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against the Agency. .
- B. **Workers' Compensation Insurance with Statutory Limits as Required by the Labor Code of the State of California.** The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the Agency certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the Agency, if in the form and coverage as set forth in the Contract Documents. Workers' compensation coverage provided through the California State Compensation Insurance Fund shall be deemed acceptable to the Agency notwithstanding any insurer rating requirements contained elsewhere in the Contract Documents.
- C. **Employer's Liability Insurance.** Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars (\$1,000,000.00) per person per accident, one million dollars (\$1,000,000) Disease per employee, and one million dollars (\$1,000,000) Disease per policy. Contractor shall provide Agency with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the Agency.
- D. **Commercial General Liability Insurance.** Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current

ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage, \$4,000,000 general aggregate, and \$4,000,000 products/completed operations aggregate. The general aggregate shall apply separately to this Project.

1. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the Agency, and shall not preclude the Agency from taking such other actions available to the Agency under other provisions of the Contract Documents or law.
2. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.
3. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.
4. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the Agency may require additional coverage to be purchased by Contractor to restore the required limits. Required limits may be satisfied through a combination of primary, umbrella, and excess liability policies. Any umbrella or excess liability policy shall be written on a follow-form basis over the required underlying liability coverages unless otherwise approved by the Agency. To the extent provided under the policy, Additional Insured status afforded under the underlying policies shall apply to such umbrella or excess coverage.
5. All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.
6. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by the Agency. Contractor is responsible for

any deductible or self-insured retention and shall fund it upon the Agency's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving the Agency.

- E. **Automobile Liability Insurance.** Contractor shall provide "occurrence" form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, two million dollars (\$2,000,000) per accident for bodily injury and property damage. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess and/or Umbrella Liability Insurance. Such insurance shall provide coverage 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, in a form and with insurance companies acceptable to the Agency. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

F. **Builder's Risk ["All Risk"]**

1. It is the Contractor's responsibility to maintain or cause to be maintained Builder's Risk ["All Risk"] extended coverage insurance on all work, material, equipment, appliances, tools, and structures that are or will become part of the Work and subject to loss or damage by fire, and vandalism and malicious mischief, in an amount to cover 100% of the replacement cost. The Agency accepts no responsibility for the Work until the Work is formally accepted by the Agency. The Contractor shall provide a certificate evidencing this coverage before commencing performance of the Work.
2. The named insureds shall be Contractor, all Subcontractors of any tier (excluding those solely responsible for design work), suppliers, and Agency, its elected officials, officers, employees, agents and authorized volunteers, as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Work following Final Acceptance by Agency.
3. Policy shall be provided for replacement value on an "all risk" basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (5) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form acceptable to Agency to ensure adequacy and sublimit.
4. In addition, the policy shall meet the following requirements:

- a. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the Contract.
- b. Coverage shall include all materials stored on site and in transit.
- c. Coverage shall include Contractor's tools and equipment.
- d. Insurance shall include machinery and material hoist coverage.

G. Contractor's Pollution Liability Coverage. Contractor shall provide pollution liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

- 1. This insurance shall cover:
 - a. bodily injury, sickness, disease, sustained by any person, including death;
 - b. property damage, including physical injury to or destruction of tangible property including the resulting loss of use thereof;
 - c. cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution of value and natural resources damages;
 - d. costs of emergency response, mitigation, containment, monitoring, remediation, removal, cleanup, and restoration resulting from a pollution condition;
 - e. claims arising from the transportation, hauling, loading, unloading, transfer, treatment, storage, or disposal of pollutants;
 - f. loss arising from pollutants including but not limited to fungus, bacteria, asbestos, lead, silica, and contaminated drywall;
 - g. contractual liability coverage for liability assumed by Contractor under a written contract or agreement;
 - h. claims arising from owned and non-owned disposal sites utilized in the performance of this Agreement; and
 - i. defense costs, including costs, charges, and expenses incurred in the investigation, adjustment, or defense of claims.
- 2. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of work.
- 3. Contractor shall maintain the insurance for the entire period of the Work including any warranty period, plus an additional two (2) years after the end of the warranty period.

- H. Contractor shall require all tiers of sub-contractors working under this Contract to provide the insurance required under this Article unless otherwise agreed to in writing by Agency. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the Agency harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by the Agency as a result thereof.

ARTICLE 39. FORM AND PROOF OF CARRIAGE OF INSURANCE

- A. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California. Carrier(s) shall have an A.M. Best rating of not less than an A:VII, with the exception for the California State Compensation Insurance Fund. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of the Agency the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to the Agency indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
- B. **Each insurance policy required by this Contract shall be endorsed to state that:** (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Agency; 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 Agency, its officials, officers, agents, employees, and volunteers. Contractor shall provide written notice to the Agency within three (3) business days after becoming aware that: (1) any of the required insurance policies are terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased
- C. The Certificate(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to the Agency prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the Agency may terminate the Contract or stop the Work in accordance with the Contract Documents, unless the Agency receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Site, or commence operations under this Contract until the Agency has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Article. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

- D. The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and the Agency's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- E. Agency reserves the right to increase the minimum amounts of insurance should conditions of work warrant such increase. Contractor shall increase required insurance amounts upon direction by the Agency.
- F. Contractor shall promptly report to the Agency any and all insurance claims, notices of claim, or lawsuits arising out of or relating to the Work under this Contract, including claims involving Contractor, any subcontractor of any tier, or any insurance maintained in connection with the Work.

ARTICLE 40. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- A. **Time for Completion/Liquidated Damages.** Time is of the essence in the completion of the Work. Work shall be commenced within ten (10) Days of the date stated in the Agency's Notice to Proceed (or as otherwise stated therein) and shall be completed by Contractor in the time specified in the Contract Documents. The Agency is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the Agency's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the Agency (including but not limited to indirect, general, administrative or other forms of overhead costs) for the period between the time of earlier completion and the Contract completion date. If the Work is not completed as stated in the Contract Documents, it is understood that the Agency will suffer damage. In accordance with Government Code section 53069.85, it being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the Agency as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each calendar day of delay until the Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages. All liquidated damages amounts shall apply cumulatively.

Liquidated damages for delay shall only cover project administrative (such as Project management and consultant expenses) and time cost damages suffered by Agency as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from Agency (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent Agency, in case of Contractor's default, from terminating the Contractor.

- B. **Inclement Weather.** Contractor shall abide by the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Project schedule.

- C. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of the Work due to Acts of God or other unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the Agency in writing of causes of delay. The Agency shall ascertain the facts and extent of delay and grant extension of time for completing the Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims related to a force majeure event shall be permitted.
- D. **No Damages for Reasonable Delay.** The Agency's liability to Contractor for delays for which the Agency is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the Agency be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable Agency delay, including delays caused by items that are the responsibility of the Agency pursuant to Government Code section 4215, shall be based on actual costs only; no proportions or formulas shall be used to calculate any delay damages.

ARTICLE 41. COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms approved by the Agency:

- A. Prior to Notice to Proceed with the Contract, a detailed estimate giving a complete breakdown of the Contract price, if the Contract amount is a lump sum.
- B. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the Agency to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.
- C. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.
- D. Following the Agency's Final Acceptance of the Work, the Contractor shall submit to the Agency a written statement of the final quantities of unit price items for inclusion in the final payment request.
- E. The Agency shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

ARTICLE 42. PROGRESS ESTIMATES AND PAYMENT

- A. By the tenth (10th) Day of the following calendar month, Contractor shall submit to Engineer a payment request which shall set forth in detail the value of the Work done for the period beginning with the date work was first commenced and ending on the

end of the calendar month for which the payment request is prepared. Contractor shall include any amount earned for authorized extra work. From the total thus computed, a deduction shall be made in the amount of five percent (5%) for retention, except where the Agency has adopted a finding that the Work done under the Contract is substantially complex, and then the amount withheld as retention shall be the percentage specified in the Notice Inviting Bids. From the remainder a further deduction may be made in accordance with Section B below. The amount computed, less the amount withheld for retention and any amounts withheld as set forth below, shall be the amount of the Contractor's payment request.

- B. The Agency may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in his judgment may be necessary to cover:
1. Payments which may be past due and payable for just claims against Contractor or any subcontractors for labor or materials furnished in and about the performance of work on the Project under this Contract.
 2. Defective work not remedied.
 3. Failure of Contractor to make proper payments to his subcontractor or for material or labor.
 4. Completion of the Contract if there is a reasonable doubt that the Work can be completed for balance then unpaid.
 5. Damage to another contractor or a third party.
 6. Amounts which may be due the Agency for claims against Contractor.
 7. Failure of Contractor to keep the record ("as-built") drawings up to date.
 8. Failure to provide update on construction schedule as required herein.
 9. Site cleanup.
 10. Failure to comply with Contract Documents.
 11. Liquidated damages.
 12. Legally permitted penalties.
- C. The Agency may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (B)(1), (3), and (5) of this Article, which must be retained or applied in accordance with applicable law. In so doing, the Agency shall be deemed the agent of Contractor and any payment so made by the Agency shall be considered as a payment made under contract by the Agency to Contractor and the Agency shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. The Agency will render Contractor a proper accounting of such funds disbursed on behalf of Contractor.

- D. Upon receipt, the Engineer shall review the payment request to determine whether it is undisputed and suitable for payment. If the payment request is determined to be unsuitable for payment, it shall be returned to Contractor as soon as practicable but not later than seven (7) Days after receipt, accompanied by a document setting forth in writing the reasons why the payment request is not proper. The Agency shall make the progress payment within 30 calendar days after the receipt of an undisputed and properly submitted payment request from Contractor, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8132. The number of days available to the Agency to make a payment without incurring interest pursuant to this paragraph shall be reduced by the number of days by which the Engineer exceeds the seven (7) Day requirement.
- E. A payment request shall be considered properly executed if funds are available for payment of the payment request and payment is not delayed due to an audit inquiry by the financial officer of the Agency.

ARTICLE 43. SECURITIES FOR MONEY WITHHELD

Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor may request the Agency to make retention payments directly to an escrow agent or may substitute securities for any money withheld by the Agency to ensure performance under the contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the Agency or with a state or federally chartered bank as the escrow agent who shall return such securities to Contractor upon satisfactory completion of the contract. Deposit of securities with an escrow agent shall be subject to a written agreement substantially in the form provided in section 22300 of the Public Contract Code.

ARTICLE 44. CHANGES AND EXTRA WORK.

A. Contract Change Orders.

1. The Agency, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, and the Contract Price and Contract Time shall be adjusted accordingly. Except as otherwise provided herein, all such changes in the Work shall be authorized by Change Order in the form provided in Exhibit A, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract Price or the Contract Time, and the full and final settlement of the subject of the Change Order, including all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.
2. Contractor shall promptly execute changes in the Work as directed in writing by the Agency even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation to the Contractor shall be presented in writing. No claim will be considered after the Work in question has been done unless a written Change Order has been issued or a timely written notice of claim has been made by Contractor.

3. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions, and provisions of the original Contract.
4. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done.
5. No dispute, disagreement, or failure of the parties to reach agreement on the terms of the Change Order shall relieve the Contractor from the obligation to proceed with performance of the work, including Additional Work, promptly and expeditiously.
6. Contractor shall make available to the Agency any of the Contractor's documents related to the Project immediately upon request of the Agency.
7. Any alterations, extensions of time, Additional Work, or any other changes may be made without securing consent of the Contractor's surety or sureties.

B. Contract Price Change.

1. Process for Determining Adjustments in Contract Price.
 - a. **Owner Initiated Change.** The Contractor must submit a complete cost proposal, including any change in the Contract Price or Contract Time, within seven (7) Days after receipt of a scope of a proposed change order initiated by the Agency, unless the Agency requests that proposals be submitted in less than seven (7) Days.
 - b. **Contractor Initiated Change.** The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.
 - c. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the Agency.
 - d. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the Agency, including but not limited to estimates and quotations from subcontractors or material suppliers, as the Agency may reasonably request. Contractor shall certify the accuracy of all Change Order Requests under penalty of perjury.
 - e. If the Contractor fails to submit a complete cost proposal within the seven (7) Day period (or as requested), the Agency has the right to order the Contractor in writing to commence the Work immediately on a time and materials basis and/or issue a lump sum change to the Contract Price and/or Contract Time in accordance with the Agency's estimate. If the change is issued based on the Agency's estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following

completion of the added/deleted work, the Contractor presents written proof that the Agency's estimate was in error.

2. Unit Price Change Orders.

- a. When the actual quantity of a Unit Price item varies from the Bid Form, compensation for the change in quantity will be calculated by multiplying the actual quantity by the Unit Price. This calculation may result in either an additive or deductive Final Change Order pursuant to the Contract Documents.
 - b. No Mark up for Overhead and Profit. Because the Contract Unit Prices provided in the Bid Form include Overhead and Profit as determined by Contractor at the time of Bid submission, no mark up or deduction for Overhead and Profit will be included in Unit Price Change Orders.
 - c. Bid items included on the Bid Form may be deducted from the Work in their entirety without any negotiated extra costs.
 - d. Contractor acknowledges that unit quantities are estimates and agrees that the estimated unit quantities listed on the Bid Form will be adjusted to reflect the actual unit quantities which may result in an adjustment to the Contract Unit Prices. Such an adjustment will be made by execution of a final additive or deductive Change Order following Contractor's completion of the Work. Upon notification, Contractor's failure to respond within seven (7) Days will result in Agency's issuance of a unit quantity adjustment to the Contract Unit Prices and/or Contract Time in accordance with the Contract Documents.
 - e. The Agency or Contractor may make a Claim for an adjustment in the Unit Price in accordance with the Contract Documents if:
 - i. the quantity of any item of Unit Price Work performed by Contractor differs by twenty-five percent (25%) or more from the estimated quantity of such item indicated in the Contract; and
 - ii. there is no corresponding adjustment with respect to any other item of Work; and
 - iii. Contractor believes that Contractor is entitled to an increase in Unit Price as a result of having incurred additional expense or the Agency believes that the Agency is entitled to a decrease in Unit Price and the parties are unable to agree as to the amount of any such increase or decrease.
3. Lump Sum Change Orders. Compensation for Lump Sum Change Orders shall be limited to expenditures necessitated specifically by the Additional Work, and shall be segregated as follows:
- a. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the Additional Work is done, plus employer payments of payroll taxes and insurance, health and welfare,

pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the Additional Work cost will not be permitted unless the Contractor establishes the necessity for such new classifications. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

- b. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight, and delivery. Materials costs shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the Agency shall determine the materials cost, at its sole discretion.
- c. Tool and Equipment Use. Costs for the use of small tools, which are tools that have a replacement value of \$1,000 or less, shall be considered included in the Overhead and Profit mark-ups established below. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the Work is performed.

4. Time and Materials Change Orders.

- a. General. The term Time and Materials means the sum of all costs reasonably and necessarily incurred and paid by Contractor for labor, materials, and equipment in the proper performance of Additional Work. Except as otherwise may be agreed to in writing by the Agency, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items.
- b. Timely and Final Documentation.
 - i. T&M Daily Sheets. Contractor must submit timesheets, materials invoices, records of equipment hours, and records of rental equipment hours to the Agency's Representative for an approval signature each day Additional Work is performed. Failure to get the Agency's Representative's approval signature each Day shall result in a waiver of Contractor's right to claim these costs. The Agency's Representative's signature on time sheets only serves as verification that the Work was performed and is not indicative of Agency's agreement to Contractor's entitlement to the cost.
 - ii. T&M Daily Summary Sheets. All documentation of incurred costs ("T&M Daily Summary Sheets") shall be submitted by Contractor within three (3) Days of incurring the cost for labor, material, equipment, and special services as Additional Work is performed. Contractor's actual costs shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Each T&M Daily

Summary Sheet shall include Contractor's actual costs incurred for the Additional Work performed that day and a cumulative total of Contractor's actual costs incurred for the Additional Work. Contractor's failure to provide a T&M Daily Summary Sheet showing a total cost summary within three (3) Days but within five (5) Days of performance of the Work will result in the Contractor's otherwise allowable overhead and profit being reduced by 50% for that portion of Additional Work which was not documented in a timely manner. Contractor's failure to submit the T&M Daily Summary Sheet within five (5) Days of performance of the Work will result in a total waiver of Contractor's right to claim these costs.

- iii. **T&M Total Cost Summary Sheet.** Contractor shall submit a T&M Total Cost Summary Sheet, which shall include total actual costs, within seven (7) Days following completion of Agency approved Additional Work. Contractor's total actual cost shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Contractor's failure to submit the T&M Total Cost Summary Sheet within seven (7) Days of completion of the Additional Work will result in Contractor's waiver for any reimbursement of any costs associated with the T&M Summary Sheets or the performance of the Additional Work.
- c. **Labor.** The Contractor will be paid the cost of labor for the workers used in the actual and direct performance of the Work. The cost of labor will be the sum of the actual wages paid (which shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes) substantiated by timesheets and certified payroll for wages prevailing for each craft or type of workers performing the Additional Work at the time the Additional Work is done, and the labor surcharge set forth in the Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract. The labor surcharge shall constitute full compensation for all payments imposed by Federal, State, or local laws and for all other payments made to, or on behalf of, the workers, other than actual wages.
 - i. **Equipment Operator Exception.** Labor costs for equipment operators and helpers shall be paid only when such costs are not included in the invoice for equipment rental.
 - ii. **Foreman Exception.** The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to the Additional Work shall be paid. Indirect labor costs, including, without limitation, the superintendent, project manager, and other labor identified in the Contract Documents will be considered Overhead.
- d. **Materials.** The cost of materials reported shall be itemized at invoice or lowest current price at which materials are locally available and delivered to the Project site in the quantities involved, plus the cost of sales tax, freight, delivery, and storage.

- i. Trade discounts available to the purchaser shall be credited to the Agency notwithstanding the fact that such discounts may not have been taken by Contractor.
 - ii. For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual supplier as determined by the Agency's Representative.
 - iii. Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on Additional Work items or the current wholesale price for such materials delivered to the Project site, whichever price is lower.
 - iv. If, in the opinion of the Agency's Representative, the cost of materials is excessive, or Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the total quantity concerned delivered to the Project site less trade discounts.
 - v. The Agency reserves the right to furnish materials for the Additional Work and no Claim shall be allowed by Contractor for costs of such materials or Indirect Costs or profit on Agency furnished materials.
- e. Equipment.
- i. Rental Time. The rental time to be paid for equipment on the Project site shall be the time the equipment is in productive operation on the Additional Work being performed and, in addition, shall include the time required to move the equipment to the location of the Additional Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except that moving time will not be paid if the equipment is used on other than the Additional Work, even though located at the site of the Additional Work.
 - (a) Rental Time Not Allowed. Rental time will not be allowed while equipment is inoperative due to breakdowns.
 - (b) Computation Method. The following shall be used in computing the rental time of equipment on the Project site.
 - (c) When hourly rates are paid, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.
 - (d) When daily rates are paid, any part of a day less than 4 hours operation shall be considered to be 1/2-day of operation, and any part of an hour in excess of 4 hours will be considered one day of operation.

- ii. Rental Rates. Contractor will be paid for the use of equipment at the lesser of (i) the actual rental rate, or (ii) the rental rate listed for that equipment in the California Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates, which is in effect on the date upon which the Contract was executed. Such rental rates will be used to compute payments for equipment whether the equipment is under Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate (i.e., daily, monthly) resulting in the least total cost to the Agency for the total period of use. If it is deemed necessary by Contractor to use equipment not listed in the publication, an equitable rental rate for the equipment will be established by the Agency's Representative. Contractor may furnish cost data which might assist the Agency's Representative in the establishment of the rental rate.
- iii. Contractor-Owned Equipment.
 - (a) For Contractor-owned equipment, the allowed equipment rental rate will be limited to the monthly equipment rental rate using a utilization rate of 173 hours per month.
 - (b) For Contractor-owned equipment, the rental time to be paid for equipment on the Site shall be the time the equipment is in productive operation, unless, in the instance of standby time, the equipment could be actively used by Contractor on another project, then Agency shall pay for the entirety of the time the equipment is on Site. It shall be Contractor's burden to demonstrate to the Agency that the equipment could be actively used on another project.
- iv. All equipment shall, in the opinion of the Agency's Representative, be in good working condition and suitable for the purpose for which the equipment is to be used.
- v. Before construction equipment is used on the Additional Work, Contractor shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the Agency's Representative, in duplicate, a description of the equipment and its identifying number and the scheduled Additional Work activities planned.
- vi. Unless otherwise specified, manufacturer's rating and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.
- f. Special Services. Special work or services are defined as that Additional Work characterized by extraordinary complexity, sophistication, or innovation

or a combination of the foregoing attributes which are unique to the construction industry.

- vii. Invoices for Special Services. When the Agency's Representative and Contractor determine that a special service is required which cannot be performed by the forces of Contractor or those of any of its Subcontractors, the special service may be performed by an entity especially skilled in the Additional Work. Invoices for special services based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs, after validation of market values by the Agency's Representative.
- viii. Discount and Allowance. All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of Overhead and Profit specified herein, a total allowance not to exceed fifteen percent (15%) for Overhead and Profit will be added to invoices for Special Services.
- ix. When the Agency determines, in its sole discretion, that competitive bidding is necessary for certain special services, Contractor shall solicit competitive bids for those special services.
- g. Excluded Costs. The term Time and Material shall not include any of the following costs or any other home or field office overhead costs, all of which are to be considered administrative costs covered by Contractor's allowance for Overhead and Profit.
 - i. Overhead Cost. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, Engineers, estimators, attorneys, auditors, accountants, purchasing and contracting agents, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal office or any branch office, material yard, or shop for general administration of the Additional Work;
 - ii. Office Expenses. Expenses of Contractor's principal and branch offices;
 - iii. Capital Expenses. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Additional Work and charges against Contractor for delinquent payments;
 - iv. Negligence. Costs due to the negligence of Contractor or any Subcontractor or Supplier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property;
 - v. Other. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in the Contract Documents;

- vi. Small Tools. Cost of small tools valued at less than \$1,000 and that remain the property of Contractor;
 - vii. Administrative Costs. Costs associated with the preparation of Change Orders (whether or not ultimately authorized), cost estimates, or the preparation or filing of Claims;
 - viii. Anticipated Lost Profits. Expenses of Contractor associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings, or unpaid retention;
 - ix. Home Office Overhead. Costs derived from the computation of a "home office overhead" rate by application of the *Eichleay, Allegheny*, burden fluctuation, or other similar methods;
 - x. Special Consultants and Attorneys. Costs of special consultants or attorneys, whether or not in the direct employ of Contractor, employed for services specifically related to the resolution of a Claim, dispute, or other matter arising out of or relating to the performance of the Additional Work.
- h. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:
- xi. "Net Cost" is defined as consisting of costs of labor, materials, and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide Agency with documentation of the costs, including, but not limited to, payroll records, invoices, and such other information as Agency may reasonably request.
 - xii. For Work performed by the Contractor's forces, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.
 - xiii. For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the subcontractor's Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor's Net Cost.
 - xiv. For Work performed by a sub-subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the sub-subcontractor's Net Cost for Work to which the subcontractor and general contractor shall divide (as they may mutually agree) an additional five percent (5%) of the Net Cost of the lower tier subcontractor.
 - xv. No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by

Agency exceed twenty percent (20%) of the Net Cost as defined herein, of the party that performs the Work.

5. All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings, field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary On-Site facilities (Offices, Telephones, High Speed Internet Access, Plumbing, Electrical Power, Lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final Cleanup; Other Incidental Work; Related Warranties; insurance and bond premiums.
6. For added or deducted Work by subcontractors, the Contractor shall furnish to the Agency the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors
7. For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the Agency a detailed record of the cost to the Contractor, signed by such vendor or supplier.
8. Any change in the Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.
9. Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the Change Order for Work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the Agency's change order form in an attempt to reserve additional rights.
10. If the Agency disagrees with the proposal submitted by Contractor, it will notify the Contractor and the Agency will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the Agency, a Change Order will be issued by the Agency. If no agreement can be reached, the Agency shall have the right to issue a unilateral Change Order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the Agency within fifteen (15) Days of the issuance of the unilateral Change Order, disputing the terms of the unilateral

Change Order, and providing such supporting documentation for its position as the Agency may require.

C. Change of Contract Times.

1. The Contract Times may only be changed by a Change Order.
2. All changes in the Contract Price and/or adjustments to the Contract Times related to each change shall be included in Contractor's COR pursuant to this Article. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.
3. Notice of the amount of the request for adjustment in the Contract Times with supporting data shall be delivered within seven (7) Days after such start of occurrence, unless Agency's Representative allows an additional period of time to ascertain more accurate data in support of the request. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.
4. Agency may elect, at Agency's sole discretion, to grant an extension in Contract Times, without Contractor's request, because of delays or other factors.
5. Use of Float and Critical Path.
 - a. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the Agency or the Contractor.
 - b. Contractor shall not be entitled to compensation, and Agency will not compensate Contractor, for delays which impact early completion. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float.
6. Contractor's entitlement to an extension of the Contract Times is limited to an Agency-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the Agency-caused delay extends the critical path beyond the previously approved Contract Time. If approved, the increase in time required to complete the Work shall be added to the Contract Time.
 - a. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.
 - b. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions (as determined by the Agency), Act of God, acts or failures to act of utility owners not under the

control of Agency, or other causes not the fault of and beyond control of Agency and Contractor, then Contractor shall be entitled to a time extension when the Work stopped is on the critical path. Such a non-compensable adjustment shall be Contractor's sole and exclusive remedy for such delays. Contractor must submit a timely request in accordance with the requirements of this Article.

c. Utility-Related Delays.

- i. Contractor shall immediately notify in writing the utility owner and Agency's Representative of its construction schedule and any subsequent changes in the construction schedule which will affect the time available for protection, removal, or relocation of utilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with this Article.
- ii. Contractor shall not be entitled to damages or additional payment for delays attributable to utility relocations or alterations if correctly located, as noted in the Contract Documents or by the Underground Service Alert survey.

7. Content for Requests for Contract Extension. Contractor's justification for entitlement shall be clear and complete citing specific Contract Document references and reasons on which Contractor's entitlement is based. At a minimum, each request for a time extension must include:

- a. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any Subcontractors or Suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Times, despite Contractor's reasonable and diligent actions to guard against those effects.
- b. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the Contemporaneous Impacted As-Planned Schedule Analysis to calculate the impact of the delay event.

8. No Damages for Reasonable Delay.

- a. Agency's liability to Contractor for delays for which Agency is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall Agency be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs.

- b. Damages caused by unreasonable Agency delay that impact the critical path, including delays caused by items that are the responsibility of the Agency pursuant to Government Code section 4215, shall be compensated at the Daily Rate established in the Special Conditions. No other calculations, proportions or formulas shall be used to calculate any delay damages.
 - c. Agency and Agency's Representative, and the officers, members, partners, employees, agents, consultants, or subcontractors of each of them, shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, Engineers, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
9. Contractor's failure, neglect, or refusal to comply with the requirements of the Contract Documents, or any portion thereof, shall bar Contractor's request for extensions of the Contract Times. Such failure, neglect, or refusal prejudices Agency's and Agency's Representative's ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for extensions of Contract Times, and whether such extensions may be warranted. Contractor hereby waives all rights to extensions of Contract Times due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of this Article.

ARTICLE 45. FINAL ACCEPTANCE AND PAYMENT

- A. The Final Acceptance of the Work on behalf of the Agency will be made by the Engineer.** Such acceptance by the Agency shall not constitute a waiver of defects. When the Work has been accepted there shall be paid to Contractor a sum equal to the contract price less any amounts previously paid Contractor and less any amounts withheld by the Agency from Contractor under the terms of the contract. The final five percent (5%), or the percentage specified in the notice inviting bids shall not become due and payable until five (5) calendar days shall have elapsed after the expiration of the period within which all claims may be filed under the provisions of Civil Code section 9356. If the Contractor has placed securities with the Agency as described herein, the Contractor shall be paid a sum equal to one hundred percent (100%) of the contract price less any amounts due the Agency under the terms of the Contract.
- B. Unless Contractor advises the Agency in writing prior to acceptance of the final five percent (5%) or the percentage specified in the notice inviting bids or the return of securities held as described herein, said acceptance shall operate as a release to the Agency of all claims and all liability to Contractor for all things done or furnished in connection with this work and for every act of negligence of the Agency and for all other claims relating to or arising out of this work. If Contractor advises the Agency in writing prior to acceptance of final payment or return of the securities that there is a dispute regarding the amount due the Contractor, the Agency may pay the undisputed amount contingent upon the Contractor furnishing a release of all undisputed claims against the Agency with the disputed claims in stated amounts being specifically excluded by Contractor from the operation of the release. No payments, however, final

or otherwise, shall operate to release Contractor or its sureties from the Faithful Performance Bond, Labor and Material Payment Bond, or from any other obligation under this contract.

- C. In case of suspension of the contract any unpaid balance shall be and become the sole and absolute property of the Agency to the extent necessary to repay the Agency any excess in the cost of the Work above the contract price.
- D. Final payment shall be made no later than 60 days after the date of Final Acceptance of the Work by the Agency or the date of occupation, beneficial use and enjoyment of the Work by the Agency including any operation only for testing, start-up or commissioning accompanied by cessation of labor on the Work, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8136. In the event of a dispute between the Agency and the Contractor, the Agency may withhold from the final payment an amount not to exceed 150% of the disputed amount.
- E. Within ten (10) calendar days from the time that all or any portion of the retention proceeds are received by Contractor, Contractor shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received. However, if a retention payment received by Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor if the payment is consistent with the terms of the subcontract.

ARTICLE 46. OCCUPANCY

The Agency reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

ARTICLE 47. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall immediately defend (with counsel of the Agency's choosing), indemnify and hold harmless the Agency, officials, officers, agents, employees, and representatives, and each of them from and against:

- A. Any and all claims, demands, causes of action, costs, expenses, injuries, losses or liabilities, in law or in equity, of every kind or nature whatsoever, but not limited to, injury to or death, including wrongful death, of any person, and damages to or destruction of property of any person, arising out of, related to, or in any manner directly or indirectly connected with the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses, however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the Agency or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the Agency or its officials, officers, employees, or authorized volunteers.

- B. Contractor's defense and indemnity obligation herein includes, but is not limited to damages, fines, penalties, attorney's fees and costs arising from claims under the Americans with Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the course of construction of the improvements or after the Work is complete, as the result of defects or negligence in Contractor's construction of the improvements.
- C. Any and all actions, proceedings, damages, costs, expenses, fines, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Contractor;
- D. Any and all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Contractor shall immediately defend, at Contractor's own cost, expense and risk, with counsel of Agency's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the Agency, its officials, officers, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the Agency, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the Agency, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code section 2782.

ARTICLE 48. PROCEDURE FOR RESOLVING DISPUTES

Contractor shall timely comply with all notices and requests for changes to the Contract Time or Contract Price, , as a prerequisite to filing any claim governed by this Article. The failure to timely submit a notice of delay or notice of change, or to timely request a change to the Contract Price or Contract Time, or to timely provide any other notice or request required herein shall constitute a waiver of the right to further pursue the claim under the Contract or at law.

- A. **Intent.** Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. Effective January 1, 2017, Section 9204 of the Public Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Article is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Article shall be construed to be consistent with said statutes.
- B. **Claims.** For purposes of this Article, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with Article 44 "Changes and Extra Work" has been denied by the Agency, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the

Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the Agency. Claims governed by this Article may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the procedures contained in Article 44, Changes and Extra Work, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Article must be filed no later than the date of final payment. The claim shall be submitted in writing to the Agency and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing herein is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.

C. **Supporting Documentation.** The Contractor shall submit all claims in the following format:

1. Summary of claim merit and price, reference Contract Document provisions pursuant to which the claim is made
2. List of documents relating to claim:
 - a. Specifications
 - b. Drawings
 - c. Clarifications (Requests for Information)
 - d. Schedules
 - e. Other
3. Chronology of events and correspondence
4. Analysis of claim merit
5. Analysis of claim cost
6. Time impact analysis in CPM format
7. If Contractor's claim is based in whole or in part on an allegation of errors or omissions in the Drawings or Specifications for the Project, Contractor shall provide a summary of the percentage of the claim subject to design errors or omissions and shall obtain a certificate of merit in support of the claim of design errors and omissions.

D. **Agency's Response.** Upon receipt of a claim pursuant to this Article, Agency shall conduct a reasonable review of the claim and, within a period not to exceed 45 Days, shall provide the Contractor a written statement identifying what portion of the claim is

disputed and what portion is undisputed. Any payment due on an undisputed portion of the claim will be processed and made within 60 Days after the Agency issues its written statement.

1. If the Agency needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the Agency's governing body does not meet within the 45 Days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the Agency shall have up to three Days following the next duly publicly noticed meeting of the Agency's governing body after the 45-Day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
 2. Within 30 Days of receipt of a claim, the Agency may request in writing additional documentation supporting the claim or relating to defenses or claims the Agency may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of Agency and the Contractor. The Agency's written response to the claim, as further documented, shall be submitted to the Contractor within 30 Days (if the claim is less than \$15,000, within 15 Days) after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- E. **Meet and Confer.** If the Contractor disputes the Agency's written response, or the Agency fails to respond within the time prescribed, the Contractor may so notify the Agency, in writing, either within 15 Days of receipt of the Agency's response or within 15 Days of the Agency's failure to respond within the time prescribed, respectively, and demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, the Agency shall schedule a meet and confer conference within 30 Days for settlement of the dispute.
- F. **Mediation.** Within 10 working Days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the Agency shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 Days after the Agency issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the Agency and the Contractor sharing the associated costs equally. The Agency and Contractor shall mutually agree to a mediator within 10 working Days after the disputed portion of the claim has been identified in writing, unless the parties agree to select a mediator at a later time.
1. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

2. For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
 3. Unless otherwise agreed to by the Agency and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.
 4. The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.
- G. **Procedures After Mediation.** If following the mediation, the claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code prior to initiating litigation. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.
- H. **Civil Actions.** The following procedures are established for all civil actions filed to resolve claims of \$375,000 or less:
1. Within 60 Days, but no earlier than 30 Days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of this Contract. The mediation process shall provide for the selection within 15 Days by both parties of a disinterested third person as mediator, shall be commenced within 30 Days of the submittal, and shall be concluded within 15 Days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.
 2. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

- I. **Government Code Claims.** In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra Work, disputed Work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code Sections 900, et seq. prior to filing any lawsuit against the Agency. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra Work, disputed Work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not satisfied, no action against the Agency may be filed. **A Government Code claim must be filed no earlier than the date the Work is completed or the date the Contractor last performs Work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.**
- J. **Non-Waiver.** The Agency's failure to respond to a claim from the Contractor within the time periods described in this Article or to otherwise meet the time requirements of this Article shall result in the claim being deemed rejected in its entirety.

ARTICLE 49. AGENCY'S RIGHT TO TERMINATE CONTRACT

A. Termination for Cause by the Agency:

1. In the sole estimation of the Agency, if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will insure its completion within the time specified by the Contract Documents, or any extension thereof, or fails to complete such Work within such time, or if the Contractor should be adjudged a bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its subcontractors should violate any of the provisions of this Contract, the Agency may serve written notice upon the Contractor and its Surety of the Agency's intention to terminate this Contract. This notice of intent to terminate shall contain the reasons for such intention to terminate this Contract, and a statement to the effect that the Contractor's right to perform this Contract shall cease and terminate upon the expiration of ten (10) calendar days unless such violations have ceased and arrangements satisfactory to the Agency have been made for correction of said violations.
2. In the event that the Agency serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform the Contract. If the Surety does not: (1) give the Agency written notice of Surety's intention to take over and commence performance of the Contract within 15 calendar days of the Agency's service of said notice of intent to terminate upon Surety; and (2) actually commence performance of the Contract within 30 calendar days of the Agency's service of said notice upon Surety; then the Agency may take over the Work and prosecute the same to completion by separate contract or by any other method it may deem advisable for the account and at the expense of the Contractor.

3. In the event that the Agency elects to obtain an alternative performance of the Contract as specified above: (1) the Agency may, without liability for so doing, take possession of and utilize in completion of the Work such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion (A special lien to secure the claims of the Agency in the event of such suspension is hereby created against any property of Contractor taken into the possession of the Agency under the terms hereof and such lien may be enforced by sale of such property under the direction of the Board of Directors without notice to Contractor. The proceeds of the sale after deducting all expenses thereof and connected therewith shall be credited to Contractor. If the net credits shall be in excess of the claims of the Agency against Contractor, the balance will be paid to Contractor or Contractor's legal representatives.); and (2) Surety shall be liable to the Agency for any cost or other damage to the Agency necessitated by the Agency securing an alternate performance pursuant to this Article.
4. In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and Contractor shall have no greater rights than it would have had following a termination for convenience. Any Contractor claim arising out of a termination for cause shall be made in accord with the provisions herein. No other loss, cost, damage, expense, or liability may be claimed, requested or recovered by Contractor.

B. Termination for Convenience by the Agency:

1. The Agency may terminate performance of the Work called for by the Contract Documents in whole or, from time to time, in part, if the Agency determines that a termination is in the Agency's interest.
2. The Contractor shall terminate all or any part of the Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the Agency, the extent of termination, and the Effective Date of such termination.
3. After receipt of Notice of Termination, and except as directed by the Agency's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
 - a. Stop Work as specified in the Notice.
 - b. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
 - c. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Document is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.

- d. Terminate all subcontracts to the extent that they relate to the portions of the Work terminated.
 - e. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Contract.
 - f. Submit to the Agency's Representative, within ten (10) calendar days from the Effective Date of the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the Agency's exercise of its right to terminate this Contract pursuant to this clause, which costs the contractor is authorized under the Contract documents to incur, shall: (1) be submitted to and received by the Engineer no later than 30 calendar days after the Effective Date of the Notice of Termination; (2) describe the costs incurred with particularity; and (3) be conspicuously identified as "Termination Costs occasioned by the Agency's Termination for Convenience."
4. Termination of the Contract shall not relieve Surety of its obligation for any just claims arising out of or relating to the Work performed.
5. In the event that the Agency exercises its right to terminate this Contract pursuant to this clause, the Agency shall pay the Contractor, upon the Contractor's submission of the documentation required by this clause and other applicable provisions of the Contract Documents, the following amounts:
- a. All actual reimbursable costs incurred according to the provisions of this Contract.
 - b. A reasonable allowance for profit on the cost of the Work performed, provided Contractor establishes to the satisfaction of the Agency's Representative that it is reasonably probable that Contractor would have made a profit had the Contract been completed and provided further, that the profit allowed shall in no event exceed fifteen (15%) percent of the costs.
 - c. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Contract under this Article.
- C. Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the Agency may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the Agency or the Contract is terminated.

ARTICLE 50. WARRANTY AND GUARANTEE OF WORK

- A. Contractor hereby warrants that materials and Work shall be completed in conformance with the Contract Documents and that the materials and Work provided will fulfill the requirements of this Warranty. Contractor represents and warrants that it

is and will be at all times fully qualified and capable of performing every phase of the Work and completing Work in accordance with the terms of Contract Documents. Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices and all requirements of Contract Documents. Contractor warrants that Work, including but not limited to each item of materials and equipment incorporated therein, shall be new, of suitable grade of its respective kind for its intended use, and free from defects in design, architecture and/or engineering, materials, construction and workmanship. Contractor warrants that Work shall conform in all respects with all applicable requirements of federal, state and local laws, applicable construction codes and standards, licenses and permits, Drawings and Specifications and all descriptions set forth therein, and all other requirements of Contract Documents. Contractor shall not be responsible, however, for the negligence of others in the specification of specific equipment, materials, design parameters and means or methods of construction where that is specifically shown and expressly required by Contract Documents.

- B. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.
- C. Contractor hereby agrees to repair or replace, at the discretion of the Agency, any or all Work that may prove to be defective in its workmanship, materials furnished, methods of installation or fail to conform to the Contract Document requirements together with any other Work which may be damaged or displaced by such defect(s) **within a period of one (1) year** from the date of the Notice of Completion of the Project without any expense whatever to the Agency, ordinary wear and tear and unusual abuse and neglect excepted. Contractor shall be required to promptly repair or replace defective equipment or materials, at Contractor's option. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor.
- D. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one (1) year period, commencing with the date of Final Acceptance of such corrected Work. The reinstatement of the one (1) year warranty shall apply only to that portion of work that was corrected. Contractor shall perform such tests as Agency may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. In the event of Contractor's failure to comply with the above-mentioned conditions within ten (10) calendar days after being notified in writing of required repairs, to the reasonable satisfaction of the Agency, the Agency shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the Agency for any expenses incurred hereunder immediately upon demand.

- E. In addition to the warranty set forth in this Article, Contractor shall obtain for Agency all warranties that would be given in normal commercial practice and assign to Agency any and all manufacturer's or installer's warranties for equipment or materials not manufactured by Contractor and provided as part of the Work, to the extent that such third-party warranties are assignable and extend beyond the warranty period set forth in this Article. Contractor shall furnish the Agency with all warranty and guarantee documents prior to final Acceptance of the Project by the Agency as required.
- F. When specifically indicated in the Contract Documents or when directed by the Engineer, the Agency may furnish materials or products to the Contractor for installation. In the event any act or failure to act by Contractor shall cause a warranty applicable to any materials or products purchased by the Agency for installation by the Contractor to be voided or reduced, Contractor shall indemnify Agency from and against any cost, expense, or other liability arising therefrom, and shall be responsible to the Agency for the cost of any repairs, replacement or other costs that would have been covered by the warranty but for such act or failure to act by Contractor.
- G. The Contractor shall remedy at its expense any damage to Agency-owned or controlled real or personal property.
- H. The Agency shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) calendar days after being notified commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect, or damage; the Agency shall have the right to replace, repair or otherwise remedy the defect, or damage at the Contractor's expense.
- I. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements, the Agency may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.
- J. **Acceptance of Defective Work.**
 - 1. If, instead of requiring correction or removal and replacement of Defective Work, the Agency prefers to accept it, Agency may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, Engineers, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Agency's evaluation of and determination to accept such Defective Work and for the diminished value of the Work.
 - 2. If any acceptance of defective work occurs prior to release of the Project Retention, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Agency shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work and all costs incurred by Agency.
 - 3. If the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to Agency.

4. If the acceptance of Defective Work occurs after release of the Project Retention, an appropriate amount will be paid by Contractor to Agency.

K. Agency May Correct Defective Work.

1. If Contractor fails within a reasonable time after written notice from Agency's Representative to correct Defective Work, or to remove and replace rejected Work as required by Agency, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Agency may, after seven (7) Days' written notice to Contractor, correct, or remedy any such deficiency.
2. In connection with such corrective or remedial action, Agency may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Agency has paid Contractor but which are stored elsewhere. Contractor shall allow Agency and Agency's Representative, and the agents, employees, other contractors, and consultants of each of them, access to the Site to enable Agency to exercise the rights and remedies to correct the Defective Work.
3. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, Engineers, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Agency correcting the Defective Work will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions into the Contract Documents with respect to the Work; and Agency shall be entitled to an appropriate decrease in the Contract Price.
4. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Defective Work.
5. If the Change Order is executed after all payments under the Contract have been paid by Agency and the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to Agency.
6. If the Change Order is executed after release of the Project Retention, an appropriate amount will be paid by Contractor to Agency.
7. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to Agency correcting Defective work.

- L. Nothing in the Warranty or in the Contract Documents shall be construed to limit the rights and remedies available to Agency at law or in equity, including, but not limited to, Code of Civil Procedure section 337.15.

ARTICLE 51. DOCUMENT RETENTION & EXAMINATION

- A. In accordance with Government Code section 8546.7, records of both the Agency and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.
- B. Contractor shall make available to the Agency any of the Contractor's other documents related to the Project immediately upon request of the Agency.
- C. In addition to the State Auditor rights above, the Agency shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the Agency, for a period of four (4) years after final payment.

ARTICLE 52. SEPARATE CONTRACTS

- A. The Agency reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.
- B. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the Work in place or discrepancies with the Contract Documents.
- C. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the Agency in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The Agency shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

ARTICLE 53. NOTICE AND SERVICE THEREOF

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to Agency shall be addressed to the Agency as designated in the Notice Inviting Bids unless Agency designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) calendar days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

ARTICLE 54. NOTICE OF THIRD PARTY CLAIMS

Pursuant to Public Contract Code section 9201, the Agency shall provide the Contractor with timely notification of the receipt of any third-party claims relating to the Contract. The Agency is entitled to recover reasonable costs incurred in providing such notification.

ARTICLE 55. STATE LICENSE BOARD NOTICE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

ARTICLE 56. INTEGRATION

- A. **Oral Modifications Ineffective.** No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.
- B. **Contract Documents Represent Entire Contract.** The Contract Documents represent the entire agreement of the Agency and Contractor.

ARTICLE 57. ASSIGNMENT OF CONTRACT

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the rights or title of interest of any or all of this Contract without the prior written consent of the Agency. Any assignment or change of Contractor's legal name without the written consent of the Agency shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

ARTICLE 58. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the Agency in order that proper steps may be taken to have the change reflected on the Contract and all related documents. No change of Contractor's name or nature will affect Agency's rights under the Contract, including but not limited to the bonds.

ARTICLE 59. ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Public Contract Code section 7103.5, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the Agency all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC, Section 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 the purchase of goods, services, or materials

pursuant to this contract or any subcontract. This assignment shall be made and become effective at the time the Agency tenders final payment to the Contractor, without further acknowledgment by the parties.

ARTICLE 60. PROHIBITED INTERESTS

No Agency official or representative who is authorized in such capacity and on behalf of the Agency to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall be or become directly or indirectly interested financially in the Contract.

ARTICLE 61. CONTROLLING LAW

Notwithstanding any subcontract or other contract with any subcontractor, supplier, or other person or organization performing any part of the Work, this Contract shall be governed by the law of the State of California excluding any choice of law provisions.

ARTICLE 62. JURISDICTION; VENUE

Contractor and any subcontractor, supplier, or other person or organization performing any part of the Work agrees that any action or suits at law or in equity arising out of or related to the bidding, award, or performance of the Work shall be maintained in the Superior Court of Sonoma County, California, and expressly consent to the jurisdiction of said court, regardless of residence or domicile, and agree that said court shall be a proper venue for any such action.

ARTICLE 63. LAWS AND REGULATIONS

- A. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, it shall bear all costs arising therefrom.
- B. Contractor shall be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA regulations.

ARTICLE 64. PATENTS

Contractor shall hold and save the Agency, officials, officers, employees, and authorized volunteers harmless from liability of any nature or kind of claim therefrom including costs and expenses for or on account of any patented or unpatented invention, article or appliance manufactured, furnished or used by Contractor in the performance of this contract.

ARTICLE 65. OWNERSHIP OF CONTRACT DOCUMENTS

All Contract Documents furnished by the Agency are Agency property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such

documents. With exception of one complete set of Contract Documents, all documents shall be returned to the Agency on request at completion of the Work.

ARTICLE 66. NOTICE OF TAXABLE POSSESSORY INTEREST

In accordance with Revenue and Taxation Code section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

ARTICLE 67. SURVIVAL OF OBLIGATIONS

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

00 73 13 – SPECIAL CONDITIONS

1.1 Engineer.

- A. For purposes of this Project, the Engineer is: Rebecca Simonson, Director of Capital Projects and Engineering

1.2 Location of the Project.

- A. The Project is located at 733-741 4th Street, Santa Rosa, CA 95404.

1.3 Reverse Liquidated Damages Due to Unreasonable Agency Delay.

- A. In compliance with the provisions of California Public Contract Code § 7102, the Contractor will be compensated for damages incurred due to delays in completing the Work due solely to the fault of the Agency, where such delay is unreasonable under the circumstances and not contemplated by the parties and such delay is not the result of Additional Work. The Contractor and Agency agree that determining actual damages is impracticable and extremely difficult. As such, the Contractor shall be entitled to the appropriate time extension and to payment of liquidated damages in the sum of \$500 per Day of delay in excess of the time specified for the Completion of the Work. Such amount shall constitute the only payment allowed and shall necessarily include all overhead (direct or indirect), all profit, all administrative costs, all bond costs, all labor, materials, equipment and rental costs, and any other costs, expenses and fees incurred or sustained as a result of such delay. The Contractor expressly agrees to be limited solely to the liquidated damages for all such delays as defined in this subsection.

1.4 Parking, Storage, and Staging

- A. The Agency will not provide onsite parking, storage, or staging. Contractor shall obtain temporary space from others as needed or advisable, which may include from the City of Santa Rosa.

1.5 Building Occupancy

- A. The Agency and Agency tenants will occupy the Site building during construction unless HVAC systems are non-operational. Contractor shall take all necessary action to minimize impact and disruption to building occupants during performance of Work.

1.6 HVAC Considerations

- A. Contractor shall coordinate with Agency regarding minimizing HVAC downtime. Work shall be phased and coordinated to minimize HVAC downtime. At the Preconstruction Conference, submit schedules specifically identifying HVAC removal, re-installation, and operation. HVAC schedules to be updated and provided to Agency weekly.
- B. In the event that HVAC equipment is disconnected or temporarily removed as part of the Work, Contractor shall be responsible for all such equipment, its proper storage,

and re-installation and re-commissioning as part of the Work and shall remain responsible for such until Final Acceptance.

1.7 Tariff Risk allocation

Contractor shall include all tariffs, duties, and import-related charges in the Total Bid Price, based on rates in effect as of the date of Bid submission. Any incremental tariff increases or new duties imposed after Contract Award may result in an adjustment to the Contract Price, subject to the following conditions:

1. **Agency Contingency Cap:** Agency shall bear tariff-related cost increases up to the lesser of (a) \$10,000 or (b) five percent (5%) of the Contract Price. Any tariff-related costs beyond this cap shall be the responsibility of Contractor.
2. **Early Procurement Pathway:** Contractor shall propose early procurement strategies for major equipment (including solar modules, inverters, and battery systems) as recommended contingencies to minimize tariff exposure. Agency shall review and approve such strategies, and Contractor shall execute early procurement upon Agency's approval.
3. **Timing Relief:** If tariffs increase by more than ten percent (10%) within a 30-day period, Contractor shall be entitled to a one-month extension to adjust procurement plans, provided Contractor promptly notifies Owner and demonstrates reasonable mitigation efforts.

END OF SECTION

EXHIBIT "A" - CHANGE ORDER FORM

Sonoma Clean Power Authority

Contract Change Order #

Project:

Change Order No.:

Orig. Contract Amt.: \$ Days

Contractor:

Prev. Appvd. Changes: \$ Days

Owner: Sonoma Clean Power Authority

This Change: \$ Days

Revised Contract Amt.: \$ Days

This Change Order covers changes to the subject contract as described herein. The Contractor shall construct, furnish equipment and materials, and perform all work as necessary or required to complete the Change Order items for a lump sum price agreed upon between the Contractor and Sonoma Clean Power Authority, otherwise referred to as Owner.

Item No.	Reference	Description of Changes	Request By	Increase/ (Decrease) in Contract Amount	Contract Time Extension, Days
1					
2					
	Totals			\$	

This Contract Change Order consists of **2 pages** and any exhibits attached to this Contract Change Order shall not be part of the Contract Change Order unless specifically initialed by or on behalf of both the Contractor and the Sonoma Clean Power Authority.

Contract Change Order # _____ Page 1 of 2

The amount of the contract will be increased by the sum of \$_____ and the contract time shall be extended by _____ working days. The undersigned Contractor approves the foregoing Change Order # as to the changes, if any, in the contract price specified for each item including any and all supervision costs and other miscellaneous costs relating to the change in work, and as to the extension of time allowed, if any, for completion of the entire work on account of said Change Order #. The Contractor agrees to furnish all labor and materials and perform all other necessary work, inclusive of the directly or indirectly related to the approved time extension, required to complete the Change order items. This document will become a supplement of the Contract and all provisions will apply hereto. It is understood that the Change Order shall be effective when approved by the Owner.

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Change Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Change Order, including all impact on any unchanged work. By signing this Change Order, the Contractor acknowledges and agrees that the stipulated compensation includes payment for all Work contained in the Change Order, plus all payment for any acceleration or interruption of schedules, extended overhead costs, delay, and all impact or cumulative impact on all Work under this Contract. The signing of this Change Order acknowledges full mutual accord and satisfaction for the change and that the stated time and/or cost constitute the total equitable adjustment owed the Contractor as a result of the change. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Change Order and/or its impact on the remainder of the Work under the Contract.

Accepted:

(Signature) Contractor's Authorized Representative

Date

Recommended:

(Signature) **[**INSERT NAME, TITLE**]**

Date

Approved:

(Signature) **[**INSERT NAME, TITLE**]**

Date

Item No.	Reference	Description of Changes	Request By	Amount (\$)	Calendar days added to Contract
1					
2					

This Contract Change Order consists of **2 pages** and any exhibits attached to this Contract Change Order shall not be part of the Contract Change Order unless specifically initiated by or on behalf of both the Contractor and the Sonoma Clean Power Authority.

Contract Change Order #

Page 2 of 2

01 10 00- SUMMARY

PART 1 GENERAL

1.1 SUMMARY

- A. Section includes Summary of Work and Work Restrictions including:
 - 1. Work Covered by Contract Documents
 - 2. Bid Items, Allowances, and Alternates
 - 3. Work Sequence
 - 4. Cooperation of Contractor and Coordination with Other Work
 - 5. Contractor Use of Site
 - 6. Air Quality Standards
 - 7. Geotechnical Data and Existing Conditions
 - 8. Protection of Existing Structures and Underground Facilities
 - 9. Permits
 - 10. Actual Damages
 - 11. Electronic Communication Protocols

1.2 WORK COVERED BY CONTRACT DOCUMENTS

- A. Work comprises the construction and delivery of Owner's project as described in and located as set forth in Section 00 52 13 (Contract). The Contract Documents fully describe the Work.
- B. The Work of this Contract comprises construction of all the Work indicated, described in the Specifications, or otherwise required by the Contract Documents. Unless provided otherwise in the Contract Documents, all risk of loss to Work covered by Contract Documents shall rest with Contractor until Final Acceptance of the Work. Cost of maintenance of systems and equipment prior to Final Acceptance will be considered as included in prices Bid and no direct or additional payment will be made therefore.
- C. For all Bid items, furnish and install all Work, including connections to existing systems, indicated and described in Specifications and all other Contract Documents. Work and requirements applicable to each individual Bid item, or unit of Work, shall be deemed incorporated into the description of each Bid item (whether Lump Sum or Unit Price). Any Bid item may be deleted from the Work and Contract Sum, in total or in part, prior to or after award of Contract without compensation in any form or adjustment of other Bid items or prices therefore.
- D. Allowance Work shall follow Force-Account procedures as specified in Section 01 26 00 (Contract Modification Procedures). Identify Allowance Items (See Section 00 41 43 [Bid Form]) Work on the Progress Schedules and on Applications for Payment. The Amount given on Section 00 41 43 (Bid Form) under each Allowance Item is the sum of money set aside for each Allowance Item. These amounts shall be included in the Contract Sum on the Bid Form. If the cost of Work done under any Allowance Item is less than the amount given on the Bid Form under that Allowance Item, the Contract Sum shall be reduced by the difference between the amount given in the Bid Form and the cost of Work actually done.

1.3 BID ITEMS, ALLOWANCES, AND ALTERNATES

- A. The lump sum price paid under this item shall be full payment for providing the construction and delivery of Owner's project as described in and located as set forth in Section 00 52 13 (Contract).

1.4 WORK SEQUENCE

- A. Construct Work in stages and at times to accommodate Owner operation requirements during the construction period; coordinate construction schedule and operations with Owner.

1.5 COOPERATION OF CONTRACTOR AND COORDINATION WITH OTHER WORK

- A. Coordinate with Owner and any Owner forces, or other contractors and forces, as required by Section 00 72 13 (General Conditions).

1.6 NOT USED

1.7 CONTRACTOR USE OF SITE

- A. Access is available to the Site from the rear of 741 4th Street (at 5th Street). The entrance to the access the building is protected with keycard entry. Owner will provide keycard entry to Contractor.
- B. Ensure that the entrance is locked at the end of each Work Day and at other times as may be necessary to control unauthorized entry.
- C. Contractor shall contact Owner at least two Business Days prior to entering the building and performing Work to allow Owner to arrange access into the building.
- D. Confine operations at Site to areas permitted by Contract Documents, permits, ordinances, and laws. Do not unreasonably encumber Site with materials or equipment.
- E. Assume full responsibility for protection and safekeeping of products stored on premises. Move any stored products that interfere with operations of Owner or other contractor.
- F. Coordinate parking, storage, staging, and Work areas with others. See 00 73 13 Special Conditions. Do not store construction materials in the dripline of any tree.
- G. Prior to commencement of Work or excavation, Contractor and Owner shall jointly survey the area adjacent to the Project area making permanent note and record of such existing damage such as cracks, sags, or other similar damage. This record shall serve as a basis for determination of subsequent damage to structures, conditions, or other existing improvements due to Contractor's operations. All parties making the survey shall sign the official record of existing damage. Cracks, sags, or damage of any nature to the adjacent Project area, not noted in the original survey but subsequently noted, shall be reported immediately to Owner.
- H. It is essential that Contractor perform the Work with as little interference and disturbance as possible to the surrounding neighborhood.
- I. When suspect materials, outside the scope of Work, are encountered during the Work or restoration process, Contractor shall immediately contact Owner for evaluation and approval of the methods for dealing with the material.

1.8 SITE CONDITIONS SURVEYS

- A. Work Included.

Contractor shall conduct thorough pre-construction and post-construction site condition surveys of the entire project area. Site conditions surveys shall include written documentation of the conditions found, as well as photographs and video recordings of the area within at least 80 feet of any construction area and staging area. The written notes, photographs, and video shall be suitable for forensic purposes to resolve any damage claims that may arise as a result of construction.

B. Submittals.

1. Written documentation of site condition survey at pre-construction and post-construction.
2. Photographs as described herein of pre-construction and post-construction conditions.
3. Video recordings as described herein of pre-construction and post-construction conditions.
4. Submittals shall be made within three days of the surveys. All post-construction data shall be submitted prior to the final project inspection.

C. Site Condition Written Documentation.

Written documentation shall include the time, date, and conditions under which the site survey was made. The documentation shall note the condition of structures, pavement, sidewalks, utilities, fences, and etc. within the work areas.

D. Photographs.

1. General – Contractor shall take enough photographs during each site survey to provide a record of conditions existing prior to construction and conditions after construction. Pre-construction photographs shall be taken prior to any construction or mobilization of equipment, but not more than one week prior to actual start of work. The pre-construction photographs may be staged at different times to match the progression of the Work.
2. The photographs shall document existing damage to public and private facilities, both prior to and after construction. Conditions to be documented include, but are not limited to: sidewalk cracks, broken curbs, separated property walls, improvements within public right-of-ways, access roads used, utility covers and markings, signs, pavement striping, pavement, unique or unusual conditions, adjacent driveways, landscaping, survey markers, and any feature directed by the Engineer. Private property that is adjacent to the public right-of-way shall be documented to the extent visible from the public right-of-way.
3. Photographs shall include items to indicate scale, as needed. In particular, scales or other items shall be laid next to close ups of structural cracks and other damaged areas being recorded. Scaling shall also be used to document elevation differences, as needed.
4. One set of color prints shall be submitted. Additional sets shall be available for reviewing in settling any construction disputes. A set of photos shall also be furnished in electronic format. The resolution shall be at least equal to 7 mega-pixels. All photos shall be documented as to time and date taken, photographer, project number, location, and orientation.

Documentation shall include a brief description of objects photographed.

E. Video Recording.

1. Video recordings shall document the conditions of the entire area affected by construction, as well as nearby structures and facilities. The general documentation requirements for videos are the same as for photographs. Video recorders shall accurately and continuously record the time and date.
2. Video recordings shall include an audio portion made simultaneously during the videoing. The audio recording shall describe the location, time, orientation, and objects being recorded. Special commentary shall be provided for unusual conditions or damage noted.
3. Video equipment shall be capable of producing high resolution images and shall have zoom capabilities.
4. Video recordings shall provide an overall picture of the sites and shall provide detailed images of damaged areas. Video shall extend to the maximum height of structures.
5. The Engineer shall have the right to reject any audio video recordings submitted with unintelligible audio, uncontrolled pan or zoom, or of poor quality. Video recordings shall be repeated when rejected.
6. Video recordings shall be submitted with labels indicating the project, date, recorder, and other pertinent information. Recordings shall be submitted on standard DVDs in a standard format.

F. Timing.

Contractor shall provide written notice of the time scheduled for the site conditions survey and the place it is to begin. Contractor shall obtain the Engineer's concurrence prior to beginning the condition survey. The Engineer reserves the right to cancel the survey due to weather conditions or other problems. Videoing shall be done during times of good visibility and no videoing or photography shall be done during periods of visible precipitation or when standing water obscures pavement. Contractor shall provide the Engineer with an opportunity to have a representative present when taking the photos and provide guidance during photographing.

G. Site Surveyor.

The site condition surveyor(s) shall be experienced in construction and potential damage concerns. The site condition surveyor(s) shall be familiar with the photography and video equipment being used.

H. Field Quality Control.

Prior to submitting videos and photographs, the Contractor shall spot check the photos and videos in the field to insure they accurately reflect the actual conditions and to insure they are correctly labeled.

1.9 AIR QUALITY STANDARDS

A. Ensure that idling time for heavy equipment is minimized to reduce on-Site

- emissions.
- B. Maintain equipment in good mechanical condition.
 - C. Cover trucks hauling dirt.
 - D. Limit dust emissions during periods of high winds (greater than 15 miles per hour).
 - E. Replace ground cover in disturbed areas as soon as possible.
 - F. Enclose, cover, water, or apply soil binders to exposed stockpiles.
 - G. Remove earth tracked onto neighboring paved roads at least once daily.
 - H. Limit equipment speed to 10 miles per hour in unpaved areas.

1.10 SURVEYING

- A. **Accuracy.** Degree of accuracy shall be an order high enough to satisfy tolerances specified for the Work and the following:
 - 1. Right-of-way and alignment of tangents and curves shall be within 0.1 foot.
 - 2. Structure points shall be set within 0.01 foot, except where operational function of the special features or installation of metalwork and equipment require closer tolerances. When formwork has been placed and is ready for concrete, the Contractor shall check the formwork for conformance with the drawings and to ensure that the forms are sufficiently within the tolerance limits for the completed work.
 - 3. Cross-section points shall be located within 0.1 foot, horizontally and vertically.
 - 4. Aerial Mapping shall meet National Mapping Standards for 2-foot contour intervals.
- B. **Records.** Survey data shall be recorded in accordance with recognized professional surveying standards. Original field notes, computations, and other surveying data shall be recorded on electronic data collectors or in standard field books and must be of sufficient quality to enable the Contractor to prepare accurate record drawings as required by the Contract Documents.
- C. **Cost.** Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required for surveys for the layout of work and quantity surveys shall be included in the Schedule of Pay Items for items of work requiring the surveys. No additional compensation shall be made to the Contractor for this Work.

1.11 GEOTECHNICAL DATA AND EXISTING CONDITIONS

- A. Available Documentation: In accordance with, and subject to, the provisions of Section 00 30 00 (Geotechnical Data and Existing Conditions), the following documentation is available for review at Owner's office and on Owner's website. This information is not part of the Contract Documents.
 - 1. Photographs of existing roof dated August 2025.

1.12 PROTECTION OF EXISTING STRUCTURES AND UNDERGROUND FACILITIES

- A. The Drawings may indicate existing above- and below-grade structures, drainage lines, storm drains, sewers, water lines, gas lines, electrical lines, hot water lines, and other similar items and Underground Facilities that are known to Owner. At

least three Business Days prior to commencement of excavation, contact USA North at 811.

- B. Where overhead service to a structure, known to receive service, does not exist, then underground service shall be assumed to exist.
- C. Perform pot-holing by hand within 24 inches (in any direction) of the Underground Facilities. This may be done on an area-by-area basis, but shall be accomplished at least seven Days in advance of the date of construction within such area.
- D. In addition to reporting if a utility is damaged, Contractor must take appropriate action as provided in Section 00 72 13 (General Conditions).
- E. Additional compensation or extension of time on account of utilities not indicated or otherwise brought to Contractor's attention including reasonable action taken to protect or repair damage shall be determined as provided in Section 00 72 13 (General Conditions).
- F. **Existing Utilities. Where the Work to be performed crosses or otherwise interferes with water, sewer, gas, or oil pipelines; buried cable; or other public or private utilities, Contractor shall perform construction in such a manner so that no damage will result to either public or private utilities. It shall be the responsibility of Contractor to determine the actual locations of, and make accommodations to maintain, all utilities.**
- G. Permission, Notice and Liability. Before any utility is taken out of service, permission shall be obtained by Contractor from the owner. Should Contractor require interruption of any utility service, Contractor shall notify Agency at least ten (10) Days prior to the scheduled outage. The owner, any impacted resident or business owner and the Agency Representative will be advised of the nature and duration of the utility outage as well as the Contractor's plan for providing temporary utilities if required by the owner. Contractor shall be responsible for providing, at its cost, any temporary utility or facilities necessitated by the utility outage. Contractor shall be liable for all damage which may result from its failure to maintain utilities during the progress of the Work, and Contractor shall indemnify Agency as required by the Contract Documents from all claims arising out of or connected with damage to utilities encountered during construction; damages resulting from disruption of service; and injury to persons or damage to property resulting from the negligent, accidental, or intentional breaching of utilities.

1.13 PERMITS

Contractor shall be responsible for obtaining all permits and regulatory approvals necessary for the Work, including but not limited to permits as follows:

- A. Permits, agreements, or written authorizations that are known by Owner to apply to this Project, and that have been or will be obtained by Owner, are listed below:
 - 1. None.
- B. Permits, agreements, or written authorizations that are known by Owner to apply to this Project, and that shall be obtained by Contractor (and the cost of the permit will be paid by Owner to permitting agency) are listed below:
 - 1. City of Santa Rosa Encroachment Permit.

2. City of Santa Rosa Building Permit
 3. Other permits as may be discovered necessary, at Owner's discretion.
- C. All other permits that may be required, but that are not listed immediately above shall be obtained by Contractor at Contractor's sole cost and expense, and include, but are not limited to:
1. *Cal/OSHA Permit*. Obtain, as applicable, permit(s) as required by Cal/OSHA for the following:
 - a. Construction or demolition of any building, structure, or scaffolding for falsework more than three stories high, or the equivalent height (36 feet).
 - b. Erection or dismantling of vertical shoring systems more than three stories high, or the equivalent height (36 feet).

The local Cal/OSHA district office is located at:

3419 Broadway Street, Suite H8

American Canyon, California 94503

Phone: (707) 649-3700

- D. Furnish copies of Contractor-obtained permits to Owner.

1.14 ACTUAL DAMAGES

- A. In addition to damages which are impracticable or extremely difficult to determine, for which liquidated damages will be assessed as described in Section 00 52 13 (Agreement) and Section 00 72 13 (General Conditions), Owner may incur actual damages resulting from or arising out of Contractor's activities or omissions, including, but not limited to: fines imposed by any regulatory agency; loss of use of Owner facilities; or violations of legal or regulatory requirements.
- B. Contractor shall be liable for and shall pay Owner the amount of any actual damages in addition to liquidated damages or other remedies provided by the Contract Documents.
- C. The amount of liquidated damages, and service reduction damages, if any, provided in Section 00 52 13 (Agreement) and Section 00 72 13 (General Conditions) is not intended to include, nor does the amount include, any damages incurred by Owner for reasons other than those listed in those Sections. Any money due or to become due to Contractor may be retained by Owner to cover any liquidated damages, service reduction damages, or actual damages described above, and, should such money not be sufficient to cover such damages, Owner shall have the right to recover the balance from Contractor or its sureties.

1.15 ELECTRONIC COMMUNICATION PROTOCOLS

- A. Contractor shall provide all formal correspondence and project documentation in electronic form and in format approved by Owner, including Contracts, Cost Proposals, Change Orders (proposed and approved), Meeting Minutes, Schedules and Reports, Payment Applications, certificates of insurance, Safety Reports, Requests for Information, Requests for Substitutions, correspondence, communications, notices, Submittals, transmittals, and logs.
- B. If file size prohibits electronic transmittal, submit to Owner on compact disk (CD) or other electronic media format as accepted by Owner.

- C. Provide electronic format documents in searchable portable document format (PDF), unless otherwise required by the Contract Documents or directed in writing by Owner.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION- NOT USED

END OF SECTION

01 20 00- PRICE AND PAYMENT PROCEDURES

PART 1 GENERAL

1.1 SUMMARY

A. Section includes:

1. Description of requirements and procedures for determining amount of Work performed and for obtaining payment for Work performed.
2. Contingency Reserve.

1.2 REFERENCES

- A. California Public Contract Code
- B. Code of Civil Procedure
- C. California Government Code

1.3 COMPOSITION AND SCOPE OF CONTRACT SUM

A. Scope of Contract Sum:

1. The Contract Sum for performance of the Work under Contract Documents, or under any Bid item, allowance, or Alternate, shall include full compensation for all Work required under the Contract Documents, including without limitation, all labor, materials, taxes, transport, handling, storage, supervision, administration, submittals, and all other items necessary for the satisfactory completion of the Work, whether or not expressly specified or indicated, incidental Work and unexpected expenses, and all terms, conditions, requirements, and limitations set forth in the Contract Documents.
2. Contract Sum may be expressed as lump sum, unit price, GMP, allowance, or combination thereof.

B. Unit price items:

1. Quantity of Work to be paid for under any item for which a unit price is fixed in Contract Documents shall be determined by Owner based on, so far as practicable, actual number of units satisfactorily completed, as determined by Owner and certified by Contractor, within prescribed or ordered limits, and no payment will be made for Work unsatisfactorily performed or done outside of limits.
2. Unit prices shall apply to Work covered by unit prices so long as actual quantities performed on the Project are not less than 75 percent or greater than 125 percent of the estimated Bid quantities or otherwise stated in the Contract Documents. If actual quantities exceed these parameters, then the unit price shall be adjusted by an amount to reflect Contractor's incremental cost differential resulting from increased or decreased economies of scale. For quantities reduced to less than 75 percent of the estimated Bid quantity, the payment for the total pay quantity of such item of Work will in no case exceed the payment that would have been made for the performance of 75 percent of the estimated Bid quantity for such item at the original Contract unit price.

C. Lump Sum Items:

1. When estimated quantity for specific portion of Work is not indicated or Work is designated as lump sum, payment will be on a lump sum basis for Work satisfactorily completed in accordance with Contract Documents.
2. Payment for lump sum Work, or items of Work subject to a lump sum (e.g. without limitation, Change Order Work), shall be made on the basis of satisfactory completion of such Work or Work item, earned in progressive stages in accordance with the Contract Documents, up to but not exceeding Contractor's percentage completion of the Work or item.
3. Lump sum items shall be paid based upon the approved Schedule of Values, which shall be used to measure progressive payments based upon satisfactory progress towards completion of the item.

D. Allowance Items:

1. Allowances: Allowance Work will be authorized by Owner in writing, following Force-Account procedures specified in Section 01 26 00 (Contract Modification Procedures). Unused allowance amounts at Contract completion shall reduce the Contract price accordingly.

1.4 PAYMENT PROCEDURES

A. Schedule of Values:

1. Within 21 Days from issuance of Notice to Proceed and prior to Contractor's first Application for Payment, Contractor shall submit a detailed breakdown of its Bid by Bid item. Where more than one Subcontractor comprises the work of a Work item or activity, the Schedule of Values shall show a separate line item for each subcontract. Contractor shall furnish such breakdown of the total Contract Sum by assigning dollar values (cost estimates) to each applicable Work activity, which cumulative sum equals the total Contract Sum. The format and detail of the breakdown shall be as directed by Owner to facilitate and clarify future progress payments to Contractor for Work under Contract Documents. This breakdown shall be referred to as the Schedule of Values.
2. Contractor's overhead, profit, insurance, cost of bonds and/or other financing, scheduling, record documents, quality assurance control, and "general conditions costs," (e.g., Site cleanup and maintenance, temporary roads and access, off-Site access roads, temporary power and lighting, security, and the like), unless specifically provided for under a Bid item, shall be prorated through all activities so that the sum of all the Schedule of Values line items equals Contractor's total Contract Sum, less any allowances designated by Owner.
3. Owner will review the breakdown in conjunction with the Progress Schedule to ensure that the dollar amounts of this Schedule of Values are, in fact, reasonable cost allocations for the Work items listed. Upon favorable review by Owner, Owner will accept this Schedule of Values for use. Owner shall be the sole judge of fair market cost allocations.
4. Owner will reject any attempt to increase the cost of early activities, i.e. "front loading," resulting in a complete reallocation of monies until such "front loading" is corrected. Repeated attempts at "front loading" may result in suspension or termination of the Work for default, or refusal to process progress payments until such time as the Schedule of Values is acceptable to Owner.

B. Contractor's Requests for Progress Payments:

1. If requested by Contractor, progress payments will be made monthly, under the

following conditions:

- a. On a mutually agreed upon Day of each month, Contractor shall submit to Owner one electronic copy of an Application for Payment for the cost of the Work put in place during the period from the last Day of the previous month to the end of the current month, along with one electronic copy and one hard copy of an updated Progress Schedule. Such Applications for Payment shall be for the expected total value of activities completed or partially completed, based upon Schedule of Values prices (or Bid item prices if unit price) of all labor and materials incorporated in the Work up until midnight of the last Day of that one month period, less the aggregate of previous payments. Accumulated retainage shall be shown as separate item in payment summary. Owner and Contractor will reconcile any differences in the field, based on the reconciled monthly report sheets. If Contractor is late submitting its Application for Payment, that Application may be processed at any time during the succeeding one-month period, resulting in processing of Contractor's Application for Payment being delayed for more than a Day for Day basis.
- b. No progress payment will be processed prior to Owner receiving all requested, acceptable schedule update information and certified payrolls, and in Owner's sole and absolute discretion, Owner may deny the entire Application for Payment for noncompliance.
- c. Each Application for Payment shall list each Change Order and Field Directive executed prior to date of submission, including the Change Order/Field Directive Number, and a description of the Work activities, consistent with the descriptions of original Work activities.
- d. If Owner requires substantiating data, Contractor shall submit information requested by Owner, with cover letter identifying Project, Application for Payment number and date, and detailed list of enclosures. Contractor shall submit one copy of substantiating data and cover letter for each copy of Application for Payment submitted.
- e. If Contractor fails or refuses to participate in monthly Work reconciliations or other construction progress evaluation with Owner, Contractor shall not receive current payment until Contractor has participated fully in providing construction progress information and schedule update information to Owner.

C. Owner's Review of Progress Payment Applications:

1. Owner will review Contractor's Application for Payment following receipt and during the Progress Schedule and Billing Meeting. If adjustments need to be made to percent of completion of each activity, Owner will make appropriate notations and return to Contractor. Contractor shall revise and resubmit. All parties shall update percentage of completion values in the same manner, i.e., express value of an accumulated percentage of completion to date.
2. If Owner determines that portions of the Application for Payment are not proper or not due under the Contract Documents, then Owner may approve the other portions of the Application for Payment, and in the case of disputed items or Defective Work not remedied, may withhold up to 150 percent of the disputed amount from the progress payment.
3. Once Owner accepts the Application for Payment, Contractor shall sign and return with notarized signature for Owner signature.
4. Pursuant to California Public Contract Code section 20104.50, if Owner fails to

make any progress payment within 30 Days after receipt of an undisputed and properly submitted Application for Payment from Contractor, Owner shall pay interest to Contractor equivalent to the legal rates set forth in California Code of Civil Procedure section 685.010(a). The 30-Day period shall be reduced by the number of Days by which Owner exceeds the seven-Day return requirement set forth herein.

5. As soon as practicable after approval of each Application for Payment for progress payments, Owner will pay to Contractor in a manner provided by law, an amount equal to 95 percent of the amounts otherwise due as provided in the Contract Documents, or a lesser amount if so provided in Contract Documents or Bidding Documents, provided that payments may at any time be withheld if, in judgment of Owner, Work is not proceeding in accordance with Contract, or Contractor is not complying with requirements of Contract, or to comply with stop notices or to offset liquidated damages accruing or expected. In Owner's sole discretion, if Contractor has failed to comply with either its Progress Schedule update or Project Record Documents requirements, Owner may retain an additional 5 percent of any earned amounts until such requirements are satisfied.
6. Before any progress payment or final payment is due or made, Contractor shall submit satisfactory evidence that Contractor is not delinquent in payments to employees, Subcontractors, suppliers, or creditors for labor and materials incorporated into Work. This specifically includes, without limitation, conditional lien release forms for the current progress payment and unconditional release forms for past progress payments. This also includes copies of certified payroll from contractor and subcontractors for the current payment period.

D. Payment for Material and Equipment Not Yet Incorporated Into the Work:

1. No payment shall be made for materials or equipment not yet incorporated into the Work, except as specified in Section 01 10 00 (Summary) or elsewhere in the Contract Documents or as may be agreed to by Owner in its sole discretion. Where Contractor requests payment on the basis of materials and equipment not incorporated in the Work, Contractor must satisfy the following conditions:
 - a. The materials and/or equipment shall be delivered and suitably stored at the Site or at another local location agreed to in writing, for example, a mutually acceptable bonded and insured warehouse.
 - b. Full title to the materials and/or equipment shall vest in Owner at the time of delivery to the Site, warehouse, or other storage location. Obtain a negotiable warehouse receipt, endorsed over to Owner for materials and/or equipment stored in an off-site warehouse. No payment will be made until such endorsed receipts are delivered to Owner.
 - c. Stockpiled materials and/or equipment shall be available for Owner inspection, but Owner shall have no obligation to inspect them and its inspection or failure to inspect shall not relieve Contractor of any obligations under the Contract Documents. Materials and/or equipment shall be segregated and labeled or tagged to identify these specific Contract Documents.
 - d. After delivery of materials and/or equipment, if any inherent or acquired defects are discovered, defective materials and/or equipment shall be removed and replaced with suitable materials and/or equipment at Contractor's expense.
 - e. Contractor's Application for Payment shall be accompanied by a bill of sale,

invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner interest therein, all of which must be satisfactory to Owner. This documentation shall include, but not be limited to, conditional releases of mechanics' liens and stop notices from all those providing materials and equipment as to which the Application for Payment relates, as well as unconditional releases of the same from the same as to the previous Application for Payment for which they have not already been provided. Amounts previously paid for materials and equipment prior to incorporation into the Work shall be deducted from amounts otherwise due Contractor as they are incorporated.

1.5 FINAL PAYMENT

A. Final Progress Payment:

1. As soon as practicable after all required Work is completed in accordance with Contract Documents, including punchlist, testing, Project Record Documents and Contractor maintenance after Final Acceptance, Contractor shall submit its Application for Final Payment.
2. Provided Contractor has met all conditions required for Final payment, Owner will pay to Contractor, in manner provided by law, unpaid balance of Contract Sum of Work (including, without limitation, retentions), or whole Contract Sum of Work if no progress payment has been made, determined in accordance with terms of Contract Documents, less sums as may be lawfully retained under any provisions of Contract Documents or by law.

B. Final Accounting:

1. Prior progress payments and change orders shall be subject to audit and correction in the final payment.
2. Contractor and each assignee under an assignment in effect at time of final payment shall execute and deliver at time of final payment, and as a condition precedent to final payment, Section 00 65 23 (Agreement and Release of Any and All Claims).

C. Release of retention shall be made as may be required by Public Contract Code section 7107.

1.6 SUBSTITUTION OF SECURITIES

A. Public Contract Code section 22300. In accordance with the provisions of Public Contract Code section 22300, substitution of securities for any monies withheld under Contract Documents to ensure performance is permitted under following conditions:

1. At request and expense of Contractor, securities listed in section 16430 of the California Government Code, 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 Owner which are equivalent to the amount withheld under retention provisions of Contract shall be deposited with Controller or with a state or federally chartered bank in California, as the escrow agent, who shall then pay such monies to Contractor. Upon satisfactory completion of Contract, securities shall be returned to Contractor.

2. Alternatively, Contractor may request and Owner shall make payment of retentions earned directly to the escrow agent at the expense of Contractor. At the expense of Contractor, Contractor may direct the investment of the payments into securities and receive the interest earned on the investments upon the same terms provided for securities deposited by Contractor. Upon satisfactory completion of the Work of the Contract Documents, Contractor shall receive from escrow agent all securities, interest, and payments received by the escrow agent from Owner. Contractor shall then pay to each Subcontractor, not later than 20 Days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to insure the performance of Contractor.
3. Contractor shall be beneficial owner of securities substituted for monies withheld and shall receive any interest thereon.
4. Contractor may enter into an escrow agreement, form as specified in Contract Documents, as authorized under Public Contract Code section 22300, specifying amount of securities to be deposited, terms and conditions of conversion to cash in case of default of Contractor, and termination of escrow upon completion of Contract Documents.
5. Public Contract Code section 22300 is hereby incorporated in full by this reference and shall supersede anything inconsistent therewith.

1.7 CONTINGENCY RESERVE

- A. Owner will authorize and direct Contractor regarding provisions in this Paragraph 1.7.
- B. Contingency Reserve Amount: as listed in Section 00 52 13 (Agreement), if any.
- C. Cost shall be determined for Field Directive Work as provided in Section 01 26 00 (Contract Modification Procedures) or on a Force Account basis if agreed by Contractor and Owner.
- D. Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due Contractor on account of Work covered by this Contingency Reserve, and the Contract Sum will be correspondingly adjusted.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 26 00- CONTRACT MODIFICATION PROCEDURES

PART 1 GENERAL

1.8 SUMMARY

- A. Section includes requirements that supplement the paragraphs of Section 00 72 13 (General Conditions).
- B. Description of procedures for modifying the Contract Documents and determining costs for changes in contract amounts.

1.9 PROCEDURES FOR CONTRACTOR INITIATED CHANGES

- A. Contractor-Initiated Request for Information (RFI) Procedures, Requirements, and Limitations:
 - 1. Contractor may submit RFI's for clarifications in Owner-prepared Contract Documents or to initiate changes to the Work.
 - 2. Whenever Contractor requires information regarding the Project or Owner-prepared Contract Documents, or receives a request for such information from a Subcontractor, or desires to initiate changes to the Work, Contractor may prepare and deliver an RFI to Owner. Contractor shall not issue an RFI to Owner solely to clarify Contractor-prepared Construction Documents. Contractor must submit time-critical RFIs at least 30 Days before scheduled start date of the affected Work activity. Contractor shall reference each RFI to an activity on the Progress Schedule and shall note time criticality of the RFI, indicating the time within which a response is required. **Contractor's failure to include reference to an activity on the Progress Schedule and note time criticality on the RFI shall constitute Contractor's waiver of any claim for time delay or interruption to the Work resulting from any delay in responding to the RFI.**
 - 3. Contractor shall be responsible for its costs to implement and administer RFIs throughout the Contract duration. Regardless of the number of RFIs submitted, Contractor shall not be entitled to additional compensation for the effort required to submit the RFIs. Contractor shall be responsible for Owner's administrative costs for answering RFIs where the answer could reasonably be found by reviewing the Contract Documents, as determined by Owner; at Owner discretion, such costs may be deducted from progress payments or final payment.
 - 4. Owner will respond within 14 Days from receipt of an RFI with a written response to Contractor. Contractor shall distribute response to all appropriate Subcontractors.
 - 5. If Contractor is satisfied with the response and does not request a change in Contract Sum or Contract Time, then the response shall be executed without a change.
 - 6. If Contractor believes the Owner's response is incomplete, Contractor shall request clarification from Owner.
 - 7. If Owner's response to an RFI is a request for Contractor to submit a Cost Proposal (CP), Contractor shall prepare and submit to Owner, within 7 Days of Owner's request, a CP using the form attached to this Section 01 26 00. All CPs required by this Section 01 26 00 must contain a complete breakdown of

costs of credits, deducts and extras; itemizing materials, labor, taxes, Markup, and any requested changes to Contract Time. All Subcontractor Work shall be so indicated. Individual entries on the CP form shall include the applicable Schedule of Values (SOV) code, with all amounts determined as provided herein. After receipt of a CP with a detailed breakdown, Owner will consider the CP and respond as soon as practicable.

8. If Owner accepts the CP, Owner will include in a Change Order. Change Orders may include multiple accepted Cost Proposals.
 9. If the CP is not acceptable to Owner because Owner does not agree with Contractor's proposed cost and/or time, Owner will provide comments regarding the same. Contractor must then, within seven Days (except as otherwise provided herein), submit a revised CP.
 10. When necessity to proceed with a change does not allow Owner sufficient time to conduct a proper check of a CP (or revised CP), Owner may issue a Field Directive as provided below.
- B. Time Requirements:
1. If Contractor believes that an Owner response to an RFI, submittal, or other Owner direction, results in change in the Contract Sum or Contract Time, Contractor shall notify Owner via a follow-up RFI within seven Days after receiving Owner's response or direction, always prior to starting the disputed Work, and no later than the time allowed under Section 00 72 13 (General Conditions). If Contractor also requests a time extension, or has issued a notice of delay or otherwise requests a time extension with a CP, then Contractor shall submit the TIE (as defined in Section 01 32 16 [Construction Progress Schedule]) required herein concurrently with the CP and in no event later than 14 Days after providing the notice of delay. If Owner disagrees with Contractor, then Contractor may give notice of a potential claim as provided in Section 00 72 13 (General Conditions) and proceed thereunder.
 2. If Owner agrees with Contractor's CP and/or TIE, then Owner will initiate a Change Order. If Owner disagrees with Contractor, then Contractor may give notice of potential claim as provided in Section 00 72 13 (General Conditions) and proceed thereunder.
 3. Contractor must submit CPs, TIEs, notices of potential claim, or Claims within the required time periods. Failure to do so is a waiver of Contractor's right to submit a CP, TIE, or file a Claim.
- C. Cost Estimate Information:
1. Contractor and Subcontractors shall, upon Owner's request, permit inspection of the original unaltered cost estimates, subcontract agreements, purchase orders relating to the change, and documents substantiating all costs associated with CPs or Claims arising from changes in the Work.

1.10 PROCEDURES FOR OWNER INITIATED CHANGES

A. Owner Initiated Field Directives or Supplemental Instructions:

1. Owner may, by Field Directive or Supplemental Instruction or by following the procedures for disputed Work herein, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with or without adjustment to Contract Sum or Contract Time.
2. If at any time Owner believes in good faith that a timely Change Order will not be agreed upon using the foregoing procedures, or at any other time, Owner

may issue a Field Directive or Supplemental Instruction with its recommended cost and/or time adjustment (if any). Upon receipt of Field Directive or Supplemental Instruction, Contractor shall promptly proceed with the change of Work involved and respond to Owner as required by Subparagraph 1.3A(3), below, within seven Days.

3. Contractor's response must be any one of following:
 - a. Accept Field Directive or Supplemental Instruction, thereby accepting Owner's direction, including the Owner's proposed adjustment to time and cost (if any), by conveying a notice of acceptance through Owner's contract management system.
 - b. If Contractor does not accept Owner's direction, submit a (revised if applicable) CP with supporting documentation.
 - c. Give notice of a potential claim as described in Section 00 72 13 (General Conditions).
 4. If the Field Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
 - a. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
 - b. Unit prices stated in the Contract Documents or subsequently agreed upon.
 - c. Contractor shall proceed on cost reimbursable (Force Account) basis while negotiating towards a firm price, per Paragraph 1.7 of this Section 01 26 00.
 5. Contractor's acceptance of a Field Directive is Contractor's agreement as to all of its terms and conditions, including any adjustment in the Contract Sum and Contract Time and the method for determining such adjustments. This agreement will be memorialized as a Change Order.
 6. If Contractor submitted a CP in response to Owner's direction, and the parties cannot agree on the proper adjustment, Contractor may file a Claim per Section 00 72 13 (General Conditions) and/or Owner may direct the changed Work through a unilateral Change Order. Contractor shall keep and present an itemized accounting in a manner consistent with the SOV, together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Paragraph shall be limited to those provided herein.
- B. Owner Initiated Change Order or Request for Proposal (RFP):
1. Owner may initiate changes in the Work or Contract Time by issuing a Request for Proposal (RFP) or Change Order to Contractor.
 2. Any RFP issued to Contractor will detail all proposed changes in the Work and request a quotation of changes in Contract Sum and Contract Time from Contractor.
 3. In response to an RFP, Contractor shall furnish a CP within 14 Days of Owner's RFP. Upon approval of the CP, Owner may direct Contractor to proceed with extra Work by issuing a Change Order.
 4. If the parties agree on price and time for the Work, the Owner will issue a Change Order. If the parties do not agree on the price or time for the Work, Owner may direct Contractor to proceed with the Work under Force Account, per Paragraph 1.7 of this Section 01 26 00. Contractor shall perform the changed Work notwithstanding the existence of any unresolved claims or disagreements of any kind.

1.11 PROCEDURES THAT APPLY TO CONTRACTOR- AND OWNER-INITIATED CHANGE ORDERS

- A. Adjustment of Schedules to Reflect Change Orders or Field Directives or Supplemental Instructions:
 - 1. Contractor shall revise the SOV and Application for Payment forms to record each authorized Change Order, Field Directive, or Supplemental Instruction as a separate line item and adjust the Contract Sum as shown thereon prior to the next monthly pay period.
 - 2. Contractor shall revise the Progress Schedules prior to the next monthly pay period, to reflect Change Orders, Field Directives, and Supplemental Instructions.
 - 3. Contractor shall enter changes in Project Record Documents prior to the next monthly pay period.
- B. Required Documentation for Adjustments to Contract Amounts:
 - 1. For all changes and cost adjustments requested by Contractor, Contractor shall provide documentation of changes in Contract Amounts asserted, with sufficient data to allow Owner's evaluation of the proposal.
 - 2. In all requests for compensation, CPs, estimates, claims and any other calculation of costs made under the Contract Documents, Contractor shall break out and quantify costs of labor, equipment, and materials identified herein, for Contractor and Subcontractors of any tier.
 - 3. Contractor shall, upon request, provide additional data to support computations for:
 - a. Quantities of products, materials, labor, and equipment.
 - b. Taxes, insurance, and bonds.
 - c. Justification for any change in Contract Time and new Progress Schedule showing revision due, if any.
 - d. Credit for deletions from Contract, similarly documented.
 - 4. Contractor shall support each claim or computation for additional cost, with additional information including:
 - a. Origin and date of claim or request for additional compensation.
 - b. Dates and times Work was performed and by whom.
 - c. Time records and wage rates paid.
 - d. Invoices and receipts for products, materials, equipment, and subcontracts, similarly documented.
 - e. Credit for deletions from Contract, similarly documented.
- C. Responses and Disputes:
 - 1. For all responses for which the Contract Documents do not provide a specific time period, recipients shall respond within a reasonable time.
 - 2. For all disputes arising from the procedures herein, Contractor shall comply with the procedures set forth in Section 00 72 13 (General Conditions).

1.12 COST DETERMINATION

- A. Total cost of extra Work or of Work omitted shall be the sum of labor costs, material costs, equipment rental costs, and specialist costs as defined herein plus overhead and profit as allowed herein. This limit applies in all cases of claims for extra Work, whether calculating CPs, Change Orders, or Field Directives, or calculating claims of all types, and applies even in the event of fault, negligence, strict liability, or tort

claims of all kinds, including strict liability or negligence. Contractor may recover no other costs arising out of or connected with the performance of extra Work, of any nature. No special, incidental or consequential damages may be claimed or recovered against Owner, its representatives or agents, whether arising from breach of Contract, negligence, or strict liability, unless specifically authorized in the Contract Documents.

- B. Markup for Overhead and Profit: (Overhead shall be as defined in Paragraph 1.8 of this Section 01 26 00).
 - 1. Markup for overhead and profit on labor for extra Work shall not exceed 15 percent.
 - 2. Markup for overhead and profit on materials for extra Work shall not exceed 15 percent.
 - 3. Markup for overhead and profit on equipment for extra Work shall not exceed 15 percent.
 - 4. When extra Work is performed by a first tier Subcontractor, Contractor shall receive a 5 percent markup on Subcontractors' total costs of extra Work. First tier Subcontractor's markup on its Work shall not exceed percentages listed in Paragraphs 1.5B.1, 1.5B.2, and 1.5B.3 immediately above.
 - 5. When extra Work is performed by a lower tier Subcontractor, Contractor, first tier Subcontractors, and lower tier Subcontractors shall divide (as mutually agreed) a total of 5 percent markup on the lower tier Subcontractors' total costs of extra Work.
 - 6. Notwithstanding the foregoing, in no case shall the total markup on any extra Work exceed 20 percent of the direct cost, notwithstanding the actual number of Contract tiers.
 - 7. On proposals covering both increases and decreases in Contract Sum, markup for overhead and profit shall be included on the net amount as determined in this Paragraph 1.5.
 - 8. The markup shall include profit, small tools, cleanup, engineering, supervision, warranties, cost of preparing the cost proposal, jobsite overhead, and home office overhead.
- C. Taxes:
 - 1. All State sales tax, use tax, and Sonoma County and applicable City sales taxes shall be included.
 - 2. Federal and Excise tax shall not be included.
- D. Owner-Operated Equipment: When owner-operated equipment is used to perform extra Work, Contractor will be paid as follows:
 - 1. Payment for cost of equipment will be made at no more than rates of such equipment established in Paragraph 1.6C of this Section 01 26 00.
 - 2. Payment for cost of labor will be made at no more than rates of such labor established by collective bargaining agreements for type of worker and location of Work, whether or not owner-operator is actually covered by such an agreement.
 - 3. Invoices for owner-operated equipment need not itemize labor and equipment costs, unless specifically requested by Owner. In any event, the total rate for owner-operated equipment shall not exceed the combined rates for labor and equipment listed in Paragraphs 1.5D.1 and 1.5D.2 above.
- E. Accord and Satisfaction: Every Change Order and accepted Field Directive shall constitute a full accord and satisfaction, and release, of all Contractor (and if applicable, Subcontractor) claims for additional time, money, or other relief arising

from or relating to the subject matter of the change including, without limitation, impacts of all types, cumulative impacts, inefficiency, overtime, delay, and any other type of claim. Contractor may elect to reserve its rights to dispute claims arising from or relating to the changed Work at the time it signs a Change Order or accepts a Field Directive, but must do so expressly in a writing delivered concurrently with the executed Change Order or approved Field Directive, and Contractor must also submit a Claim for these disputed matters pursuant to Section 00 72 13 (General Conditions) no later than 30 Days after Contractor's first written notice of its intent to reserve its rights pursuant to this Paragraph. Execution of any Change Order or Field Directive shall constitute Contractor's representation of its agreement with this provision.

1.13 COST BREAKDOWN

- A. Labor: Contractor will be paid the cost of labor for workers (including forepersons when authorized by Owner) used in actual and direct performance of extra Work. Labor rate, whether employer is a Contractor, Subcontractor or other forces, will be the sum of following:
 - 1. Actual Wages: Actual wages paid shall include any employer payments to or on behalf of workers for health and welfare, pension, vacation, and similar purposes.
 - 2. Labor surcharge: Payments imposed by local, county, state, and federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined in Paragraph 1.6A.1 of this Section 01 26 00 immediately above, such as taxes and insurance. Labor surcharge shall not exceed 25% of actual wages as defined in Paragraph 1.6A.1 of this Section 01 26 00 immediately above.
- B. Material: Only materials furnished by Contractor and necessarily used in performance of extra Work will be paid for. Cost of such materials will be cost, including sales tax, to purchaser (Contractor, Subcontractor or other forces) from supplier thereof, except as the following are applicable:
 - 1. If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to Owner notwithstanding fact that such discount may not have been taken.
 - 2. For materials salvaged upon completion of extra Work, salvage value of materials shall be deducted from cost, less discounts, of materials.
 - 3. If cost of a material is, in opinion of Owner, excessive, then cost of material shall be deemed to be lowest current wholesale price at which material is available in quantities concerned delivered to Site, less any discounts as provided in Paragraph 1.6B.1 of this Section 01 26 00.
- C. Equipment: For Contractor- or Subcontractor-owned equipment, payment will be made at rental rates listed for equipment in Caltrans official equipment rental rate schedule which is in effect on the date upon which extra Work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein. For rented equipment from an independent rental company not owned by or affiliated with Contractor, payment will be made based on actual rental invoices. Equipment used on extra Work shall be of proper size and type. If, however, equipment of unwarranted size or type and cost is used, cost of use of equipment shall be calculated at rental rate for equipment of proper size and type, as determined by Owner. Rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance

of any kind, depreciation, storage, insurance, and all incidentals. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rates. Individual pieces of equipment or tools not listed in said publication and having a replacement value of \$1,000 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefor as payment is included in payment for labor. Payment will not be made for time in which equipment is inoperative due to breakdowns.

1. For Contractor- or Subcontractor-owned equipment on Site, payment for equipment use will be for time equipment is in operation on extra Work being performed or on standby as approved by Owner.
 2. For rented equipment on Site, the following shall be used in computing rental time of equipment:
 - a. When hourly rates are listed, less than 30 minutes of operation shall be considered to be ½ hour of operation.
 - b. When daily rates are listed, less than four hours of operation shall be considered to be ½ Day of operation.
 3. For equipment that must be brought to Site to be used exclusively on extra Work, cost of transporting equipment to Site and its return to its original location shall be determined as follows:
 - a. Owner will pay for costs of loading and unloading equipment.
 - b. Cost of transporting equipment in low bed trailers shall not exceed hourly rates charged by established haulers.
 - c. Cost of transporting equipment shall not exceed applicable minimum established rates of California Public Utilities Commission.
 - d. Owner will not make any payment for transporting and loading and unloading equipment if equipment is used on Work in any other way than upon extra Work.
 4. For rented equipment, rental period may begin at the time equipment is unloaded at Site of extra Work and terminate at the end of the performance of the extra Work or Day on which Owner directs Contractor to discontinue use of equipment, whichever first occurs. Excluding Saturdays, Sundays, and Owner's legal holidays, unless equipment is used to perform extra Work on such Days, rental time to be paid per Day shall be four hours for zero hours of operation, six hours for four hours of operation and eight hours for eight hours of operation, time being prorated between these parameters. Hours to be paid for equipment that is operated less than eight hours due to breakdowns, shall not exceed eight less the number of hours equipment is inoperative due to breakdowns.
- D. Work Performed by Special Forces or Other Special Services: When Owner and Contractor, by agreement, determine that a special service or item of extra Work cannot be performed by forces of Contractor or those of any Subcontractors, the service or extra Work item may be performed by a specialty contractor. Invoices for the service or item of extra Work on basis of current market price thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with established practice of the special service industry to provide complete itemization. In those instances when Contractor is required to perform extra Work necessitating a fabrication or machining process in a fabrication or machine shop facility away from Site, charges for that portion of extra Work performed in such facility may, by

agreement, be accepted as a specialist billing. Owner must be notified in advance of all off-Site Work. In lieu of overhead and profit provided in Paragraph 1.5B of this Section 01 26 00, up to 15 percent will be added to specialist invoice price, after deduction of any cash or trade discount offered or available, whether or not such discount may have been taken.

1.14 FORCE-ACCOUNT WORK

- A. If it is impracticable because of nature of Work, or for any other reason, to fix an increase or decrease in price definitely in advance, the Contractor may be directed to proceed at a not-to-exceed (NTE) maximum price which shall not under any circumstances be exceeded. Subject to such limitation, such extra Work shall be paid for at the actual necessary cost for Force-Account Work or at the negotiated cost, as determined by Owner. The cost for Force-Account Work shall be determined pursuant to Paragraphs 1.5 and 1.6 of this Section 01 26 00.
- B. Force-Account Work shall be used when it is not possible or practical to price out the changed Work prior to the start of that Work. In these cases, Force-Account Work will be utilized during the pricing and negotiation phase of the change. Once negotiations have been concluded and a bilateral agreement has been reached, the tracking of the Work under Force-Account is no longer necessary. Force-Account Work shall also be used when negotiations between Owner and Contractor have broken apart and a bilateral agreement on the value of the changed Work cannot be reached. Owner may approve other uses of Force-Account Work. Force-Account Work shall also be used for Allowance Work described in Section 01 20 00 (Price and Payment Procedures), if any.
- C. Whenever any Force-Account Work is in progress, definite price for which has not been agreed on in advance, Contractor shall report to Owner each Business Day in writing in detail amount and cost of labor and material used, and any other expense incurred in Force-Account Work on preceding Day, by using the Cost Proposal form attached hereto. No claim for compensation for Force-Account Work will be allowed unless report shall have been made.
- D. Whenever Force-Account Work is in progress, definite price for which has not been agreed on in advance, Contractor shall report to Owner when 75 percent of the NTE amount has been expended.
- E. Force-Account Work shall be paid as extra Work under this Section 01 26 00. Methods of determining payment for Work and materials provided in this Paragraph 1.7 shall not apply to performance of Work or furnishings of material that, in judgment of Owner, may properly be classified under items for which prices are otherwise established in Contract Documents.

1.15 OVERHEAD DEFINED FOR MODIFICATIONS

- A. The following constitutes charges that are deemed included in overhead for all Contract Modifications, including Force-Account Work or Field Directive Work, whether incurred by Contractor, Subcontractors, or suppliers, and Contractor shall not invoice or receive payment for these costs separately:
 - 1. Drawings: field drawings, Shop Drawings, as-builts, etc., including submissions of drawings
 - 2. Routine field inspection of Work proposed
 - 3. General superintendence
 - 4. General administration and preparation of cost proposals, schedule

- analysis, Change Orders, and other supporting documentation as necessary
5. Computer services
 6. Reproduction services
 7. Salaries of Project engineer, superintendent, timekeeper, storekeeper, and secretaries
 8. Janitorial services
 9. Temporary on-Site facilities:
 - a. Offices
 - b. Telephones, modems, and wireless routers
 - c. Plumbing
 - d. Electrical: Power, lighting
 - e. Platforms
 - f. Fencing, etc.
 - g. Water
 - h. Sanitation
 10. Home office expenses
 11. Insurance and bond premiums
 12. Procurement and use of vehicles and fuel used coincidentally in Work otherwise included in the Contract Documents
 13. Surveying
 14. Estimating
 15. Protection of Work
 16. Handling and disposal fees
 17. Permit fees
 18. Final cleanup
 19. Other incidental Work

1.16 EFFECT OF PAYMENT

- A. Change Order Compensation is All Inclusive.
 1. Except as provided expressly below regarding changes that extend the Contract Time, payment of calculated cost of extra Work constitutes full and complete compensation for costs or expense arising from the extra Work, and is intended to be all inclusive.
 2. Payment for Direct Cost of Construction is intended to be all-inclusive. Any costs or risks not delineated within cost of labor, equipment or materials herein, shall be deemed to be within the costs and risks encompassed by the applicable Markups and unallowable in any separate amount.
 3. Payment of Markup is intended to be all-inclusive. Contractor waives claims for any further or different payment of cost and risk items delineated herein, other than the allowable percentage Markup on costs set forth in the Contract Documents; such separate, further or different cost or risk items shall be unallowable, waived, and liquidated within the allowable percentage Markup.
 4. Contractor shall recover no other costs or markups on extra Work of any type, nature, or description.
- B. Exception for Changes Extending the Contract Time.
 1. Where a change in the Work extends the Contract Time, Contractor may request and recover additional, actual direct costs, provided Contractor can demonstrate such additional costs are (i.) actually incurred performing the

Work, (ii.) not compensated by the Markup allowed, (iii) directly result from the extended Contract Time; and (iv) are otherwise compensable pursuant to Section 00 72 13 (General Conditions). Contractor shall make such request and provide such documentation following all required procedures, documentation and time requirements in the Contract Documents, and subject to all contract limitations of liability. Contractor may not seek or recover such costs using formulas (e.g., Eichleay).

C. Limits of Liability.

1. The foregoing limits of compensation apply in all cases of claims for changed Work, whether calculating CPs, Change Orders, or Field Directives, or calculating claims and/or damages of all types, and applies even in the event of fault, negligence, strict liability, or tort claims of all kinds, including strict liability or negligence. Contractor may recover no other costs arising out of or connected with the performance of extra Work, of any nature.
2. Under no circumstances may Contractor claim or recover special, incidental, or consequential damages against Owner, its representatives or agents, whether arising from breach of Contract, negligence, strict liability or other tort or legal theory, unless specifically and expressly authorized in the Contract Documents.
3. No change in Work shall be considered a waiver of any other condition of Contract Documents. No claim shall be made for anticipated profit, for loss of profit, for damages, or for extra payment whatever, except as expressly provided for in Contract Documents.

1.17 MISCELLANEOUS REQUIREMENTS

A. Owner-Furnished Materials.

1. Owner reserves the right to furnish materials as it deems advisable, and Contractor shall have no claims for costs and Markup on such materials.

B. Records and Certification.

1. All charges shall be recorded daily and summarized in a form acceptable to Owner. Contractor or authorized representative shall complete and sign this form each Day. Contractor shall also provide with the form: the names and classifications of workers and hours worked by each; an itemization of all materials used; and a list by size type and identification number of equipment and hours operated.
2. Owner has the right to audit, inspect, or copy all records maintained or in possession of Contractor relating to or pertaining to this Contract, including financial records and Escrow Bid Documents, if any, and any transaction or activity occurring or arising out of, or by virtue of, the Contract. If Contractor is a joint venture, right of Owner shall apply collaterally to same extent to the records of the joint venture, and of each individual joint venture member. This right shall be specifically enforceable, and any failure of Contractor to voluntarily comply shall be deemed an irrevocable waiver and release of all claims then pending that were or could have been subject to Section 00 72 13 (General Conditions).

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 ATTACHMENTS

A. Forms:

- 1. Cost Proposal.**

END OF SECTION

COST PROPOSAL (CP)**[Full Project Name]****CP Number:** _____**Date:** _____**In Response To** _____ RFP #,**To: Sonoma Clean Power Authority**Attention: _____
431 E St, Santa Rosa, CA 95404

Phone: (707) 890-8487

Subject Ref. No: _____
(for Owner's Project Manager use)**From:** [Insert Contractor's Name/Address]

This Cost Proposal is in response to the above-referenced _____ [insert RFP, etc. as applicable].

Brief description of change(s): _____

ITEM DESCRIPTION	PRIME CONTR.	SUB 1	SUB 2	SUB 3	SUB 4	TOTAL
MATERIAL						
DIRECT LABOR COST						
EQUIPMENT						
Other (Specify)						
Total Cost						
Subcontractor's Markup for Overhead and Profit 15 percent						
Contractor's Markup for Overhead and Profit 15 percent (Labor and Materials)						
Contractor's Markup for Overhead and Profit 15 percent (Equipment)						
Markup for Overhead and Profit to Contractor for Subcontractor's Work 5 percent						
GRAND TOTAL						
(percent of Total Cost above not including any Markup for Overhead and Profit) [Grand Total divided by Total Cost]						
REQUESTED CHANGE IN CONTRACT TIME (DAYS)						

By Contractor:

Signature:

Date:

01 31 19- PROJECT MEETINGS

PART 1 GENERAL

1.1 PRECONSTRUCTION CONFERENCE

- A. Preconstruction Conference. Owner will call for and administer Preconstruction Conference at time and place to be announced (prior to issuing Notice to Proceed). Contractor, all major Subcontractors, and major suppliers shall attend Preconstruction Conference. Agenda may include, but not be limited to, the following items:
1. Insurance.
 2. Bonds.
 3. Notice to Proceed.
 4. Contractor's baseline Progress Schedule.
 5. Contractor's Schedule of Values.
 6. Contractor's schedule of submittals.
 7. Submittal and RFI procedures.
 8. SWPPP, if applicable.
 9. Permits.
 10. Location of the Contractor's on-Site facilities.
 11. Security.
 12. Housekeeping.
 13. Inspection and testing procedures.
 14. Utility shutdown procedures.
 15. Survey procedures.
 16. Safety Program.
 17. Name(s) of Owner Representative(s).
 18. Jurisdictional agency requirements.
 19. Project labor agreement (if applicable).
- B. Owner will record and distribute meeting minutes to attendees. Attendees shall have seven Days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of Preconstruction Conference.

1.2 WEEKLY PROGRESS MEETINGS

- A. Owner will schedule and administer weekly progress meetings throughout duration of Work. Progress meetings will be held weekly unless otherwise directed by Owner. Meetings shall be held at Owner's office unless otherwise mutually agreed upon.
1. Owner's Representative may prepare an agenda.
 2. Participants with agenda items shall present them.
 3. Owner may record and distribute the meeting minutes. If recorded, minutes will be distributed by Owner to Contractor within three Business Days after the meeting. Contractor shall distribute the minutes to those affected by decisions made at meeting. Attendees shall have five Business Days to submit comments or additions to the minutes. Minutes shall constitute final memorialization of results of meeting.
 4. Progress meetings shall be attended by Contractor's job superintendent, major

Subcontractors and suppliers, Owner, and others as appropriate to agenda topics for each meeting.

5. Agenda may contain the following items, as appropriate:
 - a. Review of Work progress since last meeting.
 - b. Review of three-week lookahead schedule.
 - c. Submittal, RFI, and Change Order status.
 - d. Other items affecting progress of Work.

1.3 PROGRESS SCHEDULE AND BILLING MEETINGS

- A. A meeting will be held on a mutually agreed upon date of each month to review the schedule update submittal and progress payment application.
- B. At this meeting, at a minimum, the following items will be reviewed:
 1. Percent complete of each activity.
 2. Time impact evaluations for Change Orders and Time Extension Request.
 3. Actual and anticipated activity sequence changes.
 4. Actual and anticipated duration changes.
 5. Actual and anticipated Contractor delays.
- C. These meetings are considered a critical component of overall monthly schedule update submittal and Contractor shall have appropriate personnel attend. At a minimum, Contractor's General Superintendent and Scheduler shall attend these meetings.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 32 16- CONSTRUCTION PROGRESS SCHEDULE

PART 1 GENERAL

1.1 CONTRACTOR TO SUBMIT PROGRESS SCHEDULES

- A. Contractor shall provide its baseline Progress Schedule at the Preconstruction Conference.
 - 1. Baseline Progress Schedule shall show Contractor's construction and procurement activities including, but not limited to, commencement of Contract Time, completion of any applicable Milestones, Substantial Completion, Final Completion, permit-related dates, equipment procurement and delivery (Contractor and Owner supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on Site, and necessary interface with Owner and third parties required to complete the Work in a timely manner and in accordance with Contract Time.
- B. Contractor shall submit and obtain favorable review of its baseline Progress Schedule prior to starting any Work at the Site.
- C. Use Owner-accepted baseline Progress Schedule for monthly updates.
- D. One Business Day prior to each weekly progress meeting, submit a detailed three-week lookahead bar chart schedule showing activities and resources scheduled for the upcoming three-week period.

1.2 SCHEDULE REQUIREMENTS

- A. Contractor shall prepare and supply to Owner, with all datapoint entries completed for start dates, necessary Work activities, durations (not longer than 21 Days) and logic ties. The schedule shall indicate the beginning and completion dates of all phases of construction. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the time specified for completion. The overall Project Schedule duration shall be within the Contract time.
- B. Contractor's Progress Schedule may be in the form of a critical path method (CPM) (arrow) diagram or, if Owner agrees in writing, a bar chart. The hard copies of the schedule supplied to Owner shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- C. Unless Owner agrees in writing otherwise, Progress Schedule shall also show early and late start and finish dates and total available float (float to the successor activity's later start date) for each activity. Owner has no obligation to accept an early completion schedule.
- D. The receipt or approval of any schedules by the Engineer or the Agency shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period.

1.3 UPDATES

- A. Contractor shall submit schedules showing a two week detailed look-ahead at bi-weekly meetings conducted with the Agency. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.
- B. Contractor's Progress Schedule shall be updated monthly to reflect actual progress and, after Owner acceptance, submitted with monthly payment applications. Provide Owner with a written narrative with a full description and reasons for each Work activity revised. The schedule shall be subject to Owner's review and acceptance for use in monitoring Contractor's Work and evaluating Applications for Payment.

1.4 RECOVERY SCHEDULE

- A. Owner may request a recovery schedule should Contractor fall twenty one (21) or more Days behind any schedule Milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates.
- B. The recovery schedule shall show the intended critical path. If Owner requests, Contractor shall also:
 - 1. Secure and demonstrate appropriate Subcontractor and supplier consent to the recovery Schedule.
 - 2. Submit a narrative explaining trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or Subcontractors.

1.5 TIME IMPACT EVALUATION FOR CHANGE ORDERS, TIME EXTENSIONS, AND DELAYS

- A. When Contractor requests a time extension for any reason, Contractor shall submit a time impact evaluation (TIE) that includes both a written narrative and a schedule diagram depicting how the changed Work or other impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current Schedule update critical path or otherwise. Contractor is also responsible for requesting time extensions based on the TIE's impact on the critical path. The diagram shall be tied to the main sequence of scheduled activities to enable Owner to evaluate the impact of changed Work to the scheduled critical path. Use Owner's construction management system to submit TIEs.
- B. Contractor is responsible for all costs associated with the preparation of TIEs and the process of incorporating TIEs into the current schedule update.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 33 00- SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SCHEDULE OF SUBMITTALS

- A. Within the time period indicated by Owner at the Preconstruction Conference or as otherwise stated in the NTP, Contractor shall prepare for Owner's review and acceptance prior to commencement of Work on the Site, for purposes of Contract administration, a schedule of submittals required to complete the Work, prepared by Contractor and accepted by Owner for Contract administration. Schedule of submittals shall include, for each submittal: the specification or drawing reference requiring the submittal, if applicable; the material, item, or process for which the submittal is required; the submittal number and identifying title of the submittal; the Contractor's anticipated submission date and the approval need date.
- B. Contractor shall update monthly the schedule of submittals to reflect actual submission and acceptance dates for submittals. Review by Owner of schedule of submittals does not excuse Contractor of obligation to supply, schedule, and coordinate all submittals required by the Contract Documents.

1.2 PROJECT RECORD DOCUMENTS

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Field Directives, Supplemental Instructions, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to Owner for reference. Upon completion of the Work, Contractor shall deliver to Owner, the Project Record Documents, Samples, and Shop Drawings, and as-built drawings (full-size).
- B. Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittals; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Contract and the Work. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall mark all Project conditions, locations, configurations, and any other changes or deviations which may vary from the information represented in the original Contract Documents, including buried or concealed construction and utility features which are revealed during the course of construction. Special attention shall be given to recording the horizontal and vertical location of all buried utilities that differ from the locations indicated, or which were not indicated on the Contract Drawings. Said record drawings shall be supplemented by any detailed sketches as necessary or directed to fully indicate the Work as actually constructed. These master record drawings of the as-built conditions, including all revisions made necessary by

Addenda and Change Orders shall be maintained up-to-date during the progress of the Project. Red ink shall be used for alterations and notes. Notes shall identify relevant Change Orders by number and date.

- C. Contractor shall make all records available to Owner. At the completion of the Project, Contractor shall finalize and deliver all such records to Owner to have a complete set of Project Record Documents. The information submitted by the Contractor will be assumed to be correct, and the Contractor shall be responsible for, and liable to Owner, for the accuracy of such information, and for any errors or omissions which may or may not appear in any of the Project Record Documents.

1.3 CONTRACTOR TO SUBMIT SHOP DRAWINGS, PRODUCT DATA, AND SUBMITTALS

- A. Transmit each item with the Submittal transmittal form (attached to this Section 01 33 00).
- B. Within ten Days after Contract Time commences to run, submit complete list of major products proposed for use (attached to this Section 01 33 00, if required), with name of manufacturer, telephone number, trade name, and model number of each product. Tabulate data by Specification Section.
- C. Contractor shall review for compliance with Contract Documents, approve and submit to Owner Shop Drawings, Product Data, Samples, and similar submittals required by Contract Documents.
- D. Contractor shall schedule and submit concurrently submittals covering component items forming a system or items that are interrelated. Contractor shall include certifications to be submitted with the pertinent drawings at the same time.
- E. Contractor shall coordinate scheduling, sequencing, preparing, and processing of all submittals with performance of Work so that work will not be delayed by submittal processing.
- F. Submittals shall specifically identify any Work depicted that does not conform to the Contract Documents.
- G. Submit one electronic copy of Submittals required by Contract Documents.
- H. Submit one hard copy, after Owner's favorable review, of Submittals that require a wet signature.

1.4 OWNER REVIEW OF SHOP DRAWINGS, PRODUCT DATA, AND SUBMITTALS

- A. After review by Owner of each Submittal, material will be returned to Contractor with actions defined as follows:
 - 1. NO EXCEPTIONS TAKEN - Accepted subject to its compatibility with general design concept of the Work, future Submittals and additional partial Submittals for any portions of the Work not covered in this Submittal. Does not constitute acceptance or deletion of specified or required items not shown on the Submittal.
 - 2. MAKE CORRECTIONS NOTED (NO RESUBMISSIONS REQUIRED) - Same as item 1 above, except that minor corrections as noted shall be made by Contractor.
 - 3. REVISE AS NOTED AND RESUBMIT - Rejected because of major inconsistencies or errors that shall be resolved or corrected by Contractor

- prior to subsequent review by Owner.
4. REJECTED - RESUBMIT - Submitted material does not conform to Drawings and/or Specifications in major respect, i.e.: wrong size, model, capacity, or material.
- B. Favorable review will not constitute acceptance by Owner of any responsibility for the accuracy, coordination, or completeness of the Submittals. Accuracy, coordination, and completeness of Submittals shall be sole responsibility of Contractor, including responsibility to back-check comments, corrections, and modifications from Owner's review before fabrication. Contractor, Subcontractors, or suppliers may prepare Submittals, but Contractor shall ascertain that Submittals meet requirements of Contract Documents, while conforming to structural space and access conditions at point of installation. Owner's review will be only to assess if the items covered by the Submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as indicated by the Contract Documents. Favorable review of Submittal, method of Work, or information regarding materials and equipment Contractor proposes to furnish shall not relieve Contractor of responsibility for errors therein and shall not be regarded as assumption of risks or liability by Owner, or any officer or employee thereof, and Contractor shall have no claim under Contract Documents on account of failure or partial failure or inefficiency or insufficiency of any plan or method of Work or material and equipment so accepted. Favorable review shall be considered to mean merely that Owner has no objection to Contractor using, upon Contractor's own full responsibility, plan or method of Work proposed, or furnishing materials and equipment proposed.
 - C. Unless otherwise specified, Owner's review will not extend to the means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 - D. Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been favorably reviewed by the Owner; otherwise, any such Work is at Contractor's sole risk.
 - E. Normally, Submittals will be processed and returned to Contractor within 30 Days of receipt.

1.5 PRODUCT DATA

- A. Product or Catalog Data:
 1. Manufacturers' standard drawings shall be modified to delete non-applicable data or include applicable data.
 2. Manufacturers' catalog sheets, brochures, diagrams, schedules, charts, illustrations, and other standard descriptive data:
 - a. Mark each copy to identify pertinent materials, products, or models.
 - b. Show dimensions and clearances required, performance characteristics and capacities, wiring diagrams and controls.
 3. For products specified only by reference standards, give manufacturer, trade name, model or catalog designation, and reference standards.
 4. Safety Data Sheets:

- a. In addition to safety data sheets (SDSs) otherwise required by the Contract Documents, submit SDSs for any products containing a hazardous substance such as paints, solvents, thinners, varnish, lacquer, glues and adhesives, mastics, sealants, equipment fuel, equipment lubricant, or other materials needed for the Project as required by the individual Specification Sections or as otherwise specified in the Contract Documents.
 - b. SDSs must be submitted with Product Data Submittal in order for the Submittal to be reviewed.
- B. Supplemental Data:
 - 1. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturer's standard data to provide information unique to Project.

1.6 SHOP DRAWINGS

- A. Minimum Sheet Size: 8½ inches by 11 inches. All others: multiples of 8½ inches by 11 inches, 34 inches by 44 inches maximum.
- B. The electronic copy will be marked with Owner's review comments and returned to Contractor.
- C. Mark each copy to identify applicable products, models, options, and other data; supplement manufacturers' standard data to provide information unique to Work.
- D. Include manufacturers' installation instructions when required by Specification Section.
- E. If Contractor submits Shop Drawings for items that Shop Drawings are not specified, Owner will not be obliged to review them.
- F. Contractor is responsible for procuring copies of Shop Drawings for its own use as it may require for the progress of the Work.
- G. Shop Drawings shall be drawn to scale and completely dimensioned, showing plan view together with such sectional views as are necessary to clearly show construction detail, materials, and methods.

1.7 SAMPLES

- A. Submit full range of manufacturers' standard colors, textures, and patterns for Owner's selection.
- B. Submit Samples to illustrate functional and aesthetic characteristics of product, with integral parts and attachment devices. Coordinate Submittal of different categories for interfacing Work.
- C. Include identification on each Sample, giving full information.
- D. Sizes: Unless otherwise specified, provide the following:
 - 1. Paint Chips: Manufacturers' standard.
 - 2. Flat or Sheet Products: Minimum 6 inches square, maximum 12 inches square.
 - 3. Linear Products: Minimum 6 inches, maximum 12 inches long.
 - 4. Bulk Products: Minimum 1 pint, maximum 1 gallon.
- E. Full size Samples may be used in Work upon approval by Owner.
- F. Quantity: two.
- G. Field Samples and Mock-ups (if applicable):
 - 1. Erect field Samples and mock-ups at Site in accordance with requirements of Specification Sections. If testing is conducted, record and certify results and full Contract compliance.

2. Modify or make additional field Samples and mock-ups as required to provide appearance and finishes approved by Owner.
 3. Approved field Samples and mock-ups may be used in Work upon approval by Owner.
 4. Construct or prepare as many additional Samples as may be required, as directed by the Owner, until desired textures, finishes, and/or colors are obtained.
 5. Accepted Samples and mock-up shall serve as the standard of quality for the various units of Work.
- H. No review of a Sample shall be taken in itself to change or modify the requirements in the Contract Documents.
 - I. Finishes, materials, and workmanship in the completed Work shall match accepted Samples.
 - J. Samples will not be returned to Contractor.

1.8 LAYOUT DRAWINGS

- A. If requested by Owner, Contractor shall prepare and submit layout drawings of all equipment and piping at not less than 1/4 inch scale. The layout drawings shall show the location of all equipment as well as locations of all valves, piping, fittings, and other pertinent items. The layout drawings shall also show beams, ceiling heights, walls, floor-to-floor dimensions, columns, doors, and other major architectural and structural features.

1.9 OTHER SUBMITTALS

- A. Design Data:
 1. Indicate that material or product conforms to or exceeds specified requirements.
- B. Test Reports:
 1. Indicate that material or product conforms to or exceeds specified requirements.
 2. Reports may be from recent or previous tests on material or product, but shall be acceptable to Owner. Comply with requirements of each individual Specification Section.
- C. Certificates:
 1. Indicate that material or product conforms to or exceeds specified requirements.
 2. Submit supporting reference data, affidavits, and certifications as appropriate.
 3. Certificates may be recent or from previous test results on material or product, but shall be acceptable to Owner.
- D. Manufacturers' Instructions:
 1. Include manufacturers' printed instructions for delivery, storage, assembly, installation, startup, adjusting, and finishing.
 2. Identify conflicts between manufacturers' instructions and Contract Documents.
- E. Special Procedure Submittals:
 1. Submit sufficient detail to clearly indicate compliance with Specification requirements and to clearly describe by what means and methods Contractor intends to execute the subject Work.
- F. Installation, Operation, and Maintenance Manual:

1. Sheet Size: 8½ x 11 inches.
2. Drawing Size: Reduce drawings or diagrams to an 8½ x 11 inch or 11 x 17 inch size. However, where reduction is not practical to ensure readability, fold larger drawings separately and place in vinyl envelopes bound into the binder. Identify vinyl envelopes with drawing numbers.
3. Binding: Bind in heavy-duty white vinyl D-ring binders (locking rings), not more than 3" thick, with standard three-hole punch, two inside pockets, and a clear overlay (front pocket). Binder shall be no more than 80 percent full.
4. Multiple Items: Multiple items may be combined into one binder; tab each section with plastic-coated dividers.
5. Volumes: create volumes, numbered sequentially, as appropriate.
6. Page Protectors: Provide plastic sheet lifters prior to first page and following last page.
7. Binder title: Include the following title on front and spine of binder(s):
[FULL PROJECT NAME]

INSTALLATION, OPERATION, AND MAINTENANCE MANUAL, [YEAR]

VOLUME [__(number) of __(total number of volumes)]

8. The Contractor shall submit information for each item in an organized manner. It shall be written so that it can be used and understood by Owner's operation and maintenance staff.
9. Contents:
 - a. Introductory Information:
 - 1) Title page providing the same information as Paragraph 7 above.
 - 2) Contractor's name, address, email address, website address, and telephone number.
 - 3) Table of Contents: include a complete table of contents in each volume, if applicable.
 - b. The Manual shall be subdivided first by specification section number; second, by equipment item; and last, by "Category." "Categories" shall conform to the following (as applicable):
 - 1) Bill of materials: include manufacturer, complete model number, quantity, and equipment location.
 - 2) Operational information:
 - (a) Equipment function, normal operating characteristics, limiting operations.
 - (b) Operating instructions for startup, routine and normal operation, regulation and control, shutdown, and emergency conditions.
 - (c) A list of recommended spare parts with a price list, predicted life of parts subject to wear, and a list of spare parts provided under this Contract.
 - (d) Instrumentation or tag numbers relating the equipment back to the Contract Documents.
 - 3) Maintenance information:
 - (a) Assembly, disassembly, installation, alignment, adjustment, and checking instructions.
 - (b) Lubrication and maintenance instructions including specific type and amount of lubricant and recommended lubrication interval.

- (c) Outline, cross-section, and assembly drawings; engineering data; and electrical diagrams, including elementary diagrams, labeled wiring diagrams, connection diagrams, word description of wiring diagrams, and interconnection diagrams.
- (d) Test data and performance curves.
- (e) Parts lists or other documents packed with equipment when delivered.
- (f) Instrumentation or tag numbers relating the equipment back to the Contract Documents.
- (g) Include a filled-out Maintenance Summary form (attached to this Section 01 33 00) as the first page(s) of each manual. Complete maintenance requirements in detail. Reference to the manual will not be accepted. For equipment items involving components or sub-units, a Maintenance Summary for each operating component or sub-unit is required.
- 4) Troubleshooting guide.
- 5) Delete information that is not pertinent to the Project.
- 6) All equipment warranties, affidavits, and certifications required by the Technical Specifications.
- 10. Final Submittal: Upon favorable review of Installation, Operation, and Maintenance Manual(s) by Owner, deliver one electronic copy and one hard copies of the final approved Installation, Operation, and Maintenance Manual(s). Electronic media format copy shall be searchable and include all tables, charts, drawings, codes and all other matters reflected in hard copies.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 ATTACHMENTS

A. Forms:

- 1. Submittal Transmittal.
- 2. Maintenance Summary.

SUBMITTAL TRANSMITTAL NO. _____

Project Name: _____ [Full Project Name]			Date Received:	
Owner: Sonoma Clean Power Authority Attention: 431 E St, Santa Rosa, CA 95404			Checked By:	
Contractor: Address:			Log Page:	
Attention:			Specification Section Number:	
			1st Submittal ☐	Resubmittal ☐
By _____ Date _____ Contractor's signature above shall constitute Contractor's representation that it has satisfied its obligations under the Contract Documents with respect to Contractor's review and approval of Submittals				
Date Transmitted:		Previous Transmittal Date:		
No. Copies	Description	Manufacturer	Dwg. or Data No.	Action Taken*

Remarks:

* The action designated above is in accordance with the following legend:

A – No Exceptions Taken	C – Revise as Noted and Resubmit
B – Make Corrections Noted (No Resubmission Required)	D – Rejected - Resubmit

Comments:

By _____

Date _____

MAINTENANCE SUMMARY

1. EQUIPMENT ITEM: _____
2. MANUFACTURER: _____
3. MODEL NUMBER: _____
4. SERIAL NO. (IF APPLICABLE): _____
5. NAMEPLATE DATE (HP, VOLTAGE, SPEED, ETC.): _____
6. MANUFACTURER'S LOCAL REPRESENTATIVE
NAME: _____
ADDRESS: _____
TELEPHONE NUMBER: _____ FAX NUMBER: _____ EMAIL: _____
7. MAINTENANCE REQUIREMENTS: _____

MAINTENANCE OPERATION

List briefly each maintenance operation required and refer to specific information in manufacturer's standard maintenance manual, if applicable. _____

FREQUENCY

List required frequency of each maintenance operation. _____

LUBRICANT (IF APPLICABLE)

Refer by symbol to lubricant list as required. _____

COMMENTS

8. LUBRICANT LIST: REFERENCE SYMBOL

(A-) (B-) (C-) (D-)

List symbols used. List equivalent lubricants as distributed and recommended by manufacturer's representative listed in item 6 above.

9. SPARE PARTS:

Include your recommendations regarding what spare parts, if any, should be kept on the job.

01 35 20- SAFETY REQUIREMENTS

PART 1 GENERAL

1.1 SUBMITTALS

- A. Safety Program.

1.2 PROTECTION

- A. Continuously maintain protection as necessary to protect the Work, as a whole and in part, and adjacent property and improvements from accidents, injuries or damage. Protective measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefore.
- B. Properly protect the Work and existing facilities:
 - 1. With lights, guard rails, temporary covers and barricades.
 - 2. Enclose excavations with proper barricades.
 - 3. Cover and enclose Work to protect against damage from weather conditions.
 - 4. Brace and secure all parts of the Work against storm and accident.
 - 5. Provide such additional forms of protection that may be necessary under existing circumstances.
- C. Provide and maintain in good condition all protective measures required to adequately protect the public from hazards resulting from the Work and to exclude unauthorized persons from the Work. When regulated by Building Code, Cal OSHA, or other authority, such legal requirements for protection shall be considered as minimum requirements. Be responsible for the protection in excess of such minimum requirements as required.
- D. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. At the completion of work each day, leave the Project site in a clean, safe condition.

1.3 CONTROL OF SITE

- A. Ensure that no alcohol, firearms, weapons, or controlled substance enters or is used at the Site. Immediately remove from the Site and terminate the employment of any employee found in violation of this provision.

1.4 SAFETY PROGRAM

- A. Prior to starting any Work at the Site, submit a Safety Program that has been reviewed and approved by an Industrial Hygienist certified by the American Board of Industrial Hygiene or by a Certified Safety Professional. The Safety Program shall include the name, certification number, and certification seal of the Industrial Hygienist or Certified Safety Professional. Comply with the Safety Program and all applicable federal, state, and local regulation codes, rules, law and ordinances.
- B. Receipt and/or review of the Safety Program by Owner or Owner's Representative shall not relieve Contractor of any responsibility for complying with all applicable

safety regulations.

- C. It is essential that Contractor and each Subcontractor implement an effective and vigorous Safety and Health Program to cover their respective portions of the Work. Subject to Contractor's overall responsibility for Project safety, it shall be understood that the full responsibility for providing a safe place to work with respect to their respective portions of the Work rests with each individual Contractor and Subcontractor.
- D. Safety Program components:
 - 1. Injury and Illness Prevention Program (IIPP): Conforming to the General Industrial Safety Orders (CCR Title 8, Division 1, Chapter 4, Subchapter 7, § 3203), and the California Labor Code (§ 6401.7).
 - 2. Site-Specific Safety and Health Plan (SSHP): Describing health and safety procedures that shall be implemented during the Work in order to ensure safety of the public and those performing the Work. Follow the guidelines for a SSHP listed in CCR Title 8, Division 1, Chapter 4, Subchapter 7, section 5192, Item (b)(4).
 - 3. Fire protection plan that has been reviewed and acknowledged by the City of Santa Rosa Fire Department. It is recommended that the plan include, but not be limited to, a discussion of the following items:
 - a. Equipment spark arresters.
 - b. Fire-extinguishing equipment on hand.
 - c. Method of operation in case of fire.
 - d. Notification to authorities of any fire.
 - e. Access available during performance of Work.
 - f. Educating workers of fire protection plan.
- E. The wearing of hard hats shall be mandatory at all times for personnel on Site. Supply sufficient hard hats to equip properly all employees and visitors.
- F. Whenever an exposure exists, appropriate personal protective equipment (PPE) shall be used by all affected personnel. Supply PPE to all personnel under Contractor's direction.

1.5 SAFETY REQUIREMENTS

- A. Standards: Maintain the Project in accordance with state and local safety and insurance standards.
- B. Hazards Control:
 - 1. Store volatile wastes in covered metal containers and remove from premises daily.
 - 2. Prevent accumulation of wastes that create hazardous conditions.
 - 3. Provide adequate ventilation during use of volatile or noxious substances.
- C. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
 - 1. Do not burn or bury rubbish or waste material on Site.
 - 2. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
 - 3. Do not dispose of wastes into streams or waterways.
- D. Provide accident information on the forms provided by Contractor. This information shall be provided on the same Day as the occurrence of said incident.

1.6 SITE SAFETY OFFICER

- A. Designate one of Contractor's staff as "Site Safety Officer" whose duties shall include the responsibility for enforcing the environmental protection provisions of the Contract Documents including safety and health, the requirements of the Occupational Safety and Health Act, and other applicable federal, state and local standards. Submit a resume for Site Safety Officer describing experience, education, professional registrations, and experience directly related to similar projects. Submit for review by Owner Contractor's intended traffic flow plan, security plan, program for temporary structures, housecleaning plan, demolition program, and environmental safety and health plan. After review by Owner, the implementation and enforcement of these plans shall become the responsibility of the Site Safety Officer. Any changes in the plans shall be requested by Contractor through the Site Safety Officer for written concurrence by Owner.
- B. Owner's risk management representative(s) shall be allowed access to accident/injury and illness reports, inspection reports, scheduling and construction meetings, and safety meetings.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 41 00- REGULATORY REQUIREMENTS

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:

1. Regulatory requirements applicable to Contract Documents.
2. Required provisions under Local Agency Disputes Act.
3. Required references under federal law.

1.2 GENERAL

A. Compliance with Laws:

1. Conform to all applicable codes, laws, ordinances, rules, and regulations, which shall have full force and effect as though printed in full in these Specifications. Codes, laws, ordinances, rules, regulations, and ordinances (Regulatory Requirements) are not furnished to Contractor, because Contractor is assumed to be familiar with these requirements.
2. Any listing of Regulatory Requirements for hazardous waste abatement Work in the Contract Documents is supplied to Contractor as a courtesy and shall not limit Contractor's responsibility for complying with all applicable Regulatory Requirements having application to the Work. Where conflict among the Regulatory Requirements or with these Specifications occurs, the most stringent requirements shall be used.
3. Specific reference in the Specifications to codes and regulations or requirements of regulatory agencies shall mean the latest printed edition of each adopted by the regulatory agency in effect at the time of the opening of Bids, except as may be otherwise specifically stated in the Contract Documents.

B. Precedence:

1. Where specified requirements differ from Regulatory Requirements, the more stringent requirements shall take precedence. Where Drawings or Specifications require or describe products or execution of better quality, higher standard, or greater size than required by Regulatory Requirements, then Drawings and Specifications shall take precedence so long as such increase is legal. Where no requirements are identified on Drawings or in Specifications, comply with all Regulatory Requirements of governing authorities having jurisdiction.
2. Should any conditions develop not covered by the Contract Documents wherein the finished Work will not comply with current codes, a Change Order detailing and specifying the required Work shall be submitted to and approved by Owner before proceeding with the Work.

1.3 REGULATORY REQUIREMENTS

A. Applicable Codes:

1. Codes that apply to Contract Documents include all Codes applicable to construction including, but not limited to, the following:
 - a. California Building Code as amended by applicable local ordinances for all

- construction Work.
 - b. California Electrical Code as amended by applicable local ordinances for all construction Work.
 - c. California Plumbing Code as amended by applicable local ordinances for plumbing, sewage disposal and health requirements.
 - d. California Mechanical Code as amended by applicable local ordinances for all construction Work.
 - e. California Fire Code as amended by applicable local ordinances for all construction Work.
 - f. California Administrative Code Titles 15, 19, and 24 (with California amendments), and Americans with Disabilities Act (ADA) accessibility guidelines, whichever is more stringent.
 - g. All State laws and City and County Ordinances, rules of the State or City or County Health Departments, rules of the National Board of Fire Underwriters and National Fire Protection Associations, and local power company regulations for mechanical and electrical Work.
- B. Applicable Laws, Statutes, Ordinances, Rules, And Regulations:
1. During prosecution of Work to be done under Contract Documents, Contractor shall comply with applicable laws, ordinances, rules, and regulations including, but not limited to, the following:
 - a. Federal:
 - 1) Americans With Disabilities Act of 1990.
 - 2) 29 CFR, section 1910.1001, Asbestos.
 - 3) 40 CFR, Subpart M, National Emission Standards for Asbestos.
 - 4) Executive Order 11246.
 - 5) Federal Endangered Species Act.
 - 6) Clean Water Act.
 - b. State of California:
 - 1) California Code of Regulations, Titles 5, 8, 17, 19, 21, 22, 24 and 25.
 - 2) California Public Contract Code.
 - 3) California Health and Safety Code.
 - 4) California Government Code.
 - 5) California Labor Code.
 - 6) California Civil Code.
 - 7) California Code of Civil Procedure.
 - 8) CPUC General Order 95, Rules for Overhead Electric Line Construction.
 - 9) CPUC General Order 128, Rules for Construction of Underground Electric Supply and Communications Systems.
 - 10) Cal/OSHA.
 - 11) OSHA: Hazard Communications Standards.
 - 12) California Endangered Species Act.
 - 13) Water Code.
 - 14) Fish and Game Code.
 - c. State of California Agencies:
 - 1) State and Consumer Services Agency.
 - 2) Office of the State Fire Marshall.
 - 3) Office of Statewide Health Planning and Development.
 - 4) Department of Fish and Wildlife.
 - 5) All Air Quality Management Districts with jurisdiction.

- 6) All Regional Water Quality Control Boards with jurisdiction.
 - 7) Division of the State Architect (if having jurisdiction).
 - d. All Local Agencies with jurisdiction (cities, counties, fire departments).
- C. Change Orders and Claims:
- 1. The California Public Contract Code including, but not limited to, section 7105(d)(2), and the California Government Code section 930.2 et seq., apply to all Contract procedures for changes, time extensions, Change Orders (time or compensation), and claims. Federal law (*U.S. v. Holpuch* 326 U.S. 234) shall supplement California law on the enforceability of these requirements.
 - 2. Any change, waiver, or omission to implement contract change order and claim procedures shall have no legal effect unless expressly permitted in a fully executed change order approved by Contractor and Owner and approved as to form by their respective legal counsel.
- D. Required Provisions On Contract Claim Resolution:
- 1. The California Public Contract Code specifies required provisions on resolving contract claims less than \$375,000, which are set forth below, and constitute a part of this Contract.
 - 2. For the purposes of this section, "Claim" means a separate demand by Contractor of \$375,000 or less for (1) a time extension, (2) payment or money or damages arising from Work done by or on behalf of Contractor arising under the Contract Documents and payment of which is not otherwise expressly provided for or the Claimant is not otherwise entitled to, or (3) an amount the payment of which is disputed by Owner. In order to qualify as a Claim, the written demand must state that it is a Claim submitted under Section 00 72 13 (General Conditions) and be submitted in compliance with all requirements of Section 00 72 13 (General Conditions). Separate Claims which total more than \$375,000 do not qualify as a "separate demand of \$375,000 or less," as referenced above, and are not subject to this section.
 - 3. A voucher, invoice, payment application, or other routine or authorized form of request for payment is not a Claim for purposes of this section. If such request is disputed as to liability or amount, then the disputed portion of the submission may be converted to a Claim under this section by submitting a separate claim in compliance with Contract Documents claim submission requirements.
 - 4. Caution. This section does not apply to tort claims and nothing in this section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 and Chapter 2 of Part 3 of Division 3.6 of Title 1 of the California Government Code.
 - 5. Procedure:
 - a. The Claim must be in writing, submitted in compliance with all requirements of Section 00 72 13 (General Conditions), including, but not limited to, the time prescribed by and including the documents necessary to substantiate the Claim, pursuant to Section 00 72 13 (General Conditions). Claims must be filed on or before the day of final payment. Nothing in this section is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth in Section 00 72 13 (General Conditions), or elsewhere in the Contract Documents.
 - b. For Claims of fifty thousand dollars (\$50,000) or less, Owner shall respond in writing within 45 Days of receipt of the Claim, or Owner may request in writing within 30 Days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims Owner may have

against Claimant. If additional information is thereafter required, it shall be requested and provided in accordance with this section upon mutual agreement of Owner and Claimant. Owner's written response to the Claim, as further documented, shall be submitted to Claimant within 15 Days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.

- c. For Claims over Fifty Thousand Dollars (\$50,000) and less than or equal to \$375,000: Owner shall respond in writing within 60 Days of receipt of the Claim, or Owner may request in writing within 30 Days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses or claims Owner may have against Claimant. If additional information is thereafter required, it shall be requested and provided in accordance with this section, upon mutual agreement of Owner and Claimant; Owner's written response to the Claim, as further documented, shall be submitted to Claimant within 30 Days after receipt of further documentation or within a period of time no greater than taken by Claimant in producing the additional information, whichever is greater.
- d. Meet and Confer: If Claimant disputes Owner's written response, or Owner fails to respond within the time prescribed above, Claimant shall notify Owner, in writing, either within 15 Days of receipt of Owner's response or within 15 Days of Owner's failure to timely respond, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon demand Owner will schedule a meet and confer conference within 30 Days for settlement of the dispute.
- e. Following the meet and confer conference, if the Claim or any portion remains in dispute, Claimant may file a claim as provided in Chapter 1 (commencing with §900) and Chapter 2 (commencing with §910) of Part 3 of Division 3.6 of Title 1 of the California Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time Claimant submits its written claim as set forth herein, until the time that Claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

E. Compliance With Americans With Disabilities Act:

- 1. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits, or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents, or assigns shall constitute a material breach of the Contract Documents.

F. Compliance With IRCA:

- 1. Contractor acknowledges that Contractor, and all Subcontractors hired by Contractor to perform services under this Contract, are aware of and understand the Immigration Reform and Control Act (IRCA). Contractor is and

shall remain in compliance with the IRCA and shall ensure that any Subcontractors hired by Contractor to perform services under this Contract are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless Owner, its agents, officers, and employees, from any liability, damages, or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any Subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its Subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's Subcontractors.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 41 16- REGULATORY REQUIREMENTS - HAZARDOUS MATERIALS

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:

1. Regulatory requirements applicable to Work in connection with hazardous waste abatement and disposal including, but not limited to, Asbestos and Asbestos-containing materials, lead-based paint, polychlorinated biphenyls, petroleum-contaminated soils and materials, construction and demolition debris and any other hazardous substance or hazardous waste.

B. This Section supplements Section 01 41 00 (Regulatory Requirements) and the Work-specific listings of applicable regulatory requirements elsewhere in the Specifications.

1.2 LAWS, ORDINANCES, RULES, AND REGULATIONS

C. During prosecution of Work under Contract Documents, Contractor shall comply with applicable laws, ordinances, rules and regulations including, but not limited to, those listed below.

D. Federal:

1. Statutory Requirements:

- a. Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 *et seq.*
- b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. sections 9601 *et seq.*
- c. Toxic Substances Control Act of 1976, 15 U.S.C., sections 2601 *et seq.*
- d. Hazardous Materials Transportation Act of 1975, 49 U.S.C. sections 1801 *et seq.*
- e. Clean Water Act, 33 U.S.C. sections 1251 *et seq.*
- f. Safe Drinking Water Act, 42 U.S.C., sections 3001 *et seq.*
- g. Clean Air Act, section 112, 42 U.S.C., section 7412.
- h. Occupational Safety and Health Act of 1970, 29 U.S.C., sections 651 *et seq.*
- i. Underground Storage Tank Law, 42 U.S.C., sections 6991 *et seq.*
- j. The Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C., sections 11011 *et seq.*

2. Environmental Protection Agency (EPA):

- a. 40 C.F.R. Parts 260, 264, 265, 268, 270.
- b. 40 C.F.R. Parts 258 *et seq.*
- c. 40 C.F.R. Part 761.
- d. 40 C.F.R. Parts 122-124.

3. Occupational Safety and Health Administration (OSHA):

- a. OSHA Worker Protection Standards, Title 29 C.F.R. Part 1926.58, Construction Standards and 29 C.F.R. 1910.1001 General Industry Standard.
- b. OSHA, 29 C.F.R. Part 1926.1101, Construction Standards for Asbestos.

- c. OSHA, Lead Exposure in Construction: Interim Final Rule, 29 C.F.R. 1926.62.
 - d. National Emission Standard for Hazardous Air Pollutants, Title 40 C.F.R. Part 61.
 - e. Asbestos Hazardous Emergency Response Act, Title 40 C.F.R. 763.
- 4. Department of Transportation:
 - a. Title 49 C.F.R. 173.1090.
 - b. Title 49 C.F.R. 172.
 - c. Title 49 C.F.R. 173.
 - d. DOT, HM 181 and MH126f.
- E. State of California Requirements:
 - 1. Statutory Law:
 - a. The Carpenter-Presley-Tanner Hazardous Substance Account Act, Health & Safety Code, sections 25300 *et seq.*
 - b. Health and Safety Code, section 25359.4
 - c. Hazardous Waste Control Law, Health & Safety Code, sections 25100 *et seq.*
 - d. Porter-Cologne Water Quality Control Act, Water Code, sections 13000 *et seq.*
 - e. Health and Safety Code, sections 25915-25924.
 - f. California Labor Code Chapter 6, including, without limitation, sections 6382, 6501.5-6501.9, 6503.5, 9021.5, 9080.
 - g. Business and Professions Code, including without limitation, sections 7058.5, 7065.01, 7118.5.
 - h. Underground Storage of Hazardous Substance Act, Health and Safety Code, sections 25280 *et seq.*
 - i. Petroleum Underground Storage Tank Cleanup, Health and Safety Code, sections 25299.10 *et seq.*
 - j. Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code, sections 25249.5 *et seq.* (Proposition 65).
 - k. Above Ground Petroleum Storage Act, Health and Safety Code, sections 25270 *et seq.*
 - l. Hazardous Materials Release Response Plans and Inventory, Health and Safety Code, Chapter 6.95.
 - 2. Administrative Code and Regulations:
 - a. Title 22 CCR Division 4.5, Environmental Health Standards for the Management of Hazardous Waste, sections 6600 *et seq.*
 - b. Cal/OSHA Worker Protection Standards, Title 8 CCR, sections 1529, 5208.
 - c. Title 8 CCR, section 1532.1, Lead in Construction.
 - d. Title 23 CCR, sections 2610 *et seq.*
 - 3. Local State Agency Requirements:
 - a. Bay Area Air Quality Management District, Fugitive Dust Rules.
 - b. Bay Area Air Quality Management District Regulation 11-2-303.
 - c. Local Agency Requirements:
 - 1) City of Santa Rosa] Fire Department.
 - 2) City of Santa Rosa Ordinances.

PART 2 PRODUCTS – NOT USED

PART 3 EXECUTION – NOT USED

END OF SECTION

01 42 00- REFERENCES

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:

1. Reference standards, abbreviations, symbols, and definitions used in Contract Documents.
2. Full titles are given in this Section 01 42 00 for standards cited in other Sections of Specifications.

1.2 REFERENCE TO STANDARDS AND SPECIFICATIONS OF TECHNICAL SOCIETIES; REPORTING AND RESOLVING DISCREPANCIES

A. References:

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code, or laws or regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated in the Contract Documents.
2. If during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any such law or regulation applicable to the performance of the Work or of any such standard, specification, manual, or code or of any instruction of any supplier, Contractor shall report it in writing at once to Owner, and Contractor shall not proceed with the Work affected thereby until consent to do so is given by Owner.

B. Precedence:

1. Except as otherwise specifically stated in the Contract Documents or as may be provided by Change Order, Field Directive, or Supplemental Instruction, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. The provisions of any such standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. The provisions of any such laws or regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such law or regulation).
2. No provision of any such standard, specification, manual, code, or instruction shall be effective to change the duties and responsibilities of Owner, Project Manager, Owner's Representative(s), Consulting Engineer, or Contractor, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents, nor shall it be effective to assign to Owner, Consulting Engineer, or any of their consultants, agents, representatives or employees any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility

inconsistent with the provisions of the Contract Documents.

C. Referenced Grades, Classes, and Types:

1. Where an alternative or optional grade, class, or type of product or execution is included in a reference but is not identified in Drawings or in Specifications, provide the highest, best, and greatest of the alternatives or options for the intended use and prevailing conditions.

D. Edition Date of References:

1. When an edition or effective date of a reference is not given, it shall be understood to be the current edition or latest revision published as of the date of opening Bids.
2. All amendments, changes, errata, and supplements as of the effective date shall be included.

E. ASTM and ANSI References:

1. Specifications and Standards of the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI) are identified in the Drawings and Specifications by abbreviation and number only and may not be further identified by title, date, revision, or amendment. It is presumed that Contractor is familiar with and has access to these nationally- and industry-recognized specifications and standards.

1.3 ACRONYMS

- A. Listed below are various organizations or references which may appear in the Contract Documents, along with their respective acronyms:

- | | |
|---------------|--|
| 1. AISC | American Institute of Steel Construction |
| 2. AMPP | Association for Materials Protection and Performance |
| 3. ANSI | American National Standards Institute |
| 4. ASCE | American Society of Civil Engineers |
| 5. ASHRAE | American Society of Heating, Refrigeration, and Air-Conditioning Engineers |
| 6. ASME | American Society of Mechanical Engineers |
| 7. ASTM | American Society for Testing and Materials International |
| 8. AWS | American Welding Society |
| 9. AWWA | American Water Works Association |
| 10. Cal/OSHA | California Occupational Safety and Health Administration |
| 11. Caltrans | State of California, Department of Transportation |
| 12. Greenbook | Standard Specifications for Public Works Construction |
| 13. IEEE | Institute of Electrical and Electronic Engineers |
| 14. NEC | National Electric Code |
| 15. NEMA | National Electric Manufacturers Association |
| 16. OSHA | Occupational Safety and Health Administration |
| 17. PRMD | Permits and Resource Management Department, County of Sonoma |
| 18. UL | Underwriters' Laboratories, Inc. |
| 19. USACE | United States Army Corp of Engineers |

1.4 DEFINITIONS

- A. Meaning of Words and Phrases: Wherever any of the words or phrases defined below, or a pronoun used in place thereof, is used in any part of the Contract Documents, it shall have the meaning here set forth. Where abbreviations and symbols are used, such abbreviations and symbols shall be given their common meaning in the construction industry. In the Contract Documents, the neuter gender includes the feminine and masculine, and the singular number includes the plural. While Owner has made an effort to identify all defined terms with initial caps, the following definitions shall apply regardless of case unless the context otherwise requires:
1. Act of God – Includes an earthquake of magnitude of 3.5 or higher on the Richter scale or a tidal wave.
 2. Addenda: Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the bidding requirements or the Contract Documents.
 3. Agreement (Section 00 52 13): Agreement is the basic Contract Document that binds the parties to construction Work. Agreement defines relationships and obligations between Owner and Contractor and by reference incorporates Conditions of Contract, Drawings, and Specifications and contains Addenda and all Modifications subsequent to execution of Contract Documents.
 4. Alternate: Work added to or deducted from the base Bid, if accepted by Owner.
 5. Application for Payment: Written application for monthly or periodic progress or final payment made by Contractor complying with the Contract Documents.
 6. Approved Equal: Approved in writing by Owner as being of equivalent quality, utility, and appearance.
 7. Asbestos: Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by OSHA or Cal/OSHA.
 8. Bid: The offer or proposal of the Bidder submitted on the prescribed form(s) setting forth the prices for the Work to be performed.
 9. Bidder: One who submits a Bid to Owner.
 10. Bidding Documents: All documents comprising the Project Manual (including all documents and Specification Sections listed in Section 00 01 10 [Table of Contents]), including documents supplied for bidding purposes only and Contract Documents.
 11. Board: The governing body of Owner.
 12. Business Day: Any Day other than Saturday, Sunday, and the following days that have been designated as holidays by Owner. If a holiday falls on a Saturday, the preceding Friday will be the holiday. If a holiday falls on a Sunday, the following Monday will be the holiday.
 - a. New Year's Day, January 1;
 - b. Martin Luther King Jr.'s Birthday, third Monday in January;
 - c. Lincoln's Birthday, February 12;
 - d. Presidents' Day, third Monday in February;
 - e. Farmworkers Day, March 31;
 - f. Memorial Day, last Monday in May;
 - g. Independence Day, July 4;
 - h. Labor Day, first Monday in September;
 - i. Veterans' Day, November 11;
 - j. Thanksgiving Day, as designated by the President;
 - k. The Day following Thanksgiving Day;

- l. Christmas Day, December 25; and
 - m. Each day appointed by the Governor of California and formally recognized by the Governing Board as a day of mourning, thanksgiving, or special observance.
- 13. By Owner: Work that will be performed by Owner or its agents at Owner's expense.
 - 14. By Others: Work that is outside scope of Work to be performed by Contractor under this Contract, which will be performed by Owner, other contractors, or other means.
 - 15. Change Order: A written instrument prepared by Owner and signed by Owner and Contractor, stating their agreement upon all of the following:
 - a. a change in the Work;
 - b. the amount of the adjustment in the Contract Sum, if any; and
 - c. the amount of the adjustment in the Contract Time, if any.
 - 16. Code Inspector: A local or state agency responsible for the enforcement of applicable codes and regulations.
 - 17. Concealed: Work not exposed to view in the finished Work, including within or behind various construction elements.
 - 18. Consulting Engineer: If used elsewhere in the Contract Documents, "Consulting Engineer" shall refer to that person (or that person's firm) identified in Section 00 73 13 (Special Conditions), if any. When Consulting Engineer is referred to within the Contract Documents, Consulting Engineer shall be construed to include employees of Consulting Engineer and/or employees that Consulting Engineer supervises.
 - 19. Contract Amount: a Change Order price, line item price, Contract Sum, or other price assigned to a scope of work.
 - 20. Contract Conditions or Conditions of the Contract: Consists of two parts: General Conditions and Special Conditions.
 - a. General Conditions are general clauses that are common to Owner Contracts, including Section 00 72 13 (General Conditions).
 - b. Special Conditions modify or supplement General Conditions to meet specific requirements for Contract Documents.
 - 21. Contract Documents and Contract: Contract Documents and Contract shall consist exclusively of the documents identified as the Contract Documents in Section 00 52 13 (Agreement), plus all changes, Addenda, and modifications thereto.
 - 22. Contract Modification: Either:
 - a. a written amendment to Contract signed by Contractor and Owner; or
 - b. a Change Order; or
 - c. a written directive for a minor change in the Work issued by Owner.
 - 23. Contract Sum: The sum stated in the Agreement and, including authorized adjustments, the total amount payable by Owner to Contractor for performance of the Work and the Contract Documents. The Contract Sum is also sometimes referred to as the Contract Price or the Contract Amount.
 - 24. Contract Time: The number or numbers of Days or the dates stated in the Agreement to achieve Substantial Completion of the Work or designated Milestones; and/or to achieve Final Completion of the Work so that it is ready for final payment and is accepted.
 - 25. Contractor: The person or entity identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and

neutral in gender. The term "Contractor" means the Contractor or its authorized representative.

26. Contractor's Employees: Persons engaged in execution of Work under Contract as direct employees of Contractor, as Subcontractors, or as employees of Subcontractors.
27. Day: One calendar day of 24 hours measured from midnight to the next midnight, unless the word "day" is specifically modified to the contrary.
28. Defective: An adjective which, when modifying the word "Work," refers to Work that is unsatisfactory or unsuited for the use intended, faulty, or deficient, that does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents (including, but not limited to, approval of Samples and "or equal" items), or has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by Owner). Unapproved substitutions are Defective. Owner is the judge of whether Work is Defective.
29. Drawings: The graphic and pictorial portions of Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.
30. Engineer of Record: The individual, partnership, corporation, joint venture, or other legal entity identified in the Special Conditions as the Engineer of Record, or any succeeding entity designated by the Agency. May also be referred to as "Consulting Engineer."
31. Equal: Equal in opinion of Owner. Burden of proof of equality is responsibility of Contractor.
32. Exposed: Work exposed to view in the finished Work, including behind louvers, grilles, registers, and various other construction elements.
33. Field Directive: A written order prepared and signed by Owner, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both.
34. Final Acceptance or Final Completion: Owner's acceptance of the Work as satisfactorily completed in accordance with Contract Documents. Requirements for Final Acceptance/Final Completion include, but are not limited to:
 - a. Final cleaning is completed.
 - b. All systems having been tested and accepted as having met requirements of Contract Documents.
 - c. All required instructions and training sessions having been given by Contractor.
 - d. All Project Record Documents having been submitted by Contractor, reviewed by Owner, and accepted by Owner.
 - e. All punch list Work, as directed by Owner, having been completed by Contractor.
 - f. Generally all Work, except Contractor maintenance after Final Acceptance/Final Completion, having been completed to satisfaction of Owner.
35. Force Account: Work directed to be performed without prior agreement as to lump sum or unit price cost thereof, and which is to be billed at cost for labor, materials, equipment, taxes, and other costs, plus a specified percentage for overhead and profit.

- 36. Furnish: Supply only, do not install.
- 37. Green Book: The current edition of the Standard Specifications for Public Works Construction published under the oversight of Public Works Standards, Inc. (PWSI).
- 38. Indicated: Shown or noted on the Drawings.
- 39. Install: Install or apply only, do not furnish.
- 40. Latent: Not apparent by reasonable inspection including, but not limited to, the inspections and research required as a condition to Bidding under Section 00 72 13 (General Conditions).
- 41. Law: Unless otherwise limited, all applicable laws including without limitation all federal, state, and local laws, statutes, standards, rules, regulations, ordinances, and judicial and administrative decisions.
- 42. Material: This word shall be construed to embrace machinery, manufactured articles, materials of construction (fabricated or otherwise), and any other classes of material to be furnished in connection with Contract, except where a more limited meaning is indicated by context.
- 43. Milestone: A principal event specified in Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all Work.
- 44. Modification: Same as Contract Modification.
- 45. Not in Contract or "NIC:" Work that is outside the scope of Work to be performed by Contractor under Contract Documents.
- 46. Notice of Completion: Shall have the meaning provided in California Civil Code section 9204, and any successor statute.
- 47. Off Site: Outside geographical location of the Project.
- 48. Owner: See Section 00 52 13 (Agreement). May also be referred to as "Agency."
- 49. Owner-Furnished, Contractor Installed: Items furnished by Owner at its cost for installation by Contractor at its cost under Contract Documents.
- 50. Owner's Project Manager: If used elsewhere in the Contract Documents, "Owner's Project Manager" shall mean a person representing Owner in the administration of the Contract Documents. May also be referred to as "Engineer." When Owner's Project Manager is referred to within the Contract Documents and no Owner's Project Manager has in fact been designated, then the matter shall be referred to Owner. If Owner's Project Manager is an employee of Owner, Owner's Project Manager is the beneficiary of all Contractor obligations to Owner, including without limitation, all releases and indemnities.
- 51. Owner's Representative(s): Owner's Representative(s) includes Owner's Project Manager as defined in Section 00 52 13 (Agreement) and includes those individuals defined in Section 01 31 19 (Project Meetings).
- 52. Partial Utilization: Use by Owner of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all of the Work.
- 53. PCBs: Polychlorinated biphenyls.
- 54. Phase: A specified portion of the Work (if any) specifically identified as a Phase in Section 00 52 13 (Agreement) or Section 01 10 00 (Summary).
- 55. Product Data: That information (brochures, catalog sheets, manufacturer's cut sheets, etc.) supplied by vendors having technical and commercial characteristics of the supplied equipment or materials and accompanying

- commercial terms such as warranties, instructions, and manuals.
56. Progress Report: A periodic report submitted by Contractor to Owner with progress payment invoices accompanying progress schedule. See Section 00 72 13 (General Conditions).
 57. Project: Total construction of which Work performed under Contract Documents may be whole or part.
 58. Project Manual: Project Manual consists of Bidding Requirements, Agreement, Bonds, Certificates, Contract Conditions, Drawings, and Specifications.
 59. Project Record Documents: All Project deliverables required under the Contract Documents, including without limitation, as-built drawings and Installation, Operation, and Maintenance Manuals.
 60. Provide: Furnish and install.
 61. Request for Information ("RFI"): A document prepared by Contractor requesting information regarding the Project or Contract Documents. The RFI system is also a means for Owner to submit Contract Document clarifications or supplements to Contractor.
 62. Request for Proposals ("RFP"): A document issued by Owner to Contractor whereby Owner may initiate changes in the Work or Contract Time as provided in Contract Documents. See Section 01 26 00 (Contract Modification Procedures).
 63. Request for Substitution ("RFS"): A document prepared by Contractor requesting substitution of materials as permitted and to the extent permitted in Contract Documents. See Section 01 60 00 (Product Requirements).
 64. RFI-Reply: A document consisting of Special details, instructions, or information issued by Owner that clarifies or supplements Contract Documents, and with which Contractor shall comply. RFI-Replies do not constitute changes in Contract Sum or Contract Time except as otherwise agreed in writing by Owner. RFI-Replies will be issued through a contract management system.
 65. Samples: Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
 66. Sanitation Standards: The Sonoma County Water Agency Design and Construction Standards for Sanitation Facilities.
 67. Shop Drawings: All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
 68. Shown: As indicated on Drawings.
 69. Site: The particular geographical location of Work performed pursuant to the Contract Documents.
 70. Specifications: The written portion of the Contract Documents consisting of requirements for materials, equipment, construction systems, standards, and workmanship for the Work; performance of related services.
 71. Specified: As written in Specifications.
 72. Subcontractor: A person or entity that has a direct contract with Contractor to perform a portion of the Work at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and neutral in gender and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
 73. Substantial Completion: The Work (or a specified part thereof) has progressed

to the point where, in the opinion of Owner as evidenced by a notice or certificate of Substantial Completion, the Work is sufficiently complete, in accordance with Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended, and unperformed or incomplete Work elements are minor in nature; or if no such certificate is issued, when the Work (or specified part) is complete and ready for final payment as evidenced by written recommendation of Owner for final payment. The terms "Substantially Complete" and "Substantially Completed" as applied to all or part of the Work refer to Substantial Completion thereof.

74. Supplemental Instruction: A written directive from Owner to Contractor ordering alterations or Modifications that do not result in change in Contract Sum or Contract Time, and do not substantially change Drawings or Specifications.
 75. Testing and Special Inspection Agency: An independent entity engaged to inspect and/or test the workmanship, materials, or manner of construction of buildings or portions of buildings, to determine if such construction complies with the Contract Documents and applicable codes.
 76. Underground Facilities: All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities that have been installed underground to furnish any of the following services or materials: Electricity, gases, chemicals, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water.
 77. Unit Price Work: Shall be the portions of the Work for which a unit price is provided in Section 00 52 13 (Agreement) or Section 01 10 00 (Summary).
 78. Work: The entire completed construction, or the various separately identifiable parts thereof, required to be furnished under the Contract Documents within the Contract Time. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents including everything shown in the Drawings and set forth in the Specifications. Wherever the word "work" is used, rather than the word "Work," it shall be understood to have its ordinary and customary meaning.
 79. Work Day: See Section 01 10 00 (Summary).
- B. Other Defined Terms: The following terms are not necessarily identified with initial caps; however they shall have the meaning set forth below:
1. Wherever words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood that direction, requirements, or permission of Owner is intended. Words "sufficient," "necessary," "proper," and the like shall mean sufficient, necessary, or proper in judgment of Owner. Words "approved," "acceptable," "satisfactory," "favorably reviewed," or words of like import, shall mean approved by, or acceptable to, or satisfactory to, or favorably reviewed by Owner.
 2. Wherever the word "may" or "ought" is used, the action to which it refers is discretionary. Wherever the word "shall" or "will" is used, the action to which it refers is mandatory.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 50 00- TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Summary
 - 2. Definitions
 - 3. Temporary Electricity
 - 4. Temporary Water
 - 5. Temporary Sanitary Facilities
 - 6. Temporary Barriers and Enclosures
 - 7. Tree and Plant Protection
 - 8. Water Control
 - 9. Noise Control
 - 10. Removal of Temporary Facilities and Controls

1.2 DEFINITIONS

- A. Dripline: The area on the ground from the trunk of any tree to the point directly below the outermost tips of the foliage of that tree.
- B. Tree damage: Tree damage shall include, but not be limited to, the following: significant injury to the root system or other parts of a tree including burning, application of toxic substances, damaging through contact with equipment or machinery, changing the natural grade within the Dripline, compacting the soil within the Dripline, interfering with the normal water requirements of the tree, unauthorized trenching or excavating within the Dripline, or unauthorized removal of more than 1/3 of the live wood, foliage, or roots.

1.3 TEMPORARY ELECTRICITY

- A. Contractor shall provide at its own expense all necessary power required for operations under the contract. Contractor may make arrangements with Owner to use the 120-VAC convenience power receptacles at the 741 4th Street location, if needed. If voltages other than 120-VAC (or higher loads than the existing circuits can provide) are required, make separate arrangements for such service with Pacific Gas and Electric Company.

1.4 TEMPORARY WATER

- A. Provide, maintain, and pay for suitable quality water service required for construction operations.
- B. Contractor may use Owner-provided water from 741 4th Street for use on this Project. Contact Owner three Days prior to commencement of Work to coordinate using Owner's water. Owner will provide and install a backflow prevention device and water meter if Owner determines it to be necessary. Should Owner determine, in its sole discretion, that Contractor's use of Owner's water is excessive, Owner may terminate water delivery. No other Owner-provided water will be made

available to Contractor for this Project.

1.5 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required temporary buildings with sanitary toilets for worker use.
- B. Comply with minimum requirements of the Health Department or other public agency having jurisdiction; maintain in a sanitary condition at all times.

1.6 TEMPORARY BARRIERS AND ENCLOSURES

- A. Provide barriers to prevent unauthorized entry to construction areas, to allow for Owner's use of Site, and to protect existing facilities and adjacent properties from damage from construction operations.
- B. Provide barricades required by governing authorities to control public access to existing buildings.
- C. Protect vehicular traffic, stored materials, Site, and structures from damage.
- D. Provide temporary construction fence, if necessary and as required by permit.

1.7 TREE AND PLANT PROTECTION

- A. Exposure to harmful substances: No storage or dumping of any substances that may cause minimum Tree Damage shall occur at any location on the Site.
- B. Where construction is to be performed in the vicinity of trees and shrubbery, the Work shall be carried on in a manner that will cause minimum Tree Damage. Owner will designate trees that are to be removed. Under no circumstances are additional trees to be removed without written permission from Owner. Trees and shrubbery that are not to be removed shall be protected from injury or damage resulting from Contractor's operations.
- C. Limb Protection: Use small construction equipment as necessary to minimize removal of or avoid damage to overhanging tree branches. Remove limbs only when directed by Owner. Prune or remove limbs, if authorized, in accordance with ANSI A300. "Heading" of any tree will not be permitted.
- D. Damage shall be immediately reported to Owner, who will file a report so that remedies may be determined.
- E. For any tree that is removed without Owner's permission or is irreparably damaged, in the opinion of Owner, Owner may elect to pursue any of the following remedies in its sole discretion:
 - 1. Require Contractor to repair by pruning, if possible, or replace trees not intended for removal. Whether or not a tree can be repaired by pruning will be determined by Owner. Subsequent pruning, if appropriate, shall be conducted by a Certified Arborist at Contractor's expense.
 - 2. Require Contractor to remove trees that cannot be repaired by pruning, and replace with new trees of minimum 4 inch caliper.
 - 3. Assess money damages in the amount of \$27.00 per square inch of cross section, measured at 4 ½ feet above ground, but not less than \$250.00, which damages shall be deducted from monies due or to become due under the Contract. If tree protection is not performed or is not performed adequately, and Owner determines that a tree has been irreparably damaged, Owner may

assess the same damages as for unauthorized removal of a tree.

1.8 WATER CONTROL

- A. Protect Site from puddling or running water.
- B. Provide water barriers as required to protect Site from soil erosion.

1.9 NOISE CONTROL

- A. Contractor shall comply with the most restrictive of the following: (1) local sound control and noise level rules, regulations and ordinances and (2) the requirements contained in these Contract Documents, including hours of operation requirements.
- B. When required by OSHA Standards, construction workers shall be provided with ear protection to operate equipment.
- C. Contractor shall use only such equipment on the Work and in such state of repair so that the emission of sound therefrom is within the noise tolerance level of that equipment as established by Cal/OSHA. No internal combustion engine shall be operated on the Project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage or be determined to be ineffective or defective, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including but not limited to, trucks, transit mixers or transit equipment that may or may not be owned by the Contractor.

1.10 REMOVAL OF TEMPORARY FACILITIES AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, signs, and materials prior to final inspection.
- B. Clean and repair damage caused by installation or use of temporary Work.
- C. Restore existing facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 PRODUCTS – NOT USED

PART 3 EXECUTION – NOT USED

END OF SECTION

01 60 00- PRODUCT REQUIREMENTS

PART 1 GENERAL

1.1 SUMMARY

- A. Section includes:
 - 1. Products
 - 2. Product Options and Substitutions
 - 3. Product Delivery Requirements
 - 4. Product Storage and Handling

1.2 PRODUCTS

- A. Products: New material, machinery, components, equipment, fixtures, and systems forming the Work. Does not include machinery and equipment used for preparation, fabrication, conveying, and erection of the Work. Products may also include existing materials or components required for reuse.
- B. Do not use materials and equipment removed from existing premises, except as specifically permitted by the Contract Documents.
- C. For similar components, provide interchangeable components of the same manufacturer.
- D. Inspection of Materials. Materials furnished by the Contractor which will become a part of the Project shall be subject to inspection at any one or more of the following locations, as determined by Agency's Representative: at the place of production or manufacture, at the shipping point, or at the site of the Work. To allow sufficient time to provide for inspection, the Contractor shall submit to Agency's Representative, at the time of issuance, copies of purchase orders or other written instrument confirming procurement of the materials, including drawings and other pertinent information, covering materials on which inspection will be made.
- E. No later than fourteen (14) Days prior to manufacture of material, Contractor shall inform Agency's Representative, in writing, the date the material is to be manufactured.
- F. Contractors Obligations. The inspection of materials at any of the locations specified above or the waiving of the inspection thereof shall not impact whether the materials and equipment conform to the Contract Documents. Contractor will not be relieved from furnishing materials meeting the requirements of the Contract Documents due to Agency's inspection or lack of inspection of the equipment or materials. Acceptance of any materials will be made only after materials are installed in the Project.
- G. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to accommodate Agency's testing efforts, including any travel required by Contractor's forces, shall be included in Contractor's bid and distributed in the Schedule of Pay Items related to the materials requiring testing. No additional compensation shall be made to the Contractor for this Work.

1.3 PRODUCT OPTIONS AND SUBSTITUTIONS

A. Summary:

1. For selecting products and requesting substitutions of unlisted materials in lieu of materials named in the Specifications or approved for use in Addenda that were not already the subject of an approved Section 00 26 00 (Substitution Request Form [During Procurement]) , the following provisions apply.

B. Contractor's Options:

1. For products specified only by reference standard: Select any product meeting that standard.
2. For products specified by naming one or more products or manufacturers:
 - a. Select products of any named manufacturer meeting Specifications.
 - b. If product becomes unavailable due to no fault of Contractor or if the product specified no longer complies with local regulations or laws, submit Request for Substitution (RFS), including all information contained in this Section 01 60 00 and a fully executed Section 00 63 25 (Substitution Request Form [During Construction]).

C. Substitutions:

1. Except as provided in Section 00 11 16 (Notice Inviting Bids) with respect to "or Approved Equal" items, Owner will consider Contractor's substitution requests only when product becomes unavailable due to no fault of Contractor or if the product specified no longer complies with local regulations or laws. Requests for review of proposed substitute items will not be accepted from anyone other than Contractor. The RFS shall state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice Contractor's achievement of Substantial Completion on time, and whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for work on the Project).
2. Submit separate RFS for each product and support each request with:
 - a. Product identification.
 - b. Manufacturer's literature.
 - c. Samples, as applicable.
 - d. Name and address of similar projects on which product has been used, and dates of installation.
 - e. Name, address, and telephone number of manufacturer's representative or sales engineer.
 - f. For construction methods: Detailed description of proposed method; drawings illustrating methods.
3. Where required, itemize a comparison of the proposed substitution with product specified and list significant variations including, but not limited to, dimensions, weights, service requirements, and functional differences. If variation from product specified is not pointed out in submittal, variation will be rejected even though submittal was favorably reviewed. Identify all variations of the proposed substitute from that specified in the RFS and indicate available maintenance, repair, and replacement service.
4. State whether the substitute will require a change in any of the Contract Documents (or provisions of any other direct contract with Owner for work on the Project) to adapt the design of the proposed substitute, and whether or not incorporation or use of the substitute in connection with Work is subject to payment of any license fee or royalty. Submit data relating to changes in

- construction schedule.
5. Include accurate cost data comparing proposed substitution with product and amount of net change in Contract Sum including, but not limited to, an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by Owner in evaluating the proposed substitute. Owner may require Contractor to furnish additional data about the proposed substitute.
 6. Owner will not consider substitutions for acceptance (or, in Owner's sole discretion, Owner may make Contractor solely responsible for all resulting costs, expenses, and other consequences) when a substitution:
 - a. Results in delay meeting construction Milestones or completion dates.
 - b. Is indicated or implied on submittals without formal request from Contractor.
 - c. Is requested directly by Subcontractor or supplier.
 - d. Acceptance will require substantial revision of Contract Documents.
 - e. Disrupts Contractor's job rhythm or ability to perform efficiently.
 7. Substitute products shall not be ordered without written acceptance of Owner.
 8. Owner will determine acceptability of proposed substitutions and reserve right to reject proposals due to insufficient information.
 9. Accepted substitutions will be evidenced by an Owner-approved substitution request, Section 00 63 25 (Substitution Request Form [During Construction]), or a Change Order. All Contract Document requirements apply to Work involving substitutions.
- D. Contractor's Representation and Warranty:
1. Contractor's RFS constitutes a representation and warranty that Contractor:
 - a. Has investigated proposed product and determined that it meets or exceeds, in all respects, specified product.
 - b. Will provide the same warranty for substitution as for specified product.
 - c. Will coordinate installation and make other changes that may be required for Work to be complete in all respects.
 - d. Waives claims for additional costs which may subsequently become apparent.
 - e. Will compensate Owner for additional redesign costs associated with substitution.
 - f. Will be responsible for Construction Schedule slippage due to substitution.
 - g. Will be responsible for Construction Schedule delay due to late ordering of available specified products caused by requests for substitution that are subsequently rejected by Owner.
 - h. Will compensate Owner for all costs; including extra costs of performing Work under Contract Documents, extra cost to other contractors, and any claims brought against Owner, caused by late requests for substitutions or late ordering of products.
- E. Owner's Duties:
1. Review Contractor's RFS with reasonable promptness.
 2. Notify Contractor in writing of decision to accept or reject requested substitution.
- F. Administrative Requirements:
1. Specified products, materials, or systems for Project may include engineering or on-file standards required by the regulatory agency. Contractor's substitution of products, materials or systems may require additional

engineering, testing, reviews, approvals, assurances, or other information for compliance with regulatory agency requirements or both. Provide all agency approvals or other additional information required and pay additional costs for required Owner services made necessary by the substitution at no increase in Contract Sum or Contract Time, and as a part of substitution proposal.

1.4 PRODUCT DELIVERY REQUIREMENTS

- A. Deliver products in accordance with manufacturer's instructions.
- B. Promptly inspect shipments to assure that products comply with requirements, quantities are correct, and products are undamaged.

1.5 PRODUCT STORAGE AND HANDLING

- A. Store products only in staging area per provisions of Section 01 10 00 (Summary).
- B. Handle, store, and protect products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive products in weather-tight, climate-controlled enclosures.
- C. For exterior storage of fabricated products, place on appropriate supports, above ground.
- D. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to avoid condensation.
- E. Store loose granular materials on solid flat surfaces in a well-drained area.
- F. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- G. Arrange storage of products to permit access for inspection. Periodically inspect to assure products are undamaged and are maintained under specified conditions.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

01 74 00- CLEANING

PART 1 GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Progress Cleaning
 - 2. Final Cleaning

1.2 PROGRESS CLEANING

- A. Perform periodic cleaning to ensure that any streets and other Owner and public properties are maintained free from accumulation of waste materials, dust, mud, and debris.
- B. Where required, wet down surfaces to lay dust and prevent the blowing of dust to nearby residences or public properties.
- C. Keep paved roads clean and free of dust, mud, and debris resulting from Contractor's operations. Daily cleanup throughout the job will be required as Contractor progresses with its Work, but extra attention to cleanup shall be made prior to weekends and holidays. Without limiting the foregoing, remove trench spoil along traveled ways daily; grade and vacuum broom surfaces initially where applicable and later water flush with high-pressure sprays, being careful to avoid downstream contamination.
- D. Dust, mud, spoils, and construction debris shall be removed daily from roadways, ditches, shoulders, and private property (fills or spoils placed on private property at private property owner's written request excepted).
- E. Disposal of Materials:
 - 1. Waste materials, debris, rubbish, spoils, and other off-hauled materials shall be disposed of at sites to be chosen by Contractor in accordance with applicable local, state, and federal regulations.
- F. If Contractor does not properly clean the Site, in the opinion of Owner, then Owner shall have the option of using outside equipment to perform the cleanup and such cost will be withheld from the Contract Sum.

1.3 FINAL CLEANING

- A. Execute final cleaning prior to final inspection, using only properly skilled workers.
- B. Remove grease, dust, dirt, stains, labels, fingerprints, and other foreign materials from exposed interior and exterior finished surfaces.
- C. Repair, patch, and touch up marred surfaces to match adjacent finishes.
- D. Clean interior and exterior surfaces exposed to view: remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
- E. Clean equipment and fixtures to a sanitary condition, clean or replace filters of mechanical equipment operated during construction, clean ducts, blowers and coils of units operated without filters during construction.
- F. Clean Site.

G. Mechanically sweep paved areas.

H. Remove waste and surplus materials, rubbish, and construction facilities from Site.

PART 2 PRODUCTS – NOT USED

PART 3 EXECUTION – NOT USED

END OF SECTION

01 74 19- CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

PART 1 GENERAL

1.1 CONSTRUCTION MATERIAL WASTE MANAGEMENT PLAN

- A. Submit a Construction Material Waste Management Plan that includes, but is not limited to:
 - 1. Management monitoring program that includes, at a minimum, multiple recyclables containers. Goal is to divert 75 percent of materials waste to recycling instead of landfill. This applies only to materials that would typically be disposed via dumpster.
 - 2. Current recycling program used by each material supplier for materials listed in Divisions 1-16.
 - 3. Estimate of on-Site material reuse (native fill) in tons.
 - 4. Completed Self-Certification of Compliance for Contractor and each listed Subcontractor. Self-Certification of Compliance form is included at the end of this Section 01 74 19.
 - 5. Identification of disposal sites.
 - 6. Method of disposal description.
 - 7. Evidence of written permission from disposal site owner.
 - 8. Copy of permits, as applicable.
- B. Submit monthly progress reports updated with waste management log that includes which material containers have been removed, how many have been removed, and the weight of those containers.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 ATTACHMENTS

- A. Forms:
 - 1. Self-Certification of Compliance with Construction Material Waste Management Plan.

END OF SECTION

**SELF-CERTIFICATION OF COMPLIANCE WITH
CONSTRUCTION MATERIAL WASTE MANAGEMENT PLAN**

Firm Name: _____ Phone: _____

Address: _____

Principal Service or Product: _____

- | | |
|---|---|
| ☐ Prime Contractor | ☐ Supplier of Material/Service |
| ☐ Subcontractor | ☐ Broker |

- | | |
|---|--|
| ☐ Sole Ownership | ☐ Corporation |
| ☐ Partnership | ☐ Joint Venture |

I, Contractor/Subcontractor, hereby certify that I have read and understood, and agree to adopt and implement, the approved Construction Material Waste Management Plan for the **4th Street Roof Overlay Project**.

Certified by:

Name: _____ Title: _____

Signature: _____ Date: _____

01 75 00- STARTING AND ADJUSTING

PART 1 GENERAL - NOT USED

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 CHECKOUT PROCEDURES

- A. Upon completion of re-installation, conduct an initial inspection and checkout of all mechanical and electrical equipment and devices.
 - 1. Clean the interior of ductwork and other equipment and make free of foreign material. Inspect ductwork for air leaks.
 - 2. Check mechanical equipment is mounted properly and roof penetrations are sealed
 - 3. Check electric motor-driven equipment for correct rotation.
 - 4. Check all safety guards to insure they are in place.
- B. Conduct field tests including visual and mechanical inspection of the following:
 - 1. Proper grounding.
 - 2. Blockage of ventilating passageways.
 - 3. Proper HVAC equipment operation.
 - 4. Mechanical and electrical noise in excess of specified levels.

END OF SECTION

01 77 00- CLOSEOUT PROCEDURES

PART 1 GENERAL

1.1 SUMMARY

A. Section Includes:

1. Requirements and procedures for:
 - a. Project cleaning.
 - b. Testing of equipment and systems.
 - c. Substantial Completion.
 - d. Final Completion.
 - e. Close Out.
 - f. Warranties.

1.2 SUBSTANTIAL COMPLETION

A. Removal of Temporary Construction Facilities and Project Cleaning:

1. Prior to Substantial Completion inspection: remove temporary materials, equipment, services, and construction; clean all areas affected by the Work; clean and repair damage caused by installation or use of temporary facilities; restore permanent facilities used during construction to specified condition.

B. Equipment and Systems:

1. Prior to Substantial Completion, Contractor shall start up, run for periods prescribed by Owner, operate, adjust and balance all manufactured equipment and Project systems including, but not limited to, mechanical, electrical, safety, fire, and controls.
2. Demonstrate that such equipment and systems conform to Contract standards and manufacturer's guarantees. Where applicable, use testing protocols specified, and if the Contract is silent, then consistent with manufacturer's recommendations and industry standards.

C. Procedure for Substantial Completion:

1. When Contractor considers Work or designated portion of the Work as Substantially Complete, and Installation, Operation, and Maintenance Manuals have been assembled and submitted to Owner, submit written notice to Owner, with list of items remaining to be completed or corrected and explanation of why such items do not prevent Owner's beneficial use and occupancy of the Work for its intended purposes. Within reasonable time, Owner will inspect to determine status of completion.
2. Should Owner determine that Work is not Substantially Complete, Owner will promptly notify Contractor in writing, listing all defects and omissions. Contractor shall remedy deficiencies and send a second written notice of Substantial Completion. Owner will reinspect the Work. If deficiencies previously noted are not corrected on reinspection, then Contractor shall pay the cost of the reinspection.
3. When Owner concurs that Work is Substantially Complete, Owner will issue a written notice or certificate of Substantial Completion, accompanied by Contractor's list of items to be completed or corrected as verified by Owner.
4. Before a notice or certificate of Substantial Completion will be issued:

- a. Start-up manufactured units, equipment, and systems that require startup.
 - b. Submit warranty forms to Owner for approval prior to execution. Forms shall not detract from or confuse requirements or interpretations of Contract Documents. Warranty shall be countersigned by manufacturers. Where specified, warranty shall be countersigned by Subcontractors and installers.
5. A punch list examination will be performed upon Substantial Completion. One follow-up review of punch list items for each discipline will be provided. If further Site visits are required to review punch list items due to incompleteness of the Work by Contractor, Contractor shall reimburse Owner for costs associated with these visits.

1.3 FINAL COMPLETION

A. Requirements:

- 1. Final Completion occurs when Work meets requirements for Owner's Final Acceptance.

B. Procedure:

- 1. When Contractor considers Work is Finally Complete, submit written certification that:
 - a. Contractor has inspected Work for compliance with Contract Documents, and all requirements for Final Acceptance have been met.
 - b. Except for Contractor maintenance after Final Acceptance, Work has been completed in accordance with Contract Documents and deficiencies listed with Certificate of Substantial Completion have been corrected. Equipment and systems have been tested in the presence of Owner and are operative.
 - c. Project Record Documents are completed and turned over to Owner and Work is complete and ready for final inspection. Project Record Documents shall include, at a minimum, a clean full-size set of Contract Drawings with record marks, dated, and "wet signed" by Contractor.
 - 1) Record marks shall use the following coloring scheme:
 - (a) Additions: red.
 - (b) Deletions: green.
 - (c) Comments: blue.
 - (d) Dimensions: black.
 - 2) Submit a full-sized PDF (scan) to Owner. Owner shall be the sole judge of the acceptability of the Project Record Documents.
- 2. In addition to submittals required by Contract Documents, provide submittals required by governing authorities and submit final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
- 3. Should Owner determine that Work is incomplete or Defective, Owner promptly will so notify Contractor, in writing, listing the incomplete or Defective items. Contractor shall promptly remedy the deficiencies and notify Owner when it is ready for reinspection.

C. Final Adjustments of Accounts:

- 1. Submit a final statement of accounting to Owner, showing all adjustments to the Contract Sum and complete and execute Section 00 65 23 (Agreement and Release of Any and All Claims).
- 2. If so required, Owner shall prepare a final Change Order for submittal to

Contractor, showing adjustments to the Contract Sum that were not previously made into a Contract Modification.

D. Warranties:

1. Execute Contractor's Submittals and assemble warranty documents, executed or supplied by Subcontractors, suppliers, and manufacturers. Provide table of contents and assemble in 8½ inches by 11 inches three-ring binder with durable plastic cover, appropriately separated and organized. Assemble in Specification Section order.
2. Submit material prior to final Application for Payment. For equipment put into use with Owner's permission during construction, submit within 14 Days after first operation. For items of Work delayed materially beyond Date of Substantial Completion, provide updated Submittal within 14 Days after acceptance, listing date of acceptance as start of warranty period.
3. Rejection of Warranties: Owner reserves right to reject unsolicited and coincidental product warranties that detract from or confuse requirements or interpretations of Contract Documents.
4. Term of Warranties: For materials, equipment, systems, and workmanship, warranty period shall be one year minimum from date of Final Completion of entire Work except where:
 - a. Detailed Specifications for certain materials, equipment, or systems require longer warranty periods.
 - b. Materials, equipment, or systems are put into beneficial use of Owner prior to Final Completion as agreed to in writing by Owner.

E. Warranty of Title:

1. No material, supplies, or equipment for Work under Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver premises, together with improvements and appurtenances constructed or placed thereon by Contractor, to Owner free from any claim, liens, security interest, or charges, and further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any Work covered by Contract shall have right to lien upon premises or improvement or appurtenances thereon. Nothing contained in this paragraph, however, shall defeat or impair right of persons furnishing materials or labor under bond given by Contractor for their protection or any rights under law permitting persons to look to funds due Contractor in hands of Owner.
- F. Turn-In. Contract Documents will not be closed out and final payment will not be made until all keys issued to Contractor during prosecution of Work and letters from property owners, pursuant to Contract Documents, are turned in to Owner.
- G. Release of Claims. Contract Documents will not be closed out and final payment will not be due or made until Section 00 65 23 (Agreement and Release of Any and All Claims) is completed and executed by Contractor and Owner.
- H. Fire Inspection Coordination. Coordinate fire inspection and secure sufficient notice to Owner to permit convenient scheduling (if applicable).
- I. Building Inspection Coordination. Coordinate with Owner a final inspection for the purpose of obtaining an occupancy certificate (if applicable).

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION