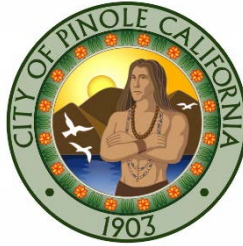


# CITY OF PINOLE



## CITY COUNCIL

Mayor, Vincent Salimi  
Mayor Pro Tem, Devin Murphy  
Councilmember, Anthony Tave  
Councilmember, Maureen Toms  
Councilmember, Norma Martinez-Rubin

## INVITATION FOR BID AND CONTRACT DOCUMENTS FOR **ELECTRIC VEHICLE CHARGING STATIONS**

**CIP PROJECT No.: FA2002**  
**Bid Release Date: October 17, 2022**

Questions concerning interpretation of plans, general provisions, special provisions, technical specifications and bid items shall be directed to:

City of Pinole, Public Works Department  
**Attn: Misha Kaur, Capital Improvement and Environmental Program Manager**  
2131 Pear St, Pinole, CA 94564  
Phone: (510) 724-9839 | Email: [mkaur@ci.pinole.ca.us](mailto:mkaur@ci.pinole.ca.us)

Office Hours: Monday – Friday 8:00AM to 4:30PM (PST/local time)

**BID OPENING: November 2, 2022, at 2:00PM (PST/local time)**

Release of IFB authorized by:

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Misha Kaur  
Capital Improvement and Environmental Program Manager

10/17/2022

Date



# I. BIDDING REQUIREMENTS

**NOTICE OF INVITATION FOR BIDS**

1. RECEIPT OF BIDS: Sealed Bids will be received at the office of the City of Pinole (City) located at **2131 Pear Street, Pinole, CA 94564**, until **2:00 PM on Wednesday, November 2, 2022**, for the Electric Vehicle Charging Stations (FA1902) project . Any Bids received after the specified time and date will not be considered. Fax and other electronically transmitted Bids will not be accepted.
2. OPENING OF BIDS: The Bids will be publicly opened and read at **2:00 PM on Wednesday, November 2, 2022** at the above-mentioned office of the City. The City reserves the right to postpone the date and time for opening of Bids at any time prior to the aforesaid date and time.
3. COMPLETION OF WORK: The WORK must be completed within thirty (30) working days after the commencement date stated in the Notice to Proceed.
4. DESCRIPTION OF WORK: The WORK includes:
  - Concrete removal and demolition,
  - concrete placement,
  - striping,
  - signage,
  - conduit installation,
  - conductor installaton,
  - general electrical work, and
  - Installation of electric vehicle chargers.
5. ENGINEER'S COST ESTIMATE: The design engineer's opinion of probable construction cost for this project is approximately \$50,000.00.
6. SITE OF WORK: The site of the WORK is located: 860 Tennent Avenue in Pinole, California.
7. OBTAINING CONTRACT DOCUMENTS: The Contract Documents are entitled "Electric Vehicle Charging Stations."

Documents can be downloaded free of charge through the City's webpage at <https://www.ci.pinole.ca.us/bids>. Bid documents will also be posted on [www.publicpurchase.com](http://www.publicpurchase.com).
8. BID SECURITY: Each Bid shall be accompanied by a certified or cashier's check or Bid Bond executed by an admitted surety in the amount of ten (10) percent of the Total Bid Price payable to the City of Pinole as a guarantee that the Bidder, if its Bid is accepted, will promptly execute the Agreement. A Bid shall not be considered unless one of the forms of Bidder's security is enclosed with it. Upon acceptance of the Bid, if the Bidder refuses to or fails to promptly execute the Agreement, the Bidder's security shall be forfeited to the City.
9. CONTRACTOR'S LICENSE CLASSIFICATION: In accordance with the provisions of California Public Contract Code Section 3300, the City has determined that the CONTRACTOR shall possess a valid Class A license at the time that the Contract is

awarded. Failure to possess the specified license shall render the Bid as non-responsive and shall act as a bar to award of the Contract to any bidder not possessing said license at the time of award.

10. PREFERENCE FOR MATERIAL: Substitute products will be considered prior to award of the Contract in accordance with Section 3400 of the California Public Contract Code. The Bidder will submit data substantiating its request for a substitution of “an equal” item within fourteen (14) days following submission of its Bid. Substantiation data will conform to the requirements of the instructions for Proposed Substitutions or “or equal” items contained in the Bid Forms. The ENGINEER will make a determination of approval or rejection of the proposed substitution prior to the award of the Contract. No request for substitution of “an equal” item will be considered by the ENGINEER after award of the Contract.
11. REJECTION OF PROPOSALS: The City reserves the right to reject all or any part of all bids submitted, waive informalities and irregularities, and will not, to the extent allowed by law, be bound to accept the lowest bid.
12. BIDS TO REMAIN OPEN: The Bidder shall guarantee the total bid price for a period of one hundred and twenty (120) calendar days from the date of bid opening.
13. CALIFORNIA WAGE RATE REQUIREMENTS: In accordance with the provisions of California Labor Code Sections 1770, 1773, 1773.1, 1773.6 and 1773.7 as amended, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773 for the locality in which the WORK is to be performed. It shall be mandatory upon the CONTRACTOR to whom the WORK is awarded and upon any subcontractor under the CONTRACTOR to pay not less than said specified rates to all workers employed by them in the execution of the WORK.
14. LABOR COMPLIANCE PURSUANT TO CALIFORNIA LABOR CODE § 1771.1: A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirement of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
15. RETAINAGE FROM PAYMENTS: The CONTRACTOR may elect to receive one hundred percent (100%) of payments due under the Contract Documents from time to time, without retention of any portion of the payment by the City, by depositing securities of equivalent value with the City in accordance with the provisions of Section 22300 of the Public Contract Code. Alternatively, the CONTRACTOR may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of CONTRACTOR. At the expense of the CONTRACTOR, the CONTRACTOR may direct the investments of the payments into securities and the CONTRACTOR shall receive the interest earned on the investments upon the same terms as provided in Section 22300 of the Public Contract Code for securities deposited by the CONTRACTOR. The CONTRACTOR shall be responsible for paying all fees for the expenses incurred by the escrow agent in administering the escrow account and all expenses of the City. These

expenses and payment terms shall be determined by the City's Finance Director or his/her designee and the escrow agent. Upon satisfactory completion of the WORK, the CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City, pursuant to the terms of Section 22300 of the Public Contract Code. Such securities, if deposited by the CONTRACTOR, shall be valued by the City, whose decision on valuation of the securities shall be final. Securities eligible for investment under this provision shall be limited to those listed in Section 16430 of the 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 the CONTRACTOR and the City.

16. PAYMENT BOND: Pursuant to and in accordance with California Civil Code Section 3247, a payment (labor and materials) bond must be filed if the expenditure for the WORK is in excess of Twenty-Five Thousand Dollars (\$25,000).
17. PRE-BID CONFERENCE/SITE VISITS: [At least one box below MUST be checked]

**Check if no pre-bid conference/site visit is to be held:**

**Mandatory pre-bid conference/site visit to be held:** Prospective bidders are required to attend a mandatory pre-bid at \_\_\_\_\_ on \*\* \_\_\_\_\_, via web-conference \_\_\_\_\_ and it will be a recorded event. Further details of the virtual meeting is provided below. Prospective bidders that fail to attend the mandatory pre-bid conference will be ineligible to bid on the project. Prospective bidders may conduct site visit on their own. Following the conference at City offices, City staff and prospective bidders attending in person may meet at the project Site. Transportation to the project site will be the responsibility of prospective bidders. The purposes of the conference/site visit are to discuss the scope of the project and bidding requirements and to acquaint bidders with Site conditions.

No information communicated at the pre-bid conference/site visit may amend the project bidding requirements. Project bidding requirements may only be amended by addenda issued by authorized City officials. Following the pre-bid conference/site visit, prospective bidders may submit detailed technical questions in writing. If warranted, the City may respond to such questions by addenda.

**Details of the Mandatory Pre-bid meeting**

Not applicable

**Non-mandatory pre-bid conference/site visit to be held:** Prospective bidders are invited to attend a non-mandatory pre-bid conference/site visit \_\_\_\_\_ on xxxx, month xx, 2022, at the City office at \_\_\_\_\_. Following the conference at City offices, City staff and prospective bidders will meet at the project site. Transportation to the project site will be the responsibility of prospective bidders. The purposes of the conference/site visit are to discuss the scope of the project and bidding requirements, and to acquaint bidders with Site conditions.

No information communicated at the pre-bid conference/site visit may amend the project bidding requirements. Project bidding requirements may only be amended by addenda issued by authorized City officials. Following the pre-bid conference/site visit, prospective bidders may submit detailed technical questions in writing. If warranted, the City may respond to such questions by addenda.

18. PROJECT ADMINISTRATION: All communications relative to this WORK shall be directed to the ENGINEER prior to opening of the Bids.

NAME	Misha Kaur Capital Improvement and Environmental Program Manager
ADDRESS	2131 Pear Street Pinole, CA 94564
PHONE	(510) 724 - 9839
Email	<a href="mailto:mkaur@ci.pinole.ca.us">mkaur@ci.pinole.ca.us</a>

19. CITY'S RIGHTS RESERVED: The City reserves the right to reject any or all bids, to waive any minor irregularity in a bid, and to make awards to the lowest responsive, responsible bidder as it may best serve the interest of the City.

END OF NOTICE OF INVITATION FOR BIDS

## **INSTRUCTIONS TO BIDDERS**

1. **DEFINED TERMS.** Terms used in these Instructions to Bidders and the Notice of Invitation for Bids which are defined in the General Conditions have the meanings assigned to them in the General Conditions. The term “Bidder” means one who submits a bid directly to the City of Pinole (“City”), as distinct from a sub-bidder, who submits a price or quote to a Bidder.
2. **LOCAL BUSINESS LICENSE.** All CONTRACTORS, including subcontractors, not already having a local business license for the work contemplated, will be required to secure the appropriate license before a contract can be executed.
3. **INTERPRETATIONS AND ADDENDA.**
  - 3.1 All questions about the meaning or intent of the Contract Documents are to be directed to the ENGINEER. Additions, deletions, or revisions to the Contract Documents considered necessary by the ENGINEER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the ENGINEER as having received the Contract Documents. Questions received less than 5 days prior to due date of bids may not be answered. Only answers to such questions issued by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
  - 3.2 Addenda(s) may be issued to make other additions, deletions, or revisions to the Contract Documents.
  - 3.3 Bidders shall make no special interpretation or inference of intent from differing formats in the Technical Specifications.
4. **BIDDER’S EXAMINATION OF CONTRACT DOCUMENTS AND SITE.**
  - 4.1 It is the responsibility of each Bidder before submitting a Bid:
    - A. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including “technical” data referred to below);
    - B. To visit the site to become familiar with local conditions that may affect cost, progress, or performance of the WORK;
    - C. To consider federal, state, and local laws and regulations that may affect cost, progress, or performance of the WORK;
    - D. To study and carefully correlate the Bidder’s observations with the Contract Documents; and
    - E. To notify the ENGINEER of all conflicts, errors, ambiguities, or discrepancies in or between the Contract Documents and such other related data.
  - 4.2 Reference is made to the General Conditions, Special Provisions and Specifications for identification of:

- A. Those reports of explorations and tests of subsurface conditions at the site which have been utilized by the ENGINEER in the preparation of the Contract Documents.
  - B. Those drawings of physical conditions in or relating to existing surface and subsurface conditions (except Underground Utilities) which are at or contiguous to the site which have been utilized by the ENGINEER in the preparation of the Contract Documents.
  - C. Those environmental reports or drawings relating to asbestos, hazardous waste, PCBs, petroleum, and/or radioactive materials identified at the site which have been utilized by the ENGINEER in the preparation of the Contract Documents.
  - D. The ENGINEER makes representation as to the completeness of the reports or drawings referred to in Sections 4.2A, 4.2B, and 4.2C above or the accuracy of any data or information contained therein. The Bidder may rely upon the accuracy of the technical data contained in such reports and drawings. However, the Bidder may not rely upon any interpretation of such technical data, including any interpretation or extrapolation thereof, or any non-technical data, interpretations, and opinions contained therein.
- 4.3 Copies of reports and drawings referred to in Section 4.2 will be made available by the City to any Bidder on request, if said reports and drawings are not bound herein. Those reports and drawings are not part of the Contract Documents, but the technical data contained therein upon which the Bidder is entitled to rely, are incorporated herein by reference.
- 4.4 Information and data reflected in the Contract Documents with respect to Underground Utilities at or contiguous to the site are based upon information and data furnished to the ENGINEER by the owners of such Underground Utilities or others, and the City does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Contract documents.
- 4.5 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Utilities, and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Sections 1-4.02, 1-4.03, and 1-4.04 of the General Conditions.
- 4.6 Before submitting a bid, each Bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests, and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface, and Underground Utilities) at or contiguous to the site or otherwise which may affect cost, progress, or performance of the WORK and which the Bidder deems necessary to determine its bid for performing the WORK in accordance with the time, price, and other terms and conditions of the Contract Documents.
- 4.7 On request a minimum of two (2) working days in advance, the ENGINEER will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests, and studies as each Bidder deems necessary for submission of a Bid. Location of any excavation or boring shall be subject to prior approval of ENGINEER and applicable agencies. Bidder shall fill all holes, restore all pavement to match existing structural section, and shall clean up and restore the site to its former condition upon completion of such explorations. ENGINEER reserves the right to require Bidder to execute an Access



Agreement with the City prior to accessing the site.

- 4.8 The lands upon which the WORK is to be performed, rights-of-way, and easements for access thereto and other lands designated for use by the CONTRACTOR in performing the WORK are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by the CONTRACTOR. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by the City unless otherwise provided in the Contract Documents.
- 4.9 The submission of a Bid will constitute an incontrovertible representation by the Bidder that the Bidder has complied with every requirement of this Section 4 and the following:
- A. That the Bid is premised upon performing the WORK required by the Contract Documents without exception and such means, methods, techniques, sequences, or procedures of construction (if any) as may be required by the Contract Documents;
  - B. That Bidder has given the ENGINEER written notice of all conflicts, errors, ambiguities, and discrepancies in the Contract Documents and the written resolution thereof by the ENGINEER is acceptable to the Bidder; and
  - C. That the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the WORK.

5. **BID FORMS.** The bid shall be submitted on the Bid Forms provided by the City. All blanks on the Bid Forms shall be completed in ink. All names must be printed below the signatures. The bid shall be submitted in a sealed envelope which shall be plainly marked in the upper left hand corner with the name and address of the Bidder and shall bear the words "BID FOR" followed by the title of the Contract Documents for the WORK, the name of the City, the address where Bids are to be delivered or mailed to, and the date and hour of opening of Bids.

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

6. **CERTIFICATES.**

- 6.1 Bids by corporations must be executed in the corporate name by the president, a vice-president, or other corporate officer. Such Bid shall be accompanied by the enclosed Certificate of Authority to sign, attested by the secretary or assistant secretary, and with the corporate seal affixed. The corporate address and state of incorporation must appear below the signature.

- 62 Bids by partnerships must be executed in the partnership name and be signed by a managing partner, accompanied by the enclosed Certificate of Authority to sign, and his/her title must appear under the signature and the official address of the partnership must appear below the signature.
- 63 Bids by joint venture must be executed in the joint venture name and be signed by a joint venture managing partner, accompanied by the enclosed Certificate of Authority to sign, and his/her title must appear under the signature and the official address of the joint venture must appear below the signature.
7. **DISQUALIFICATION OF BIDDERS.** More than one Bid from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. If the City believes that any Bidder is interested in more than one Bid for the WORK contemplated, all Bids in which such Bidder is interested will be rejected. If the City believes that collusion exists among the Bidders, all Bids will be rejected. A party who has quoted prices to a bidder is not hereby disqualified from quoting prices to other Bidders, or from submitting a Bid directly for the WORK. If a Bidder is not registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 and Section 1771.1, then the Bid may be rejected as non-responsive. A bidder who is ineligible to perform work on a public works project pursuant to Sections 1777.1 or 1777.7 of the Labor Code is prohibited from bidding on this project.
8. **QUANTITIES OF WORK.** The quantities of work or material stated in unit price items of the Bid are supplied only to give an indication of the general scope of the WORK; the OWNER does not expressly or by implication agree that the actual amount of work or material will correspond therewith, and reserves the right after award to increase or decrease the quantity of any unit price item of the WORK by an amount up to and including 25 percent of any Bid item in its entirety, or to add additional Bid items up to and including an aggregate total amount not to exceed 25 percent of the Bid price.
9. **SUBSTITUTE OR "OR EQUAL" ITEMS.** Whenever materials or equipment are specified or described in the Contract Documents by using the name of a particular manufacturer and the name is followed by the words "or equal", the Bidder may write the name of a substitute manufacturer (which the Bidder considers as an "or equal") in the List of Proposed Substitutions in the Bid Forms. The ENGINEER will make a determination of approval or rejection of the proposed substitution prior to award of the Contract. No request for substitution of an "or equal" item will be considered by the ENGINEER after award of the Contract. The procedure for the submittal of substitute or "or equal" products is contained in the Bid Forms. The Bidder shall not be relieved of any obligations of the Contract Documents or be entitled to an adjustment in the Contract Price in the event any proposed substitution is not approved.
10. **COMPETENCY OF BIDDERS.** In selecting the lowest responsive, responsible Bidder, consideration will be given not only to the financial standing but also to the general competency of the Bidder for the performance of the WORK covered by the Bid. To this end, each Bid shall be supported by a statement of the Bidder's experience as of recent date including: (a) all projects worked on by the Bidder over the past three (3) years including the contract amount for each project; (b) all complaints made against the Contractor's license in the past ten (10) years; and (c) all claims and lawsuits presented or filed in the last five (5) years, regardless of the form, regarding any public works project.

11. **SUBMISSION OF BIDS.** The Bid shall be delivered by the time and to the place stipulated in the Notice Inviting Bids. It is the Bidder's sole responsibility to see that its Bid is received in proper time and at the proper place.
12. **BID SECURITY, BONDS, AND INSURANCE.** Each Bid shall be accompanied by a certified or cashier's check or approved Bid Bond in the amount stated in the Notice Inviting Bids. Said check or bond shall be made payable to the City and shall be given as a guarantee that the Bidder, if awarded the WORK, will enter into an Agreement with the City and will furnish the necessary insurance certificates, Payment Bond, and Performance Bond. In case of refusal or failure to enter into said Agreement, the check or Bid Bond, as the case may be, shall be forfeited to the City. If the Bidder elects to furnish a Bid Bond as its Bid security, the Bidder shall use the Bid Bond form bound herein. Bid Bonds shall comply with the requirements applicable to payment and performance bonds in the General Conditions.
  - 12.1 **BIDDING CAPACITY.** Each Bid shall be accompanied by a list of the projects currently being worked on by Bidder, their size, contract price, scheduled completion date, location, and owner. Additionally, Bidder shall provide certified evidence of its current bonding capacity.
13. **DISCREPANCIES IN BIDS.** In the event there is more than one Bid item in a Bid Schedule, the Bidder shall furnish a price for all Bid Items in the Schedule, and failure to do so will render the Bid non-responsive and shall cause its rejection. In the event there are unit price Bid items in a Bidding schedule and the amount indicated for a unit price Bid item does not equal the product of the unit price and quantity, the unit price shall govern and the amount will be corrected accordingly, and the BIDDER shall be bound by said correction. In the event there is more than one Bid item in a Bid Schedule and the total indicated for the Schedule does not agree with the sum of the prices Bid on the individual items, the prices Bid on the individual items shall govern and the total for the Schedule will be corrected accordingly, and the BIDDER shall be bound by said correction.
14. **MODIFICATIONS AND UNAUTHORIZED ALTERNATIVE BIDS.** Unauthorized conditions, limitations, or provisos attached to the Bid shall render it informal and may cause its rejection as being non-responsive. The Bid forms shall be completed without interlineations, alterations, or erasures in the printed text. Alternative Bids will not be considered unless called for. Oral, telegraphic, or telephonic Bids or modifications will not be considered.
15. **WITHDRAWAL OF BID.** The Bid may be withdrawn by the Bidder by means of a written request, signed by the Bidder or its properly authorized representative. Such written request must be delivered to the place stipulated in the Notice Inviting Bids for receipt of Bids prior to the scheduled closing time for receipt of Bids.
16. **BID PROTEST.** Any bid protest must be submitted in writing to NVTAs Executive Director before 5:00PM (PST/Local Time) on the fifth (5<sup>th</sup>) working day following bid opening.
  - A. The initial protest document must contain a complete statement of the basis for the protest, and all supporting documentation.
  - B. The party filing the protest must have actually submitted a Bid for the WORK. A subcontractor of a party submitting a Bid for the WORK may not submit a Bid protest. A party may not rely on the Bid protest submitted by another Bidder, but must timely

pursue its own protest.

- C. The protest must refer to the specific portion of the bid document which forms the basis for the protest.
  - D. The protest must include the name, address and telephone number of the person representing the protesting party.
  - E. 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 which 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.
  - F. The City will give the protested Bidder five (5) working days after the receipt of the protest to submit a written response. The responding Bidder shall transmit the response to the protesting Bidder concurrent with delivery to the City.
  - G. The procedure and time limits set forth in this section are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. The Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder, but must timely pursue its own protest.
  - H. If the City determines that a protest is frivolous, the protesting bidder may be determined to be non-responsible and that bidder may be determined to be ineligible for future contract awards.
- 17. AWARD OF CONTRACT.** Award of the contract, if awarded, will be made to the lowest responsive, responsible Bidder who's bid complies with the requirements of the Contract Documents. Unless otherwise specified, any such award will be made within the period stated in the Notice Inviting Bids that the bids are to remain open. Unless otherwise indicated, a single award will be made for all the Bid items in an individual Bid Schedule. In the event the WORK is contained in more than one Bid Schedule, the City may award Schedules individually or in combination. In the case of two (2) Bid Schedules which are alternative to each other, only one (1) of such alternative schedules will be awarded. The City may condition the award upon the Bidder's timely submission of all items required by the Contract Documents, including, but not limited to the executed Agreement, performance, labor and materials, and maintenance bonds, and required certificates of insurance and endorsements.
- 18. RETURN OF BID SECURITY.** Within 14 days after award of the contract, the City will, if requested, return the Bid securities accompanying such Bids that are not being considered in making the award. All other Bid securities will be held until the Agreement has been finally executed. They will then be returned, if requested, to the respective Bidders whose Bids they accompany.
- 19. EXECUTION OF AGREEMENT.** The Bidder to whom the award is made shall execute a written agreement with the City on the form of agreement provided, shall secure all insurance, and shall furnish all certificates and bonds required by the Contract Documents

within five (5) working days after receipt of Notice of Award from the City. Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for annulment of the award and forfeiture of the Bid security. If the lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the City may award the Contract to the second lowest responsive, responsible Bidder. If the second lowest responsive, responsible Bidder refuses or fails to execute the Agreement, the OWNER may award the contract to the third lowest responsive, responsible Bidder. On the failure or refusal of such second or third lowest Bidder to execute the Agreement, each such Bidder's Bid securities shall be likewise forfeited to the City.

- 20. LIQUIDATED DAMAGES.** Provisions for liquidated damages, if any, are set forth in the Agreement.
- 21. WORKERS' COMPENSATION REQUIREMENT.** The Bidder should be aware that in accordance with Section 3700 of the California Labor Code it will, if awarded the Contract, be required to secure the payment of compensation to its employees and execute the Workers' Compensation Certification in the form contained in these Contract Documents.
- 22. NON-COLLUSION AFFIDAVIT.** Bidders must execute the following affidavit and submit the same with his/her bid:
- 23. MATERIALS SUPPLIERS LIST.** Bidders and their subcontractors must complete the List of Materials Suppliers and Material Guarantee form provided with the Bid Forms and must submit the completed form with the Bid.

END OF INSTRUCTIONS TO BIDDERS

**NON-COLLUSION SUBMITTED WITH BID**

**BIDDER’S AFFIDAVIT OF NON-COLLUSION SUBMITTED WITH BID**

\_\_\_\_\_, [Contractor] hereby declares that:

He or she is \_\_\_\_\_ [title/position] of \_\_\_\_\_, [company name] the party making the foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that 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, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that 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, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

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

Executed on \_\_\_\_\_ at \_\_\_\_\_  
(DATE) (PLACE)

\_\_\_\_\_  
SIGNATURE

Public Contract Code section 7106  
Code of Civil Procedure section 2015.5

END OF BIDDER’S AFFIDAVIT OF NON-COLLUSION SUBMITTED WITH BID

LEVIN ACT DISCLOSURE STATEMENT SUBMITTED WITH BID

**BIDDER’S AFFIDAVIT OF LEVIN ACT DISCLOSURE STATEMENT**

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an Officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the Officer, or received by the Officer on behalf of any other Officer, or on behalf of any candidate for office or on behalf of any committee. The Levine Act also requires disclosure of such contributions by a party to be awarded a specified contract. Please refer to the attachment for the complete statutory language.

Current members of the AGENCY are:

- Mayor, Vincent Salimi
- Mayor Pro Tem, Devin Murphy
- Councilmember, Anthony Tave
- Councilmember, Maureen Toms
- Councilmember, Norma Martinez-Rubin

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any member of the AGENCY in the 12 months preceding the date of the issuance of this request for proposal or request for qualifications?

\_\_\_ YES \_\_\_ NO

If yes, please identify the Director(s): \_\_\_\_\_

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any member of the AGENCY in the three months following the award of the contract?

\_\_\_ YES \_\_\_ NO

If yes, please identify the Director(s): \_\_\_\_\_

Answering yes to either of the two questions above does not preclude AGENCY from awarding a contract to your firm. It does, however, preclude the identified AGENCY members from participating in the contract award process for this contract.

\_\_\_\_\_  
DATE (SIGNATURE OF AUTHORIZED OFFICIAL)

\_\_\_\_\_  
(TYPE OR WRITE APPROPRIATE NAME, TITLE)

\_\_\_\_\_  
(TYPE OR WRITE NAME OF COMPANY)

## California Government Code Section 84308

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7. If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

For more information, contact the Fair Political Practices Commission, 1102 Q St #3000, Sacramento, CA 95811, (916) 322-5660.



LOBBYING CERTIFICATION SUBMITTED WITH BID

**LOBBYING CERTIFICATION SUBMITTED WITH BID**

The BIDDER certifies, to the best of its Knowledge and belief, that:

- (1) No Federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection With the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification thereof.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement. the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contractors, sub-grants, and contracts under grants, loans. and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE BIDDER, \_\_\_\_\_ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE PROPOSER OR BIDDER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

\_\_\_\_\_  
(SIGNATURE OF BIDDER'S AUTHORIZED PERSON)

\_\_\_\_\_  
Name and Title of the BIDDER's Authorized Person

END OF LOBBYING CERTIFICATION SUBMITTED WITH BID

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION SUBMITTED WITH BID

**BIDDER'S EQUAL EMPLOYEMENT OPPORTUNITY CERTIFICATION**

The Bidder \_\_\_\_\_,

proposed subcontractor(s) \_\_\_\_\_, hereby certifies that he/she has\_\_\_\_, has not\_\_\_\_, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filling requirements.

**Note:** The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

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

Executed on \_\_\_\_\_ at \_\_\_\_\_  
(DATE) (PLACE)

\_\_\_\_\_  
SIGNATURE

END OF BIDDER'S CERTIFICATION OF EQUAL EMPLOYMENT OPPORTUNITY SUBMITTED WITH  
BID

**PUBLIC CONTRACT CODE SECTION 10285.1 STATEMENT**

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has \_\_\_\_, has not \_\_\_\_ been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

*Note: The bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Bid. Signing this Bid on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.*

**PUBLIC CONTRACT CODE 10232 STATEMENT**

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

*Note: The above Statement and Questionnaire are part of the Bid. Signing this Bid on the signature portion thereof shall also constitute signature of this Statement and Questionnaire. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.*

**PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE**

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is yes, explain the circumstances in the following space or use an attachment.

## DEBARMENT AND SUSPENSION CERTIFICATION

### TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

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(SIGNATURE OF BIDDER'S AUTHORIZED PERSON)

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Name and Title of the BIDDER's Authorized Person

END OF BIDDER'S CERTIFICATION FOR PUBLIC CONTRACT CODE 10285.1, 10232, 10162 AND DEBARMENT AND SUSPENSION SUBMITTED WITH BID

**BID PROPOSAL CERTIFICATES**

**BID PROPOSAL CERTIFICATE**  
(if Corporation)

STATE OF CALIFORNIA        )  
                                          ) ss:  
COUNTY OF \_\_\_\_\_)

I HEREBY CERTIFY that a meeting of the Board of Directors of the \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

a corporation existing under the laws of the State of \_\_\_\_\_, held on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

“RESOLVED, that \_\_\_\_\_, as \_\_\_\_\_ President of the Corporation, be and is hereby authorized to execute the Bid Proposal dated \_\_\_\_\_, 20\_\_\_\_, for the \_\_\_\_\_ project, in the City of Pinole, and that his/her execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation.”

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Secretary

(SEAL)

**BID PROPOSAL CERTIFICATE**  
(if Partnership)

STATE OF CALIFORNIA        )  
                                          ) ss:  
COUNTY OF \_\_\_\_\_)

I HEREBY CERTIFY that a meeting of the Partners of the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

a partnership existing under the laws of the State of \_\_\_\_\_, held  
on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

“RESOLVED, that \_\_\_\_\_, as the General  
Partner of the Partnership, be and is hereby authorized to execute the Bid Proposal dated  
\_\_\_\_\_, 20\_\_\_\_, for the \_\_\_\_\_ project, in the City of Pinole,  
and that his/her execution thereof, attested by the \_\_\_\_\_ shall be the  
official act and deed of this Partnership.”

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Partner

(SEAL)

**BID PROPOSAL CERTIFICATE**  
(if Joint Venture)

STATE OF CALIFORNIA        )  
                                          ) ss:  
COUNTY OF \_\_\_\_\_)

I HEREBY CERTIFY that a meeting of the Principals of the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

a joint venture existing under the laws of the State of \_\_\_\_\_,  
held on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

“RESOLVED, that \_\_\_\_\_,  
as \_\_\_\_\_, of the joint venture, be and is hereby authorized to execute the Bid  
Proposal dated \_\_\_\_\_, 20\_\_\_\_, for the \_\_\_\_\_ project, in the City of  
Pinole, and that his/her execution thereof, attested by the \_\_\_\_\_ shall  
be the official act and deed of this Joint Venture.”

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Managing Partner

(SEAL)

**BIDS PROPOSAL**

**PROPOSAL**

To the City Council of the City of Pinole (City):

The undersigned declares that he/she has carefully examined the location of the proposed work, that he/she has examined the plans and specifications, and read the accompanying instructions to bidders, and hereby proposes to furnish all materials and do all the work required to complete the said work in accordance with said plans, specifications, and special provisions for the unit or lump sum prices set forth in the attached Bid Schedule.

It is understood and agreed that the undersigned shall complete the work of the contract within the time provided for in the Contract Documents and Specifications governing said work.

If awarded the contract, the undersigned hereby agrees to sign said contract and to furnish the necessary bonds, insurance certificates and agreements within five (5) working days after receipt of Notice of Award of said contract from the City.

The undersigned has examined the location of the proposed work and is familiar with the plans, specifications and other contract documents and the local conditions at the place where the work is to be done.

The undersigned has checked carefully all the figures on the attached Bid Schedule and understands that the City will not be responsible for any errors or omissions on the part of the undersigned in making up the bid.

Enclosed find bidder's bond, certified check, or cashier's check no. \_\_\_\_\_ of the \_\_\_\_\_ (Company) (Bank) for \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

This project requires a Class A California State Contractor's License.

Contractor's License No. \_\_\_\_\_ License Class \_\_\_\_\_

Expiration Date of Contractor's License \_\_\_\_\_

This project requires registration with the California State Department of Industrial Relations.

Public Works Contractor Registration No. \_\_\_\_\_

Registration Date \_\_\_\_\_ Expiration Date \_\_\_\_\_



A bid submitted to a public agency by a contractor who is not licensed and not registered shall be considered non-responsive and shall be rejected by the public agency. The undersigned contractor declares that the contractor's license number, public work contractor registration number, and expiration dates stated herein are made under penalty of perjury under the laws of the State of California.

Contractor: \_\_\_\_\_

Signed by: \_\_\_\_\_

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

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

END OF PROPOSAL

**6 BID SCHEDULE**

#	Section	Description	Quantity	Unit	Unit Cost (\$/Unit)	Cost (\$)
1	1-02	Mobilize	1	LS		
2	1-09	Charging Station	1	EA		
3	1-04	Clearing and Grubbing	1	LS		
4	1-06	Charger Foundation	2	EA		
5	1-10.2	Outside Conduit	70	LF		
6	1-10.2	Inside Conduit	100	LF		
7	1-10.4	Conductors	2,040	LF		
8	1-10.4	Pull Box	2	EA		
9	1-10.5	40A Dual Pole Breaker	4	EA		
10	1-10.6	Electrical Panel (Revocable)	1	LS		
11	1-06	Concrete Flatwork	450	SF		
12	1-08	Lines and Marking	1	LS		
13	1-11	Wheel Stop	6	EA		
14	1-07	New Post and Sign	6	EA		

\*Note: In case of error in extension of price into the total price column, the unit price will govern.

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

\_\_\_\_\_ Dollars and

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

In the event of discrepancy between words and figures, the words shall prevail.

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

Figures

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

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

\_\_\_\_\_  
City

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

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

\_\_\_\_\_  
Fax Number of Bidder

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

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

**Addendum Acknowledgement**

Addendum No. 1    Signature Acknowledging Receipt: \_\_\_\_\_    Date: \_\_\_\_\_

Addendum No. 2    Signature Acknowledging Receipt: \_\_\_\_\_    Date: \_\_\_\_\_

Addendum No. 3    Signature Acknowledging Receipt: \_\_\_\_\_    Date: \_\_\_\_\_

Addendum No. 3    Signature Acknowledging Receipt: \_\_\_\_\_    Date: \_\_\_\_\_

**QUESTIONNAIRE AND FINANCIAL ASSURANCE STATEMENT**

The following statements as to experience and financial qualifications of the Bidder are submitted in conjunction with the proposal as a part thereof, and the truthfulness and accuracy of the information is guaranteed by the Bidder.

The Bidder has been engaged in the contracting business under the present business for \_\_\_\_\_ years. Experience in work of a nature similar to that covered in the proposal extends over a period of \_\_\_\_\_ years.

The Bidder, as a contractor, has never failed to satisfactorily complete a contract awarded to contractor, except as follows:

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List all claims and lawsuits presented or filed in the last five (5) years, regardless of the form, regarding any public works project:

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The following contracts for work have been completed in the last five (5) years for the persons, firm or authority indicated and to whom reference is made:

Year	Type of Work-Size, Length and Contract Amount	Location and For Whom Performed
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The following complaints have been made against the Bidder's contractor's license within the past ten (10) years:

Date: \_\_\_\_\_ Nature of Complaint: \_\_\_\_\_

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Reference is hereby made to the following bank or banks as to the financial responsibility of the bidder:

NAME OF BANK

ADDRESS

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Reference is hereby made to the following surety companies as to the financial responsibility and general reliability of the bidder:

NAME OF SURETY COMPANY:

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

\_\_\_\_\_  
SIGNATURE OF BIDDER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME OF BIDDER

END OF QUESTIONNAIRE AND FINANCIAL STATEMENT FORM

## LIST OF SUBCONTRACTORS

Pursuant to Section 4100 to 4113 of the Public Contract Code, and City instructions , each bidder shall complete and submit this form with his bid in accordance with the following instructions.

1. For each subcontract item to be performed by a subcontractor, the following shall be indicated herein: the name of the subcontractor, the portion of work to be performed, each subcontractor’s license number, and the location of the place of business.
2. Only one subcontractor shall be listed for each craft unless there is an alternate bid in which case a different subcontractor, when so designated, may be listed for the alternate work.
3. **All fields must be completed as specified or the bid proposal may be rejected as non-responsive.**

Name of Subcontractor	Portion of Contract (i.e. Electrical, Striping, etc.)	Subcontractor License Number	DIR Registration Number1	Dollar Amount of Work to Be Performed	Location of Business (City and State)

All general contractors and subcontractors must be registered with DIR in conformance with Labor Code Section 1725.5 and 1771.1. By requesting the DIR registration numbers of all subcontractors, bidders are put on notice that if they list a subcontractor without a DIR registration number at the time of bid opening, the County, in its sole discretion, may find the failure intentional and find the bid non-responsive. DIR registration number lookup is available online at <https://efiling.dir.ca.gov/PWCR/Search>



Accompanying this proposal is BIDDER'S BOND in amount equal to at least ten percent of the total of the bid.

The names of all persons interested in the foregoing proposal as principals are as follows:

*IMPORTANT NOTICE: If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, and manager thereof; if a copartnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.*

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Licensed in conformance with an act providing for the registration of Contractors,

License No. \_\_\_\_\_ Classification(s) \_\_\_\_\_

**ADDENDA**

This Proposal is submitted with respect to the changes to the contract included in addenda number/s

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(Fill in addenda numbers if addenda have been received and insert, in this Proposal, any Engineer's Estimate sheets that were received as part of the addenda.)

By my signature on this proposal I certify, under penalty of perjury under the laws of the State of California, that the foregoing questionnaire and statements of Public Contract Code Sections 10162, 10232 and 10285.1 are true and correct and that the bidder has complied with the requirements of Section 8103 of the Fair Employment and Housing Commission Regulations (Chapter 5, Title 2 of the California Administrative Code). By my signature on this proposal I further certify, under penalty of perjury under the laws of the State of California and the United States of America, that the Noncollusion Affidavit required by Title 23 United States Code, Section 112 and Public Contract Code Section 7106; and the Title 49 Code of Federal Regulations, Part 29 Debarment and Suspension Certification are true and correct.

Date:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title of Bidder

Place of Business  
\_\_\_\_\_

Place of Residence  
\_\_\_\_\_



**BIDDER'S BOND**

We, \_\_\_\_\_  
\_\_\_\_\_ as Principal, and  
\_\_\_\_\_

as Surety are bound unto City of Pinole, Pinole, State of California, hereafter referred to as "Obligee", in the penalsum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitted to the Obligee, for \_\_\_\_\_

\_\_\_\_\_  
*(Copy here the exact description of work, including location as it appears on the proposal)*  
\_\_\_\_\_

for which bids are to be opened at \_\_\_\_\_ on \_\_\_\_\_  
*(Insert place where bids will be opened) (Insert date of bid opening)*

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in conformance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null andvoid; otherwise, it shall remain in full force.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurredby the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*Principal*  
\_\_\_\_\_  
*Surety*  
By \_\_\_\_\_  
*Attorney-in-fact*

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of California  
City/County of \_\_\_\_\_ SS

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_ before me  
\_\_\_\_\_, personally appeared \_\_\_\_\_,  
*Attorney-in-fact*

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed tothis instrument as the attorney-in-fact of \_\_\_\_\_, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL) \_\_\_\_\_  
*Notary Public*

**PAYMENT BOND**  
(Section 3247, Civil Code)

**WHEREAS, the** City of Pinole, hereafter referred to as "Obligee", has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Principal", a contract for the work described as follows:

**AND WHEREAS,** said Principal is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law.

**NOW, THEREFORE,** we the undersigned Principal and Surety are bound unto the Obligee in the sum of

\_\_\_\_\_ dollars

(\$ \_\_\_\_\_), for which payment, we bind ourselves, jointly and severally.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board for the wages of employees of the Principal and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court. This bond shall inure to the benefit of any of the persons named in Civil Code Section 3181 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

Dated: \_\_\_\_\_, 20\_\_\_\_

Correspondence or claims relating to this bond should be sent to the surety at the following address:

\_\_\_\_\_

\_\_\_\_\_  
*Principal*

\_\_\_\_\_  
*Surety*

By \_\_\_\_\_

*Attorney-in-fact*

NOTE: Signatures of those executing for the surety must be properly acknowledged.

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of California  
City/County of \_\_\_\_\_ SS

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_ before me

\_\_\_\_\_, personally appeared \_\_\_\_\_,

*Attorney-in-fact*

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the attorney-in-fact of \_\_\_\_\_, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL)

\_\_\_\_\_

*Notary Public*

**PERFORMANCE BOND**  
(To Accompany Contract)

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

**WHEREAS**, the City of Pinole, has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Contractor", a contract for the work described as follows:

**AND WHEREAS**, the Contractor is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof:

**NOW, THEREFORE**, we the undersigned Contractor and Surety are held firmly bound to the City of Pinole in the sum of \$ \_\_\_\_\_ dollars (\$ \_\_\_\_\_), to be paid to said NVT A or its certain attorney, its successors and assigns: for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if the above bound Contractor, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner thereinspecified, and in all respects according to their intent and meaning, and shall indemnify and save harmless the City of Pinole its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

**IN WITNESS WHEREOF**, We have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Correspondence or claims relating to this bond should be sent to the surety at the following address:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
*Contractor*

\_\_\_\_\_  
*Name of Surety*

By \_\_\_\_\_

\_\_\_\_\_  
*Attorney-in-fact*

NOTE: Signatures of those executing for the surety must be properly acknowledged.

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of California  
City/County of \_\_\_\_\_ SS

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ before me

\_\_\_\_\_, personally appeared \_\_\_\_\_,  
*Attorney-in-fact*

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the attorney-in-fact of \_\_\_\_\_, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL)

\_\_\_\_\_  
*Notary Public*

## MAINTENANCE BOND

WHEREAS, the City of Pinole and \_\_\_\_\_  
\_\_\_\_\_, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated \_\_\_\_\_, 20\_\_\_\_ and identified as project \_\_\_\_\_, is hereby referred to and made a part hereof; and,

WHEREAS, said Principal is required under the terms of said contract to furnish a maintenance bond for the correction of any defects due to defective materials or workmanship in the work performed under said agreement.

NOW, THEREFORE, we the Principal and \_\_\_\_\_  
as Surety, are held and firmly bound unto the City of Pinole in the penal sum of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if, during a maintenance period of one (1) year from the date of acceptance of the contracted work, the Principal upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship, shall diligently take the necessary steps to correct said defects within seven (7) days from the date of said notice, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL

SURETY

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Phone Number

###

NOTE: No substitution or revision to this bond form will be accepted. Be sure that all bonds submitted have a certified copy of the bonding agent's power of attorney attached. Also verify that Surety is an "Admitted Surety" (i.e., qualified to do business in California), and attach proof of verification (website printout from the California Department of Insurance website (<http://www.insurance.ca.gov/docs/index.html>) or certificate from County Clerk).

APPROVED AS TO AMOUNT:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Manager

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

END OF MAINTENANCE BOND



## II. GENERAL CONDITIONS

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# CITY OF PINOLE GENERAL CONDITIONS

## 1 GENERAL CONDITIONS

### 1-1 DEFINITIONS

Whenever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated in this Section 1-1 which meanings are applicable to both the singular and plural thereof. If a word which is entirely in upper case in these definitions is found in lower case in the Contract Documents, then the lower case word will have its ordinary meaning.

**Addenda** - Written or graphic instruments issued prior to the opening of Bids which make additions, deletions, or revisions to the Contract Documents.

**AGENCY or alternatively City**– City of Pinole.

**Agreement** - The written contract between the City and the CONTRACTOR covering the WORK to be performed; other documents are attached to the Agreement and made a part thereof as provided therein.

**Application for Payment** - The form accepted by the ENGINEER which is to be used by the CONTRACTOR to request progress payments or final payment and which is to be accompanied by such supporting documentations as is required by the Contract Documents.

**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 the United States Occupational Safety and Health Administration.

**Bid** - The offer or proposal of the bidder submitted on the prescribed form setting forth the price or prices for the WORK.

**Bonds** - Bid, Performance, and Labor and Materials, and Maintenance Bonds and other instruments of security.

**Change Order** - A document recommended by the ENGINEER, which is signed by the CONTRACTOR and the City, and authorizes an addition, deletion, or revision in the WORK, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

**City Council** - The City of Pinole operates under the Council-Manager form of municipal government. The City Council is comprised of five members elected at large to four-year terms. The Mayor is rotated amongst the Council on a yearly basis. In addition to Councilmembers, the City Treasurer is also an elected position.

**Clarification** - A document issued by the ENGINEER to the CONTRACTOR that clarifies the requirements(s) and/or design intent of the Contract Documents, which may not represent an addition, deletion, or revision in the WORK or an adjustment in the Contract Price or the Contract Times.

**Contract Documents** - The Notice Inviting Bids, Instructions to Bidders, Bid Forms (including the Bid, Bid Schedule(s), Information Required of Bidder, Bid Bond, and all required certificates, affidavits and other documentation), Agreement, Performance Bond, Labor and Materials Bond, Maintenance Bond, General Conditions, Special Provisions, Specifications, Drawings, all Addenda, and Change Orders executed pursuant to the provisions of the Contract Documents. Shop Drawings are not Contract Documents.

**Contract Price** - The total monies payable by the City to the CONTRACTOR under the terms and conditions of the Contract Documents.



**Contract Times** - The number or numbers of successive calendar days or dates stated in the Contract Documents for the completion of the WORK.

**CONTRACTOR** - The individual, partnership, corporation, joint-venture, or other legal entity with whom the City has executed the Agreement.

**Day** - A calendar day of 24 hours measured from midnight to the next midnight.

**Defective Work** - Work that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents; or work that has been damaged prior to the ENGINEER's recommendation of final payment.

**Drawings** - The drawings, plans, maps, profiles, diagrams, and other graphic representations which indicate the character, location, nature, extent, and scope of the WORK and which have been prepared by the ENGINEER and are included and/or referred to in the Contract Documents. Shop Drawings are not Drawings as so defined. Project Plans and drawings used in the documents interchangeably.

**Effective Date of the Agreement** - The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

**ENGINEER** - The City Engineer of the City of Pinole or his/her designee.

**Field Order** - A written order issued by the ENGINEER which may or may not involve a change in the WORK.

**Hazardous Waste** - The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 U.S.C. Section 6906) as amended from time to time.

**Laws and Regulations; Laws or Regulations** - Any and all applicable laws, rules, regulations, ordinances, codes, and/or orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

**Lien or Mechanic's Lien** - A form of security, an interest in real property, which is held to secure the payment of an obligation. When related to public works construction, Lien or Mechanic's Lien may be called Stop Notice.

**Milestone** - A principal event specified in the Contract Documents relating to an intermediate completion date of a separately identifiable part of the WORK or a period of time within which the separately identifiable part of the WORK should be performed prior to completion of all the WORK.

**Notice of Award** - The written notice by the City to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein within the time specified, the City will enter into an Agreement.

**Notice of Completion** - A form signed by the ENGINEER and the CONTRACTOR recommending to the City that the WORK is Complete and fixing the date of completion. After acceptance of the WORK by the Pinole City Council, the form is signed by the City and filed with the County Recorder. This filing starts the 30 day lien filing period on the WORK.

**Notice to Proceed** - The written notice issued by the City to the CONTRACTOR authorizing the CONTRACTOR to proceed with the WORK for the purpose for which it is intended prior to completion of all the WORK.

**Partial Utilization** - Use by the City of a completed part of the WORK for the purpose for which it is intended prior to completion of all the WORK.

**Petroleum** - Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.

**Project** - The total construction project of which the WORK to be provided under the Contract Documents may be the whole, or as part as indicated elsewhere in the Contract Documents.

**Record Drawings** - Drawings generated by marking a set of Drawings to reflect all of the changes that have occurred during construction of the Project.

**Resident Project Representative** - The authorized representative of the ENGINEER who is assigned to the Site or any part thereof.

**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.

**Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data which are specifically prepared by or for the CONTRACTOR and submitted by the CONTRACTOR to illustrate some portion of WORK.

**Site** - Lands or other areas designated in the Contract Documents as being furnished by the City for the performance of the construction, storage, or access.

**Special Provisions** - Specific clauses setting forth conditions or requirements peculiar to the work and supplementary to the Standard Specifications.

**Specifications** - The directions, provisions and requirements set forth in the latest Caltrans Standard Specifications, Caltrans Standard Plans, Technical Specifications as supplemental and modified by the special provisions.

**Stop Notice** - A legal remedy for subcontractors and suppliers who contribute to public works, but who are not paid for their work, which secures payment from construction funds possessed by the City. In some states, for public property, the Stop Notice remedy is designed to substitute for a mechanic's lien.

**Subcontractor** - An individual, partnership, corporation, joint-venture, or other legal entity having a direct contract with the CONTRACTOR or with any other subcontractor for the performance of a part of the WORK at the Site.

**Supplementary General Conditions** - The part of the Contract Documents which make additions, deletions, or revisions to these General Conditions.

**Supplier** - A manufacturer, fabricator, distributor, materialman, or vendor having a direct contract with the CONTRACTOR or with any Subcontractor to furnish materials, equipment, or product to be incorporated in the WORK by the CONTRACTOR or any Subcontractor.

**Utilities** - All pipelines, conduits, ducts, cables, wires, tracks, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities which have been installed underground or above the ground to furnish any of the following services or materials; water, sewage, sludge, drainage, fluids, electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, traffic control, or other control systems.

**WORK** - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. WORK 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.

**Working day** - Any day except Saturdays, Sundays and City holidays.

**You/Your** - Refers to the CONTRACTOR

## **1-2 PRELIMINARY MATTERS**

### **1-2.01 DELIVERY OF BONDS AND INSURANCE CERTIFICATES**

When the CONTRACTOR delivers the signed Agreement to the City, the CONTRACTOR shall also deliver to the City such Bonds and insurance policies and certificates as the CONTRACTOR may be required to furnish in accordance with the Contract Documents.

### **1-2.02 COPIES OF DOCUMENTS**

The City may furnish to the CONTRACTOR additional copies of the Contract Documents if requested for a fee based on cost of production.

### **1-2.03 COMMENCEMENT OF CONTRACT TIMES; NOTICE TO PROCEED**

The Contract Times will start to run on the commencement date stated in the Notice to Proceed.

### **1-2.04 STARTING THE WORK**

A. The CONTRACTOR shall begin to perform the WORK on the commencement date stated in the Notice to Proceed, but no work shall be done at the Site prior to said commencement date.

B. Before undertaking each part of the WORK, the CONTRACTOR shall review the Contract Documents in accordance with Section 1-3.03.

### **1-2.05 PRECONSTRUCTION CONFERENCE**

A. The CONTRACTOR is required to attend a preconstruction conference. This conference will be attended by the City, ENGINEER, and others as appropriate in order to discuss the WORK.

B. The CONTRACTOR's initial schedule submittals for shop drawings, obtaining permits, and Plan of Operation and CPM Schedule will be reviewed and finalized. At a minimum, the CONTRACTOR's representatives shall include its project manager, project superintendent and schedule expert. If the submittals are not finalized at the end of the meeting, additional meetings will be held so that the submittals can be finalized prior to the submittal of the first Application for Payment. No Application for Payment will be processed prior to receiving acceptable initial submittals from the CONTRACTOR.

## **1-3 INTENT AND USE OF CONTRACT DOCUMENTS**

### **1-3.01 INTENT**

A. The Contract Documents comprise the entire agreement between the City and the CONTRACTOR concerning the WORK. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the State of California.

B. It is the intent of the Contract Documents to describe the WORK, functionally complete, to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not called for specifically.

C. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe work, materials, or equipment such words or phrases shall be interpreted in accordance with that meaning unless a definition has been provided in Section 1-1 of the General Conditions.

### **1-3.02 REFERENCE TO STANDARDS**

Reference to standard 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 specifications, standard plans; manual, code, or Laws or Regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code shall be effective to change the duties and responsibilities of the City or the CONTRACTOR or any of their consultants, agents or employees, from those set forth in the CONTRACT Documents, nor shall it be effective to assign to City any duty or authority to direct the performance of the WORK or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

### **1-3.03 REVIEW OF CONTRACT DOCUMENTS**

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 to ENGINEER in writing at once, and CONTRACTOR shall not proceed with the work affected thereby (except in an emergency as authorized by Section 1-6.13 until a Clarification, Field Order, or Change Order to the Contract Documents has been issued.

### **1-3.04 ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS**

A. Unless otherwise noted herein, conflicts or inconsistencies between parts of the Contract will be resolved by the ENGINEER with a Change Order or an Addendum, if required. Addenda and Change Orders bearing the most recent date shall prevail over Addenda or Change Orders bearing earlier dates. Any reference to addenda-changed specifications or drawings shall be considered to have been changed accordingly. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the order of precedence shall be as follows:

- a. Change Orders/Addenda (most recent in time take precedence)
  - b. Agreement and Bond Forms
  - c. Special Provisions
  - d. Project Plans
  - e. Technical Specifications
  - f. General Conditions
  - g. Caltrans Standard Specifications 2018
  - h. Caltrans Standard Plans 2018
  - i. Federal clauses as referred or attached
  - j. Instructions to Bidders
  - k. Contractor's Bid (Bid Form)
  - l. Notice Inviting Bids
  - m. Permits from other agencies as may be required by law
- B. With reference to the Drawings the order of precedence is as follows:
- a. Figures govern over scaled dimensions
  - b. Detail drawings govern over general drawings
  - c. Addenda/Change Order drawings govern over any other drawings
  - d. Drawings govern over standard drawings

### **1-3.05 AMENDING CONTRACT DOCUMENTS**

The Contract Documents may be amended to provide for additions, deletions, and revisions in the WORK or to modify the terms and conditions thereof by a Change Order (pursuant to Section 1-10).

### **1-3.06 REUSE OF DOCUMENTS**

Neither the CONTRACTOR, nor any Subcontractor or Supplier, nor any other person or organization performing any of the WORK under a contract with the City shall have or acquire any title to or ownership rights in any of the Drawings, Technical Specifications, or other documents used on the

WORK, and they shall no reuse any of them on the extensions of the Project or any other project without written consent of City.

## **1-4 SITE OF THE WORK**

### **1-4.01 AVAILABILITY OF LANDS**

The City will furnish, as indicated in the Contract Documents, the lands upon which the WORK is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the City, unless otherwise provided in the Contract Documents. Nothing contained in the Contract Documents shall be interpreted as giving the CONTRACTOR exclusive occupancy of the lands or rights-of-way provided. The CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment; provided, that the CONTRACTOR shall not enter upon nor use any property not under the control of the City until a written temporary construction easement agreement has been executed by the CONTRACTOR and the property owner, and a copy of said easement furnished to the ENGINEER prior to said use; and the City will not be liable for any claims or damages resulting from the CONTRACTOR's trespass on or use of any such properties. The CONTRACTOR shall provide the City with a signed release from the property owner confirming that the lands have been satisfactorily restored upon completion of the WORK.

### **1-4.02 REPORTS OF PHYSICAL CONDITIONS**

A. **Subsurface Explorations:** Reference is made to any Contract Documents for identification of those reports of explorations and tests of subsurface conditions at the Site that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. **Existing Structures:** Reference is made to any Contract Documents for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except underground Utilities referred to in Section 1-4.03 herein) which are at or contiguous to the Site that have been utilized in the preparation of the Contract Documents.

C. The City makes no representation as to the completeness of the reports or drawings referred to in Section 1-4.02 A or B above or the accuracy of any data or information contained therein. The CONTRACTOR may rely upon the accuracy of the technical data contained in such reports and drawings. However, the CONTRACTOR may not rely upon any interpretation of such technical data, including any interpolation or extrapolation thereof, or any non-technical data, interpretations, and opinions contained therein.

### **1-4.03 PHYSICAL CONDITIONS - UNDERGROUND UTILITIES**

A. **Indicated:** The information and data indicated in the Contract Documents with respect to existing underground Utilities at or contiguous to the Site are based on information and data furnished to the City or the ENGINEER by the owners of such underground Utilities or by others. Unless it is expressly provided in any Contract documents the City will not be responsible for the accuracy or completeness of any such information or data, and the CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all underground Utilities indicated in the Contract Documents, for coordination of the WORK with the owners of such underground Utilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the WORK, the cost of all of which are deemed to have been included in the Contract Price.

B. **Not Indicated:** If an underground Utility is uncovered or revealed at or contiguous to the Site which was not indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall identify the owner of such underground Utility and give written notice thereof to that owner and shall notify the ENGINEER.

### **1-4.04 DIFFERING SITE CONDITIONS**

A. The CONTRACTOR shall notify the ENGINEER, in writing, of the following unforeseen conditions, hereinafter called differing Site conditions, promptly upon their discovery (but in no event later than 14 days after their discovery) and before they are disturbed:

a. Subsurface or latent physical conditions at the Site of the WORK differing materially from those indicated, described, or delineated in the Contract Documents, including those reports discussed in Sections 1-4.02, 4.03, and 4.05.

B. The ENGINEER will review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto.

C. If the ENGINEER concludes that because of newly discovered conditions a change in the Contract Documents is required, a Change Order will be issued as provided in Section 1-10 to reflect and document the consequences of the difference.

D. In each such case, an increase or decrease in the Contract Price or an extension or shortening the Contract Times, or any combination thereof, will be allowable to the extent that they are attributable to any such difference. If the ENGINEER and the CONTRACTOR are unable to agree as to the amount or length thereof, a claim may be made therefor as provided in Sections 1-11 and 1-12.

E. The CONTRACTOR's failure to give notice of differing Site conditions within 14 days of their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith, whether direct or consequential in nature.

#### **1-4.05 HAZARDOUS MATERIALS**

A. City shall be responsible for any Asbestos, Hazardous Waste, Petroleum, or Radioactive Material uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the WORK and which may present a substantial danger to persons or property exposed thereto in connection with the WORK at the Site. City will not be responsible for any such material brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

a. Upon discovery of any Asbestos, Hazardous Waste, Petroleum, or Radioactive Material, the CONTRACTOR shall immediately stop all work in any area affected thereby (except in an emergency as required by Section 1-6.13) and notify ENGINEER (and therefore confirm such notice in writing). CONTRACTOR shall not be required to resume any work in any such affected area until after City has obtained any required permits related thereto and delivered to CONTRACTOR special written notice. Such written notice will specify that such condition and any affected area is or has been rendered safe for the resumption of the work or specify any special conditions under which the work may be resumed safely. If ENGINEER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of adjustment, if any, in Contract Price or Contract Times as a result of such work stoppage or such special conditions under which work is agreed by CONTRACTOR to be resumed, either party may make a claim therefor as provided in Sections 1-11 and 1-12.

b. If, after receipt of such special written notice, CONTRACTOR does not agree to resume such WORK based on a reasonable belief it is unsafe, or does not agree to resume such WORK under special conditions, ENGINEER may order such portion of the WORK that is in connection with such hazardous condition or in such affected area to be deleted from the WORK. If ENGINEER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of the WORK then either party may make a claim therefor as provided in Sections 1-11 and 1-12. City may have such deleted portion of the WORK performed by City's own forces or others in accordance with Section 1-7.

B. The provisions of Sections 1-4.02, 1-4.03, and 1-4.04 are not intended to apply to Asbestos, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the Site.

#### **1-4.06 REFERENCE POINTS**

A. The ENGINEER will provide the location and elevation of one bench mark, near or on the Site of the WORK, for use by the CONTRACTOR for alignment and elevation control. Unless otherwise specified, the CONTRACTOR shall furnish all other lines, grades, and bench marks required for proper execution of the WORK.

B. The CONTRACTOR shall preserve or replace any and all bench marks, section corners, witness corners, stakes, and other survey marks, and in case of their removal or destruction by any party, the CONTRACTOR shall be responsible for the accurate replacement of such reference points by surveyor licensed under the applicable state codes governing land surveyors.

## **1-5 BONDS AND INSURANCE**

### **1-5.01 BONDS**

- A. The CONTRACTOR shall furnish Performance and Labor and Materials Bonds, each in the amount of one hundred percent (100%) of the contract price, as security for the faithful performance and payment of all the CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date of completion, except as otherwise provided by Law or Regulation or by the Contract Documents. The CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.
- B. The CONTRACTOR shall guarantee the WORK to be free of defects in material and workmanship for a period of one (1) year following the City's acceptance of the WORK. The CONTRACTOR shall agree to make, at the CONTRACTOR's own expense, any repairs or replacements made necessary by defects in material or workmanship which become evident within the one-year guarantee period. The CONTRACTOR's guarantee against defects required by this provision shall be secured by a Maintenance Bond, in the amount of ten percent (10%) of the contract price, which shall be delivered by the CONTRACTOR to the City prior to acceptance of the WORK. The Maintenance Bond shall remain in force for one (1) year from the date of acceptance of the contracted WORK. The CONTRACTOR shall make all repairs and replacements within the time required during the guarantee period upon receipt of written order from the ENGINEER. If the CONTRACTOR fails to make the repairs and replacements within the required time, the City may do the work and the CONTRACTOR and the CONTRACTOR's surety for the Maintenance Bond shall be liable to the City for the cost. The expiration of the Maintenance Bond during the one-year guarantee period does not operate to waive or void the one-year guarantee, as set forth herein and in Section 6.16 of these General Conditions.
- C. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.
- D. If the surety on any Bond furnished by the CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the WORK is located, the CONTRACTOR shall within 7 days thereafter substitute another Bond and surety, which must be acceptable to the City.
- E. All Bonds required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety companies that are duly licensed or authorized in the State of California to issue Bonds for the limits so required.

### **1-5.02 INSURANCE**

#### **1-5.02A General**

CONTRACTOR and any subcontractor shall not commence work under this Agreement until CONTRACTOR shall have obtained all insurance required under this paragraph and such insurance shall have been approved by the City Attorney as to form and carrier and the City Executive Director as to sufficiency, nor shall CONTRACTOR allow any contractor or subcontractor to commence work on this contract or subcontract until all similar insurance required of the contractor and/or subcontractor shall have been so obtained and approved. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

CONTRACTOR shall procure and maintain for the duration of the contract all necessary insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, the Contractor's agents, representatives, employees or subcontractors.

**1-5.02B Minimum Scope of Insurance**

- A. Coverage shall be at least as broad as:
- B. Insurance Services Office Commercial General Liability coverage.
- C. Insurance Services Office form number CA covering Automobile Liability, code 1 (any auto).
- D. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- E. [Optional] Such other insurance coverages and limits as may be required by the City as follows:  
\_\_\_\_\_.

**1-5.02C Minimum Limits of Insurance**

- A. CONTRACTOR shall maintain limits no less than:
- B. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- C. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- D. Employer's Liability: Bodily Injury by Accident - \$1,000,000 each accident
  - a. Bodily Injury by Disease - \$1,000,000 policy limit
  - b. Bodily Injury by Disease - \$1,000,000 each employee

**1-5.02D Deductibles and Self-Insured Retentions**

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

**1-5.02E Other Insurance Provisions**

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

- A. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
- B. For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self- insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
- D. The CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.



- E. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

#### **1-5.02F Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

#### **1-5.02G Verification of Coverage**

CONTRACTOR shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the CONTRACTOR's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

### **1-6 CONTRACTOR'S RESPONSIBILITIES**

#### **1-6.01 COMMUNICATIONS**

Written communications with the City shall be only through or as directed by the ENGINEER.

#### **1-6.02 SUPERVISION AND SUPERINTENDENCE**

- A. The CONTRACTOR shall supervise, inspect, and direct the WORK competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the WORK in accordance with the Contract Documents. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction and all safety precautions and programs incidental thereto. The CONTRACTOR shall be responsible to see that the completed WORK complies accurately with the Contract Documents.
- B. The CONTRACTOR shall designate in writing and keep on the Site at all times during the performance of the WORK a technically qualified, English-speaking superintendent, who is an employee of the CONTRACTOR and who shall not be replaced without written notice to the ENGINEER. The superintendent will be the CONTRACTOR's representative at the Site and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be as binding as if given to the CONTRACTOR.
- C. The CONTRACTOR's superintendent shall be present at the Site at all times while work is in progress and shall be available by phone for emergencies 24 hours per day, 7 days per week. Failure to observe this requirement shall be considered suspension of the WORK by the CONTRACTOR until such time as such superintendent is again present at the Site.

#### **1-6.03 LABOR, MATERIALS, AND EQUIPMENT**

- A. The CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the WORK and perform construction as required by the Contract Documents. The CONTRACTOR shall furnish, erect, maintain, and remove the construction plant and any required temporary works. The CONTRACTOR shall at all times maintain good discipline and order at the Site. Except in connection with the safety or protection of persons or the WORK or property at the Site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all work at the Site shall be performed during regular working hours, and the CONTRACTOR will not permit overtime work or the performance of work on Saturday, Sunday, or any federally observed holiday without the City's written consent. The CONTRACTOR shall apply for this consent through the ENGINEER in writing a minimum of 24 hours in advance.
- B. Except as otherwise provided in this Section, the CONTRACTOR shall receive no additional compensation for overtime work, i.e., work in excess of 8 hours in any one calendar day or hours

in any one calendar week, even though such overtime work may be required under emergency conditions and may be ordered by the ENGINEER in writing. Additional compensation will be paid to the CONTRACTOR for overtime work only in the event extra work is ordered by the ENGINEER and the Change Order specifically authorizes the use of overtime work and then only to such extent as overtime wages are regularly being paid by the CONTRACTOR for overtime work of a similar nature in the same locality.

- C. All increased costs of inspection and testing performed during overtime work by the CONTRACTOR which is allowed solely for the convenience of the CONTRACTOR shall be borne by the CONTRACTOR. The City has the authority to deduct the cost of all such inspection and testing from any partial payments otherwise due to the CONTRACTOR.
- D. Unless otherwise specified in the Contract Documents, the CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, lubricants, power, light, heat, telephone, water, sanitary facilities, and all other facilities, consumables, and incidentals necessary for the furnishing, performance, testing, start-up, and completion of the WORK.
- E. All materials and equipment incorporated into the WORK shall be of specified quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of the City. If required by the ENGINEER, the CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provisions of any such instructions will be effective to assign to the City or any of its consultants, agents, 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 contrary to the provisions of Paragraph 1-9.09 C.
- F. The work, unless otherwise permitted or approved by the ENGINEER, shall be completed with the incorporated use of equipment, materials, and/or products where such are specified. Substitutions and equal alternatives will be permitted as provided in this section; however, neither the request for substitution nor the offer of alternatives shall in any way by their submittal obligate the City to assent to any request or offer. Failure of the CONTRACTOR awarded the work to either submit requests for substitutions or to offer alternatives within the required times provided in this General Condition will be considered as evidence that the work shall be accomplished with trade-named equipment, materials, and/or products as identified in the Specifications and/or the Drawings.
- G. Unless otherwise provided elsewhere in the Contract, all equipment, materials, and/or products incorporated into the work shall be new and, where not specified, shall be of the highest quality of the respective kinds for the intended use, and all workmanship shall meet or exceed applicable construction industry standards and practices. If equipment, materials, and/or products are designated by listing named manufacturers of particular equipment, materials, and/or products followed by the words "or equal," then the CONTRACTOR may furnish the named equipment, materials, and/or products or any equal equipment, materials, and/or products. The first-named manufacturer of particular equipment, materials, and/or products is the basis for the design shown on the Project Drawings. A subsequently named manufacturer or particular equipment, materials, and/or products has been determined to be an acceptable substitution but may require modifications in the Project's design and its ultimate construction to accommodate its use. If such subsequently named items are selected by the CONTRACTOR for incorporation into the work, the CONTRACTOR shall assume all costs required for modifications to the equipment, materials, and/or products, and Project design and construction as may be required for said items' use. Substitutions for an unnamed "equal" item of material shall be permitted upon compliance of the procedures set forth in Paragraph I of this section. If a CONTRACTOR makes use of an unnamed "equal" product as a substitute for a specifically named material or product, the CONTRACTOR shall assume all costs required to make the necessary revisions or modifications to accommodate the use of said unnamed product.

- H. Before beginning the work and within thirty-five (35) calendar days after award of the Contract, the CONTRACTOR shall submit a List of Materials to the ENGINEER for review. The List shall include all items of equipment, materials, and/or products to be incorporated into the work and the names of suppliers with whom purchase orders have been placed. The names on the List shall be arranged in the same order as in the specifications, and shall contain sufficient data to identify precisely the items of equipment, materials, and/or products the CONTRACTOR proposes to furnish. The List shall include Specifications or Drawing references. Once the submission is determined to be acceptable to the ENGINEER, it shall be returned to the CONTRACTOR.
- I. Substitution for those equipment, materials, and/or products specified shall only be permitted when the proposed unnamed "equal" product or material to be furnished is both equal in quality and utility and after the CONTRACTOR has complied with the following provisions: (1) All substitutions shall be reviewed by the ENGINEER. (2) The ENGINEER must approve such substitution in writing prior to its incorporation into the work. (3) Unless otherwise authorized in writing by the City, the CONTRACTOR shall, within thirty-five (35) calendar days of award and prior to placing any purchase orders, but at least thirty (30) calendar days before it requires approval of any such alternative item, submit to the City sufficient data, drawings, samples, literature, or other detailed information as will demonstrate to the ENGINEER that the proposed substitute is equal in quality and utility to the equipment, materials and/or products specified.
- a. Within thirty (30) calendar days following receipt of all requested information from the CONTRACTOR, the ENGINEER will determine whether the proposed alternative is equal in quality and utility and meets the requirements of the Contract and will inform the CONTRACTOR in writing of such determination. The burden of substantiating the quality and utility of alternatives shall be upon the CONTRACTOR, and the CONTRACTOR shall furnish all necessary information requested and required by the ENGINEER. The ENGINEER will be the sole judge as to the quality and utility of alternative equipment, materials, and/or products, and the ENGINEER's decision shall be final. An acceptance by the ENGINEER of a substitution shall not relieve the CONTRACTOR from complying with the requirements of the Drawings and Specifications. Acceptance by the ENGINEER shall not relieve the CONTRACTOR from full responsibility for the efficiency, sufficiency, and quality and performance of the substitute equipment, materials, and/or products, in the same manner and degree as the equipment, materials, and/or products specified by name.
  - b. Failure of the CONTRACTOR to submit proposed substitutions for review in the manner described above and within the time prescribed shall be sufficient cause for rejection by the City of any other proposed substitutions.
  - c. In determining whether a proposed product is equal in quality and utility, the ENGINEER is not restricted to such basic issues as performance and durability, but may consider any other issues that the ENGINEER, in the discretion of the ENGINEER, deems appropriate. Said issues may, but are not required to include, nor are they limited to, such additional factors as comparable performance, reliability, efficiency of operation, ease of operation, adaptability, ease of maintenance, capital costs, life-cycle costs, operational characteristics, costs of training personnel, maintenance history, warranties, problems created by the resulting overall warranty system, availability of qualified service, availability of parts, the history of any supplier and compatibility with existing facilities.
  - d. No one factor or group of factors, including such issues as savings on capital costs, shall be determinative of whether the proposed product or material is equal in quality and utility. The decision of the ENGINEER shall be based on those factors deemed by the ENGINEER to be relevant and any data, drawings, samples, literature, or other detailed information furnished by the CONTRACTOR with respect to the proposed substitution. Each decision as to whether a product or material is equal in quality and utility shall be made by the ENGINEER on a case-by-case basis.
  - e. The CONTRACTOR shall be responsible for any and all costs, including consultant costs, incurred by the City with respect to the proposed substitution that exceed the costs inherent in the normal and reasonable review of drawings and other standard data, information, and

documents concerning any proposed substitution. The CONTRACTOR shall be responsible for this cost, regardless of whether or not the substitution is approved by the ENGINEER.

- J. Unless otherwise provided in the Contract, the title and interest in the right to the use of all water, and the title to all soil, stone, gravel, sand, minerals, timber, and all other materials developed or obtained within the Project limits from operations by the CONTRACTOR or any of its subcontractors, of any of their representatives or employees, and the right to use or dispose of the same are hereby expressly reserved in the City; and neither the CONTRACTOR nor any of its subcontractors, nor any of their representatives or employees, shall have any right, title, or interest in or to any part thereof.
- K. All material used under the Contract after it has been attached or affixed to the work or soil and after partial payment has been made therefore shall become the property of the City.
- L. In the event that any Indian relics or items possessing archaeological or historical value are discovered by the CONTRACTOR or any of its subcontractors or any of their representatives or employees, the CONTRACTOR shall immediately notify the ENGINEER and await the ENGINEER's decision before proceeding with any work. The CONTRACTOR shall have no property right in such relics and items.
- M. The CONTRACTOR shall be satisfied as to the quantity of acceptable materials or products which may be produced or obtained at local sources, and the City will not assume any responsibility as to the quantities or quality of acceptable materials or products available.
- N. The CONTRACTOR, with the permission of the ENGINEER, may use in the proposed construction such stone, gravel, sand, or other material suitable in the opinion of the ENGINEER as may be found in excavation.
- O. Existing equipment, materials, and/or products to be salvaged shall remain the property of the City. Salvage to be reinstalled in the work shall be refurbished as required before reinstallation. Other work to be salvaged shall be carefully removed and handled in such a manner as to avoid damage and shall be delivered to storage at a location designated by the ENGINEER.

#### **1-6.04 SCHEDULE**

The CONTRACTOR shall comply with the schedule requirements in the Special Provisions or as otherwise provided in the Contract Documents.

#### **1-6.05 SUBSTITUTES OR "OR EQUAL" ITEMS**

The CONTRACTOR shall submit proposed substitutes or "or equal" items in accordance with the Bidding Requirements. No request for substitution of an "or equal" item will be considered by the ENGINEER after award of the Contract, except as provided in Paragraph 1-6.03.I herein.

#### **1-6.06 CONCERNING SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

The CONTRACTOR shall be responsible to the City for the acts and omissions of its Subcontractors, Suppliers, and their employees to the same extent as CONTRACTOR is responsible for the acts and omissions of its own employees. Nothing contained in this Section shall create any contractual relationship between any Subcontractor and the City nor relieve the CONTRACTOR of any liability or obligation under the Contract Documents. The CONTRACTOR shall include these General Conditions and the Special Provisions as part of all its subcontract and supply agreements.

#### **1-6.07 PERMITS**

Unless otherwise provided in these General Conditions, the CONTRACTOR shall obtain and pay for all constructions permits and licenses from the agencies having jurisdiction, including the furnishing of insurance and bonds if required by such agencies. The enforcement of such requirements shall not be made the basis for claims for additional compensation by CONTRACTOR. When necessary, the City will

assist the CONTRACTOR, in obtaining such permits and licenses. The CONTRACTOR shall pay all charges of utility owners for inspection or connections to the WORK.

#### **1-6.08 PATENT FEES AND ROYALTIES**

The CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the WORK or the incorporation in the WORK of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the WORK and if to the actual knowledge of the ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed by the ENGINEER in the Contract Documents. The CONTRACTOR's indemnification obligation under this Section 1-6.08 A. for all claims and liabilities arising out of any infringement of patent rights or copyrights incident to the use in the performance of the WORK or resulting from the incorporation in the WORK of any invention, design, process, product or device not specified in the Contract Documents shall be in accordance with Section 1-6.17 of these General Conditions.

#### **1-6.09 LAWS AND REGULATIONS**

The CONTRACTOR shall observe and comply with all Laws and Regulations which in any manner affect those engaged or employed on the WORK, the materials used in the WORK, or the conduct of the WORK including, but not limited to, all applicable safety Laws and Regulations. If any discrepancy or inconsistency should be discovered between the Contract Documents and any such Laws or Regulations, the CONTRACTOR shall report the same in writing to the ENGINEER. Any particular Law or Regulation specified or referred to elsewhere in the Contract Documents shall not in any way limit the obligation of the CONTRACTOR to comply with all other provisions of federal, state, and local laws and regulations. The CONTRACTOR's indemnification obligations for all claims or liability arising from violation of any such law, ordinance, code, order, or regulation, whether by CONTRACTOR or by its employees, Subcontractors or Suppliers shall be in accordance with Section 1-6.16 of these General Conditions.

#### **1-6.10 TAXES**

The CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by the CONTRACTOR in accordance with the laws and regulations of the place of the Project which are applicable during the performance of the WORK.

#### **1-6.11 USE OF PREMISES**

The CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site, the land and areas identified in and permitted by the Contract Documents, and the other land and areas permitted by Laws and Regulations, rights-of-way, permits, and easements. The CONTRACTOR shall assume full liability and responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the WORK. Should any claim be made against the City by any such owner or occupant because of the performance of the WORK, the CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim through litigation at the CONTRACTOR's sole liability expense. The CONTRACTOR's indemnification obligations for all claims and liability, arising directly, indirectly, or consequentially out of any action, legal or equitable, brought by any such owner or occupant against the City, its consultants, sub consultants, and the officers, directors, employees and agents of each and any of them to the extent caused by or based upon the CONTRACTOR's performance of the WORK shall be in accordance with Section 1-6.17 of these General Conditions.

#### **1-6.12 SAFETY AND PROTECTION**

- A. The CONTRACTOR shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the WORK. The CONTRACTOR shall be responsible for the direction and control of the work assigned and for assuring that all workers on the project understand the hazards of the work involved and the safe work procedures required for each job. The CONTRACTOR shall assure that its subcontractors of all tiers shall, without expense to the City, comply with this safety responsibility. No work shall proceed until each worker and

subcontractor understands the scope of the work and all safety rules and work procedures to be followed. The CONTRACTOR shall not allow a new employee or new subcontractor to begin work on City projects without a full and proper safety orientation. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage to prevent damage, injury or loss to:

- a. All persons at the Site and other persons and organizations who may be affected thereby;
  - b. All the WORK and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - c. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of the performance of the WORK.
- B. The CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property or to the protection of persons or property from damage, injury, or loss and shall erect and maintain all necessary safeguards for such safety and protection. The CONTRACTOR shall notify owners of adjacent property and utilities when prosecution of the WORK may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. CONTRACTOR'S duties and responsibilities for safety and for protection of the WORK shall continue until such time as all the WORK is completed and ENGINEER has issued a notice to the CONTRACTOR in accordance with Paragraph 1-14.07 B. that the WORK is acceptable.
- C. The CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- D. Materials that contain hazardous substances or mixtures may be required on the WORK. A Material Safety Data Sheet shall be made available at the Site by the CONTRACTOR for every hazardous product used.
- E. Material usage shall strictly conform to OSHA safety requirements and all manufacturer's warnings and application instructions listed on the Material Safety Data Sheet and on the product container label.
- F. The CONTRACTOR shall be responsible for the exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- G. The CONTRACTOR shall notify the ENGINEER if it considers a specified product or its intended use to be unsafe. This notification must be given to the ENGINEER prior to the product being ordered, or if provided by some other party, prior to the product being incorporated in the WORK.
- H. Before starting work, the CONTRACTOR shall submit a written safety program to the City. The objective of the safety program shall be accident prevention. Such program shall include, but not be limited to, the following:
- a. An organization chart and accompanying narrative which describes the responsibility for employee and public safety of those individuals who control each phase of operations and set forth in writing the policies and procedures to be followed by all personnel. The chart shall also show the CONTRACTOR's internal lines of communication (including subcontractors) for the program.
  - b. A specific program for communication between the CONTRACTOR and City on safety matters. The CONTRACTOR shall also designate one person with whom official contact can be made by the City on safety matters.
  - c. Evidence that the CONTRACTOR has become thoroughly familiar with the potential hazards of the work and applicable federal and state regulations.
  - d. Specific safety procedures and guidelines for conduct of the Work.

- e. The City's review, comment upon, and/or acceptance of the CONTRACTOR's safety program and/or plan does not in any way negate the responsibilities of the CONTRACTOR for safety or place any responsibility upon the City for such safety. Such review comment and/or acceptance shall not be construed as limiting in any manner the CONTRACTOR's obligation to undertake any action which may be necessary or required to establish and maintain safe working conditions at the site.
- f. Contractor will follow City of Pinole, State of California and Center of Disease Control (CDC) specific COVID-19 safety procedures and guidelines for the entire duration of the CONTRACT.

### **1-6.13 EMERGENCIES**

In emergencies affecting the safety or protection of persons or the WORK or property at the Site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER, is obligated to immediately act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the WORK or variations from the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Change Order will be issued to document the consequences of such action.

### **1-6.14 SUBMITTALS**

- A. After checking and verifying all field measurements and after complying with applicable procedures specified in the Special Provisions, the CONTRACTOR shall submit to the ENGINEER for review all Shop Drawings and details of all structural and reinforcing steel, equipment, electrical controls, structural fabrications, pipe, pipe joints, special pipe sections, and other appurtenances in accordance with the accepted schedule of Shop Drawing submittals specified in the Special Provisions or as otherwise provided in the Contract Documents.
- B. The ENGINEER'S review will be only to determine if the items covered by the submittals will, after installation or incorporation in the WORK, generally conform to the Contract Documents and with the design concept of the completed Project. The ENGINEER's favorable review shall be obtained before any such items are manufactured or used in the work. The favorable review of Drawings by the ENGINEER shall apply in general design only and shall in no way relieve the CONTRACTOR from responsibility for errors or omissions contained therein. Favorable review by the ENGINEER shall not relieve the CONTRACTOR of its obligation to meet safety requirements and all other requirements of law. The ENGINEER will start reviewing the CONTRACTOR's submittals only after the Notice to Proceed is issued by the City with the exception of some unusual long lead items which may require submittals prior to issuing the Notice to Proceed.
- C. The CONTRACTOR shall also submit to the ENGINEER for review all Samples in accordance with the accepted schedule of Sample submittals specified in the Special Provisions or as otherwise provided in the Contract Documents.
- D. Before submittal of each Shop Drawing or Sample, the CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the WORK and the Contract Documents. The CONTRACTOR shall provide submittals in accordance with the requirements of the Special Provisions or as otherwise provided in the Contract Documents.
- E. Shop-drawing submittal and coordination are the responsibility of the prime contractor; this responsibility shall not be delegated in whole or in part to subcontractors or suppliers. Any designation of work "by others," shown on Shop Drawings, shall mean that the work will be the responsibility of the CONTRACTOR rather than the subcontractor or supplier who has prepared the Shop Drawings.

- F. Submittals shall be prepared in such form that data can be identified with the applicable Specification paragraph. The data shall demonstrate clearly compliance with the Drawings and Specifications and shall relate to the specific equipment to be furnished. Where manufacturer's standard drawings are employed, they shall be marked clearly to show what portions of the data are applicable to this Project.
- G. Review of shop-drawing submittals by the ENGINEER has as its primary objective the completion for the City of a Project in full conformance with the Drawings and Specifications, unmarred by field corrections, and within the time provided. In addition to this primary objective, shop-drawing review as a secondary objective will assist the CONTRACTOR in its procurement of equipment that will meet all requirements of the Drawings and Specifications, will fit the structures detailed on the Drawings, will be complete with respect to piping, electrical, and control connections, will have the proper functional characteristics, and will become an integral part of a complete operating facility. Acceptance of Shop Drawings and submittals does not constitute a change order to the Contract requirements.
- H. Where the CONTRACTOR is required by these Specifications to make submittals, they shall be submitted to the ENGINEER with a letter of transmittal via electronic copies (pdf or other suitable format) to all parties needing to review. All required physical samples shall be delivered separately to the ENGINEER and will be retained by the ENGINEER. Unless specifically requested for a hardcopy by the ENGINEER, all submittals shall be submitted electronically.
- I. Within fifteen (15) calendar days of receipt by the ENGINEER of each of the CONTRACTOR's submissions and all appurtenant data required for their review, the appropriate number of copies will be returned to the CONTRACTOR with one of the following notations:
  - a. Reviewed, No exceptions taken
  - b. Reviewed as noted
  - c. Revise and Resubmit or
  - d. Rejected.
- J. When submittals are favorably reviewed, the ENGINEER will retain three (3) copies and will return all other copies to the CONTRACTOR. When submittals are not favorably reviewed, the ENGINEER will retain only two (2) copies and will return all others to the CONTRACTOR. It is considered reasonable that the CONTRACTOR shall make a complete and acceptable submission to the ENGINEER at least by the second submission of data. The City reserves the right to deduct monies from payments due the CONTRACTOR to cover additional costs of the ENGINEER's review beyond the second submission.
- K. Favorable review by the ENGINEER will not constitute acceptance by the ENGINEER of any responsibility for the accuracy, coordination, and completeness of the Shop Drawings or the items of equipment represented on the Drawings. Accuracy, coordination, and completeness of Shop Drawings shall be the sole responsibility of the CONTRACTOR, including responsibility to back check comments, corrections, and modifications from the ENGINEER's review before fabrication. Supplemental, specific requirements for Shop Drawings and details are contained in the applicable technical sections of these Specifications.
- L. Copies of schedules and Shop Drawings submitted to the ENGINEER for review shall be such as to provide three (3) copies for the ENGINEER's files, and such additional copies as the CONTRACTOR may desire for its own office files and/or for distribution by it to subcontractors or vendors. Exceptions will be noted in specific sections of Specifications. All Shop Drawings and supporting data, catalogs, and schedules shall be submitted as the instruments of the CONTRACTOR, who shall be responsible for their accuracy and completeness. These submittals may be prepared by the CONTRACTOR, subcontractors, or suppliers, but the CONTRACTOR shall ascertain that submittals meet all of the requirements of the Contract, while conforming to structural, space, and access conditions at the point of installation. The CONTRACTOR shall check all submittals before submitting them to the ENGINEER.



- M. CONTRACTOR may propose an electronic/online submittal system which the ENGINEER is familiar with. If the ENGINEER is agreeable to the electronic submittal system a process shall be agreed upon. The number days required for review by Engineer shall not change.
- N. The ENGINEER shall check and review schedules, drawings, etc., submitted by the CONTRACTOR only for general design conformance with the concept of the Project and compliance with the Contract. Shop Drawings shall not be used to order products' fabrication or delivery for construction or installation unless submitted to and favorably reviewed by the ENGINEER. Acceptance by the ENGINEER of any drawings, method of work, or any information regarding materials and equipment the CONTRACTOR proposes to furnish shall not relieve the CONTRACTOR of its responsibility for any errors therein and shall not be regarded as an assumption of risks or liability by the Design ENGINEER or the City, or any officer or employee thereof, and the CONTRACTOR shall have no recourse against the City under the Contract on account of the failure or partial failure or inefficiency or insufficiency of any plan or method of work or material and equipment so accepted. Such acceptance shall be considered to mean merely that the ENGINEER has no objection to the CONTRACTOR using, upon its own full responsibility, the plan or method of work proposed or furnishing the materials and equipment proposed.

### **1-6.15 CONTINUING THE WORK**

The CONTRACTOR shall carry on the WORK and adhere to the progress schedule during all disputes or disagreements with the City. No WORK shall be delayed or postponed pending resolution of any disputes or disagreements, except as the CONTRACTOR and the City may otherwise agree in writing.

### **1-6.16 CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE**

- A. CONTRACTOR warrants and guarantees that all WORK will be in accordance with the Contract Documents and will not be defective. The CONTRACTOR represents that the WORK performed pursuant to the Contract shall be of the quality specified or of the highest quality if no quality is specified and shall conform to the Contract Documents. The CONTRACTOR warrants all equipment, material, products, and workmanship furnished and all work performed under the Contract against defects for a period of one (1) year after final acceptance regardless of whether the same were furnished or performed by the CONTRACTOR or by any of its subcontractors or suppliers of any tier.
- B. The CONTRACTOR shall make, at its own expense, all repairs and/or replacements necessitated by defects in the equipment, materials, and/or products and in the workmanship provided by the CONTRACTOR or any of its subcontractors that become evident within the warranty period.
- C. Upon receipt of written notice from the City of any breach of warranty during the applicable warranty period, the affected item shall be redesigned, repaired, or replaced by the CONTRACTOR and the CONTRACTOR shall perform such tests as the City may require to verify that such redesign, repair, and replacement comply with the requirements of the Contract. The City shall have the right to operate and use such equipment, materials, and/or products until they can, without damage to the City, be taken out of service for correction or replacement by the CONTRACTOR. As to the redesigned, repaired, or replaced work, the CONTRACTOR warrants such redesigned, repaired, or replaced work against defective design, equipment, materials, products, and workmanship for a period of one (1) year from and after the date of satisfactory completion of such redesigned, repaired, or replaced work. The City reserves the right to require that the CONTRACTOR performs such repair or replacement work.
- D. The City also reserves the right to make such repairs or replacements, if, within seven (7) calendar days after the mailing of a notice in writing to the CONTRACTOR and Surety, the CONTRACTOR shall neglect to make or undertake with due diligence the aforesaid repairs or replacements and that Surety within seven (7) calendar days after mailing of a notice in writing of such negligence of the CONTRACTOR shall neglect to make or undertake with due diligence the aforesaid repairs or replacements itself, provided, however, that in the case of an emergency where in the opinion of the City delay would cause hazard to health or serious loss or damage, repair may be made without notice being sent to the CONTRACTOR or Surety, and the CONTRACTOR shall pay the cost thereof.

- E. All costs including workforce and materials incidental to such redesign, repair, replacement, and testing, including the removal, replacement, and reinstallation of equipment necessary to gain access and all other costs incurred as the result of a breach of warranty shall be borne by the CONTRACTOR whether performed by the City or the CONTRACTOR.
- F. Nothing in this section shall be construed to limit, relieve, or release the CONTRACTOR, subcontractor's, and equipment, materials, and/or products suppliers, and other service providers' liability to the City for damages sustained as the result of latent defects in the workmanship, equipment, materials, and/or products done and/or furnished by the CONTRACTOR, its subcontractors, suppliers and/or other service providers.
- G. The Performance Bond shall extend for a period of one (1) year after acceptance of the Contract by the City and shall cover the CONTRACTOR's obligations resulting from the warranty requirements herein specified.
- H. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:
  - a. Abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, or Suppliers, or other individual or entity for whom CONTRACTOR is responsible;
  - b. Normal wear and tear under normal usage.
- I. CONTRACTOR's obligation to perform and complete the WORK in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of WORK that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the WORK in accordance with the Contract Documents:
  - a. Observations by ENGINEER;
  - b. Recommendation by ENGINEER or payment by City of any progress or final payment;
  - c. The issuance of a Certificate of Completion by the City;
  - d. Use or occupancy of the WORK or any part thereof by the City;
  - e. Any acceptance by City or any failure to do so;
  - f. Any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice or acceptability by ENGINEER pursuant to Paragraph 1-14.07B;
  - g. Any inspection, test, or approval by others; or
  - h. Any correction of Defective Work by City.

#### **1-6.17 INDEMNIFICATION**

- A. To the fullest extent permitted by law, the Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City, its officers, officials, employees, agents, and volunteers from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions of this Contract, caused in whole or in part by any negligent or willful act or omission of the Contractor, its officers, employees, or agents, or anyone directly or indirectly acting on behalf of the Contractor, regardless of whether caused in part by a party indemnified hereunder. Nothing contained in the foregoing indemnity provisions shall be construed to require the Contractor to indemnify the indemnified party in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of that indemnified party.
- B. To the fullest extent permitted by law, the Contractor's duty to defend shall extend, without limitation, to any suit or action founded upon any losses, claims, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions hereof, or in any way arising out of or connected with this Contract.
- C. The defense and indemnity obligations expressly extend to and include any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of damages to adjacent property caused by the conduct of the Work.

- D. The defense and indemnity obligations expressly extend to and include any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of the violation by the Contractor, the Contractor's agents, employees, or independent contractors, Subcontractors or suppliers of any provisions of federal, State or local law, including applicable administrative regulations.
- E. The defense and indemnity obligations also expressly extend to and include any claims, demands, damages, costs, expenses, or liability occasioned by injury to or death of any person, or any property damage to property owned by any person while on or about the site or as a result of the Work, whether such persons are on or about the site by right or not, whenever the Work is alleged to have been a contributing cause in any degree whatsoever.
- F. In claims against any person or entity herein indemnified that are made by an employee of the Contractor or an employee of any of the Contractor's agents, independent contractors, Subcontractors or suppliers, a person indirectly employed by the Contractor or by any of the Contractor's agents, independent contractors, Subcontractors or suppliers, or anyone for whose acts the Contractor or any of the Contractor's agents, independent contractors, Subcontractors or suppliers may be liable, the defense and/or indemnification obligation herein shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or the Contractor's agents, independent contractors, Subcontractors or suppliers under workers' compensation acts, disability acts, or other employee benefit acts.
- G. The indemnification obligations herein shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.
- H. The indemnities set forth herein shall not be limited by the insurance requirements set forth in the Contract Documents.
- I. The indemnification requirements herein set forth shall extend to claims occurring after this Contract is terminated as well as while it is in force.
- J. In the event the Contractor enters into any agreement with the owners of any adjacent property to enter upon or adjacent to such property for the purpose of performing this Contract, the Contractor shall fully indemnify, defend and save harmless such person, firm, or corporation, State or other governmental agency which owns or has any interest in the adjacent property. The form and content of the indemnification agreement shall be approved by City prior to commencement of any work on or about such property. The Contractor also shall indemnify City and other indemnities identified in this Section as provided in the Contract. These provisions shall be in addition to any other requirements of the owners of adjacent property.
- K. Pursuant to California Public Contract Code Section 9201, City shall timely notify Contractor of receipt of any third-party claim relating to this Contract.

#### **1-6.18 CONTRACTOR'S DAILY REPORTS**

The CONTRACTOR shall complete a daily report indicating location worked, total manpower for each construction trade, major equipment on Site, each Subcontractor's manpower and equipment, weather conditions, and other related information involved in the performance of the WORK. These components will be decided by the ENGINEER.

#### **1-6.19 CONTRACT DOCUMENTS AND RECORD DRAWINGS**

1. The CONTRACTOR shall keep on the work site a copy of the Contract Documents and shall at all times give the ENGINEER access thereto. Any drawings included in the Specifications shall be regarded as part thereto and of the Contract. Anything mentioned in these Specifications and not shown on the Project Drawings or shown on the Project Drawings and not mentioned in these Specifications, shall be of like effect as though shown or mentioned in both. The ENGINEER will furnish from time to time such detail drawings, plans, profiles, and information as he may consider necessary for the CONTRACTOR's guidance. It shall be the duty of the CONTRACTOR to see that the provisions of the Contract Documents are complied with in detail irrespective of the inspection given the work during its progress by the ENGINEER. Any failure on the part of the CONTRACTOR

to observe the requirements contained in the Contract Documents will be sufficient cause for the rejection of the work at any time before its acceptance.

2. The CONTRACTOR shall maintain, at the jobsite, one record set of Drawings in good order and clearly marked to show any deviations which have been made from the Drawings, including concealed construction and utility features which are revealed during the course of construction. Marked prints shall be updated at least once each week and shall be available to the ENGINEER for review as to currency prior to developing partial payment estimates. Upon completion of the work, the marked set of prints shall be delivered to the ENGINEER.
3. In the case of those drawings which depict the detail requirement for equipment to be assembled and wired in the factory, such as motor control centers and the like, the Record Drawings shall be updated by indicating those portions which are superseded by change order drawings or final shop drawings, and by including appropriate reference information describing the change orders by number and the shop drawings by manufacturer, drawing, and revision numbers.
4. Requests for partial payments will not be approved if the updated set of Drawings is not in good order or is not kept current. Request for final payment or bond release will not be approved until the complete and correct Record Drawings are delivered to the ENGINEER.

### **1-6.20 CLEAN UP**

The CONTRACTOR shall, at all times, keep the premises, occupied by it in relation to this Contract, in a neat, clean, and safe condition and at all times provide reasonable access thereto. The CONTRACTOR shall, as a minimum, conduct daily inspections to verify that requirements of this Section are being met.

- A. During the progress of the WORK, the CONTRACTOR shall:
  - a. Retain all stored items in an orderly arrangement allowing maximum access, not impeding drainage or traffic, and providing the required protection of material.
  - b. Provide adequate storage of all items awaiting removal from the jobsite, observing all requirements for fire protection and protection of the environment.
  - c. Remove any accumulation of scrap, debris, waste material, and other items not required for construction of this work.
  - d. Dispose of existing materials and equipment to be demolished and removed and all trash such as broken concrete, wood blocking, shipping containers, etc., resulting from the contract work off the premises occupied by the CONTRACTOR, including City property, at the CONTRACTOR's expense. City-leased dumpsters and other disposal containers on City's property, unless specifically provided by the CONTRACTOR, shall not be used by the CONTRACTOR.
  - e. Maintain all excavation, embankments, haul roads, permanent access roads, Plant site, waste disposal areas, borrow areas, and all other work areas within contract work limits free from dust, as determined by the ENGINEER. Industry-accepted methods of dust control suitable for the area involved, such as sprinkling, chemical treatment, light bituminous treatment, or similar methods, will be permitted. No separate payment will be made to the CONTRACTOR for dust control.
- B. If the CONTRACTOR fails to comply with any of the foregoing, the City will transmit written notification of noncompliance. If, within five (5) calendar days of the written notification, the CONTRACTOR fails to comply, cleanup may be undertaken by the City at the expense of the CONTRACTOR.
- C. Upon completion of any portion of any WORK, the CONTRACTOR shall promptly remove all of its equipment, temporary structures, and surplus construction and other materials not to be used at or near the same location during later stages of work. Upon completion of any WORK and before final inspection is made, the CONTRACTOR shall unless otherwise specifically directed by the ENGINEER:
  - a. Remove from the job site all plant, buildings, tools, surplus materials, equipment, forms, rubbish, scrap, debris, and waste
  - b. Clean all paved areas on the site. Completely remove all resultant debris.

- c. Visually inspect all interior surfaces, and remove all traces of soil, waste material, smudges, and other foreign matter. Remove all traces of splashed materials from adjacent surfaces. Remove all paint droppings, spots, stains, and dirt from finished surfaces. Use only approved cleaning materials and equipment.
- d. Restore any improved area used for the CONTRACTOR's work or material storage to its condition at the time the CONTRACTOR moved onto the site or to the satisfaction of the ENGINEER.
- e. Schedule final cleaning and improvement restoration to enable the City to accept a completely clean and restored project.

## **1-6.21 STORM WATER POLLUTION PREVENTION**

### **1-6.21A General**

- A. Prevention - The CONTRACTOR shall prevent the pollution of storm drain systems and creeks on or near the construction project site(s) resulting from the construction operation. The CONTRACTOR shall keep pollution out of storm drains by reducing the possibility of accidental discharge of materials and wastes, by reducing erosion and sedimentation, and by any action as required. The CONTRACTOR shall train all employees and subcontractors on the storm water pollution prevention requirements contained in these Specifications and ensure that all employees and subcontractors are aware of the consequences as described in this section 1-6.21. The CONTRACTOR shall include appropriate subcontract provisions to ensure that these requirements are met by all subcontractors.
- B. Notification - If the CONTRACTOR causes or permits the spillage or overflow of any sewage, oil, or petroleum product, hazardous substance, contaminant, or waste that may result in the fluid or substance being discharged directly or indirectly into any storm drains, creeks, wetlands, or other manmade or natural waterways the CONTRACTOR shall notify the City as soon as possible to the extent notification can be provided without substantially impeding cleanup or other emergency measures. In no event shall such notification be later than one hour after knowledge of the occurrence.
- C. Cleanup - Immediately upon gaining knowledge of such spillage, overflow, or discharge, the CONTRACTOR shall eliminate the cause of the spillage, overflow, or discharge and take action to minimize any damages. The CONTRACTOR shall also immediately implement a cleanup program. The cleanup, including sampling and testing required by regulatory agencies to determine the nature and level of contamination shall be performed and completed to the satisfaction of the various regulatory agencies involved and the City, at the expense of the CONTRACTOR. Any fines, penalties, and/or subsequent actions imposed upon the City and/or the CONTRACTOR by regulatory agencies related to the spillage, overflow, or discharge and any subsequent monitoring, testing, and reporting, as required by regulatory agencies, shall also be at the expense of the CONTRACTOR. The CONTRACTOR shall keep a stockpile of spill cleanup materials, such as rags or absorbents, readily accessible on site. The quantity of cleanup materials shall be appropriate in consideration of the risk of an occurrence of a spill, overflow or discharge.

### **1-6.21B Management of Nonhazardous Material and/or Waste**

- A. Designated Area - The CONTRACTOR shall propose designated areas of the project site, for approval by the ENGINEER, suitable for material delivery, storage, and waste collection that to the maximum extent practicable are near construction entrances and away from catch basins, gutters, drainage courses, and creeks.
- B. Backfill or Excavated Material - The CONTRACTOR shall not allow backfill or excavated material to enter the storm drains or creeks. When rain is forecast within 24 hours or during wet weather, the CONTRACTOR may be required to cover such material with a tarpaulin and to surround the material with sand bags.
- C. Street Sweeping - At least once per week or more frequently as directed by the ENGINEER, the CONTRACTOR shall clean and sweep roadways and on-site paved areas of all materials attributed

to or involved in the work. The CONTRACTOR shall not use water to flush down streets in place of street sweeping.

- D. Disposal - At the end of each working day, the CONTRACTOR shall collect all scrap, debris, and waste material, and dispose of such materials properly. The materials may be stored in the CONTRACTOR's yard in stockpiles or placed in dumpsters. The CONTRACTOR shall inspect dumpsters for leaks and replace or repair dumpsters that leak. The CONTRACTOR shall not discharge water from cleaning dumpsters on site. The CONTRACTOR shall arrange for regular waste collection before dumpsters overflow.

#### **1-6.21C Management of Hazardous Material and/or Waste**

- A. Storage - The CONTRACTOR shall label and store all hazardous materials, such as pesticides, paints, thinners, solvents, and fuels, and all hazardous wastes, such as waste oil and antifreeze in accordance with all applicable state and federal regulations. The CONTRACTOR shall store all hazardous materials and all hazardous wastes in accordance with secondary containment regulations. All such materials and wastes shall be covered, as needed, to avoid rainwater becoming polluted with hazardous constituents which could result in potential management of collected rain water as a hazardous waste. The CONTRACTOR shall keep an accurate, up-to-date inventory, including Material Safety Data Sheets (MSDSs), of hazardous materials and hazardous wastes stored on site.
- B. Usage - When rain is forecast within 24 hours or during wet weather, the CONTRACTOR shall refrain from applying chemicals in outside areas. The CONTRACTOR shall follow material manufacturer's instructions regarding uses, protective equipment, ventilation, flammability, and mixing of chemicals. The CONTRACTOR shall post warning signs in areas treated with chemicals.
- C. Disposal - The CONTRACTOR shall arrange for regular hazardous waste collection to comply with time limits on storage of hazardous wastes. The CONTRACTOR shall dispose of hazardous waste in accordance with all applicable local, state and federal regulations. The CONTRACTOR shall not wash any spilled material into streets, gutters, storm drains, or creeks and shall not bury spilled hazardous materials. The CONTRACTOR shall report any hazardous materials spill to the City in accordance with Section 1-6.21A above.

#### **1-6.21D Vehicle/Equipment Cleaning, Maintenance, and Fueling**

- A. General - The CONTRACTOR shall inspect vehicles and equipment arriving on site for leaking fluids and shall promptly repair leaking vehicles and equipment. Drip pans shall be used to catch leaks until repairs are made. The CONTRACTOR shall comply with federal, state, and City requirements for aboveground storage tanks.
- B. Cleaning - The CONTRACTOR shall perform vehicle or equipment cleaning with water only in a designated, bermed area that will not allow rinse water to run off site into streets, gutters, storm drains, or creeks. Soaps, solvents, degreasers, steam-cleaning equipment, or equivalent methods shall not be allowed.
- C. Maintenance and Fueling - The CONTRACTOR shall perform maintenance and fueling of vehicles or equipment in areas that will not allow run-on of storm water or runoff of spills to storm drains and provide for confined clean-up. Examples are working in bermed areas or utilizing drip pans. The CONTRACTOR shall not contaminate the soils or groundwater with such maintenance and fueling activities.
- D. The CONTRACTOR shall use secondary containment, such as a drip pan, to catch leaks or spills any time that vehicle or equipment fluids are dispensed, changed, or poured, and shall clean up leaks and spills of vehicle or equipment fluids immediately and dispose of the waste and cleanup materials as hazardous waste, as described in Section 1-6.21C above.

#### **1-6.21E Dewatering Operations**

- A. Sediment Control - The CONTRACTOR shall route water through a control measure, such as a sediment trap, sediment basin, or Baker tank, to remove settleable solids prior to discharge to the storm drain system. Straw bales shall be placed in front of storm drain inlets as required. Filtration of the water following the control measure may be required on a case-by-case basis. Approval of the control measure shall be obtained in advance from the ENGINEER. If the ENGINEER determines that the dewatering operation would not generate an appreciable amount of settleable solids, the control measure requirement above may be waived.
- B. Contaminated Groundwater - If the project is within an area of known groundwater contamination or if contamination is found, water from dewatering operations shall be tested prior to discharge. If the water quality meets Regional Water Quality Control Board (RWQCB) standards, it may be discharged to a storm drain or creek. Otherwise, the water shall be hauled off site for proper disposal.

**1-6.21F Paving or Oiling Operations**

- A. When rain is forecast within 24 hours or during wet weather, the ENGINEER may prevent the CONTRACTOR from paving or oiling the street. The ENGINEER may direct the CONTRACTOR to protect drainage courses by using control measures, such as earth dike, straw bale, and sand bag, to divert runoff or trap and filter sediment.
- B. The CONTRACTOR shall prevent saw-cut slurry from entering catch basins and storm drains by limiting the area over which the slurry may spread.
- C. The CONTRACTOR shall cover catch basins and manholes when paving or applying seal coat, tack coat, slurry seal, or fog seal.
- D. The CONTRACTOR shall not sweep or wash down excess sand (placed as part of a sand seal or to absorb excess oil) into gutters, storm drains, or creeks. The CONTRACTOR shall either collect the sand and return it to the stockpile or dispose of it in a trash container.

**1-6.21G Concrete, Grout, and Mortar Waste Management**

- A. Concrete Truck/Equipment Washout - The CONTRACTOR shall not wash out concrete trucks or equipment into streets, gutters, storm drains, or creeks. The CONTRACTOR shall perform washout of concrete trucks or equipment off site or in a designated area on site where the water will flow onto dirt or into a temporary pit in a dirt area. The CONTRACTOR shall let the water percolate into the soil and dispose of the hardened concrete in a trash container. If a suitable dirt area is not available, the CONTRACTOR shall collect the wash water and remove it off site.
- B. Exposed Aggregate Concrete Wash Water - The CONTRACTOR shall avoid creating runoff by draining water from washing of exposed aggregate concrete to a dirt area. If a suitable dirt area is not available, the CONTRACTOR shall filter the wash water through straw bales or equivalent material before discharging to a storm drain. The CONTRACTOR shall collect sweepings from exposed aggregate concrete for disposal.

**1-6.21H Paint Disposal and Clean-up**

- A. Disposal of Unused Paint - The CONTRACTOR shall carefully use, store and dispose of paint, solvents, chemicals, and waste materials in compliance with all applicable state and federal regulations. The CONTRACTOR shall not dispose of paint to sanitary sewer systems or storm drains. The CONTRACTOR shall utilize other recycling and disposal services as follows:
  - a. "Recycling Centers" and "Waste Disposals" as may be listed in the yellow pages.
  - b. Local household hazardous waste facility if appropriate.

The CONTRACTOR may dispose of small amounts of leftover latex (water-based) paint by applying the paint to the surface of an item to be discarded and allowing it to dry thoroughly, then disposing of it in a dumpster.

The CONTRACTOR shall store these materials and conduct cleaning of painting equipment and tools in a designated area that will not allow run-on of storm water or runoff of spills. The CONTRACTOR shall not allow wash water from cleaning of painting equipment and tools into streets, gutters, storm drains, or creeks.

- B. Disposal of Paint Clean-up Waste - The CONTRACTOR shall remove as much excess paint as possible from brushes, rollers, and equipment before starting cleanup.
- a. The CONTRACTOR shall not discharge cleaning wastes from oil- based paints, buckets, brushes or tools to the sanitary sewer system. The CONTRACTOR shall retain a certified waste hauler to recycle or to dispose of cleaning wastes from oil-based paints at the CONTRACTOR's expense.
  - b. The CONTRACTOR may discharge very small amounts of cleaning wastes from brushes, rollers, buckets, and tools contaminated with latex (water-based) paints to the sanitary sewer system provided they do not contain additives with pollutants of concern (e.g., mercury, tributyltin). Brushes, rollers, and tools containing latex paints may be washed over a sink with plenty of water. Buckets containing latex paints shall first be emptied into the original can or discarded as specified in paragraph 1 above. Should excessive amounts of paint or solvent be found in the wastewater discharged, the CONTRACTOR may be subject to enforcement action by the City in accordance with the City Codes.
  - c. The CONTRACTOR shall not discharge any of these paint clean- up wastes to storm drains, streets, gutters, or creeks.
- C. Waste Disposal - The CONTRACTOR shall dispose of waste thinner, solvent, and sludge from cleaning of equipment and tools as hazardous waste, as described in this Section 1-6.21H. The CONTRACTOR shall dispose of excess thinners, solvents, and oil- and water-based paint as hazardous waste.

#### **1-6.21I Contaminated Soil**

If the project is within an area of known soil contamination or evidence of soil contamination is found, the CONTRACTOR shall comply with the requirements of all applicable local, state and federal regulations.

### **1-7 OTHER WORK**

#### **1-7.01 RELATED WORK AT SITE**

- A. The City may perform other work related to the Project at the Site by the City's own forces, have other work performed by utility owners, or let other direct contracts for such other work. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to the CONTRACTOR prior to starting any such other work.
- B. The CONTRACTOR shall afford each person who is performing the other work (including the City's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the WORK with theirs. The CONTRACTOR shall do all cutting, fitting, and patching of the WORK that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. The CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will not only cut or alter their work with the written consent of the ENGINEER and the others whose work will be affected.
- C. If the proper execution or results of any part of the CONTRACTOR's work depends upon such other work by another, the CONTRACTOR shall inspect and report to the ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for such proper execution and results. The CONTRACTOR's failure to report such delays, defects, or deficiencies will constitute an acceptance of the other work as fit and proper for integration with the CONTRACTOR's work except for latent or nonapparent defects and deficiencies in the other work.

#### **1-7.02 COORDINATION**

If the City contracts with others for the performance of other work at the Site, City will have sole authority and responsibility in respect of such coordination, unless otherwise provided in the Special Provisions.



## **1-8 CITY'S RESPONSIBILITIES**

### **1-8.01 COMMUNICATIONS**

Except as may be otherwise provided in these General Conditions, the City will issue all its communications to the CONTRACTOR through the ENGINEER.

### **1-8.02 PAYMENTS**

The City will make payments to the CONTRACTOR as provided in Section 1-14.

### **1-8.03 LANDS, EASEMENTS, AND SURVEYS**

The City's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Sections 1-4.01 and 1-4.06.

### **1-8.04 REPORTS AND DRAWINGS**

The City will identify and make available to the CONTRACTOR copies of reports of physical conditions at the Site and drawings of existing structures which have been utilized in preparing the Contract Documents as set forth in Section 1-4.02.

### **1-8.05 CHANGE ORDERS**

The City will execute Change Orders as indicated in Section 1-10.

### **1-8.06 INSPECTIONS AND TESTS**

The City's responsibility for inspections and tests is set forth in Section 1-13.03.

### **1-8.07 SUSPENSION OF WORK**

The City's right to stop work or suspend work is set forth in Sections 1-13.04 and 1-15.01.

### **1-8.08 TERMINATION OF AGREEMENT**

The City's right to terminate services of the CONTRACTOR is set forth in Sections 1-15.02 and 1-15.03.

### **1-8.09 LIMITATION ON CITY'S RESPONSIBILITIES**

The City shall not supervise, direct or have control or authority over, nor be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the WORK. City will not be responsible for CONTRACTOR's failure to perform or furnish the WORK in accordance with the Contract Documents.

### **1-8.10 UNDISCLOSED HAZARDOUS ENVIRONMENTAL CONDITIONS**

City's responsibility in respect to an undisclosed hazardous environmental condition is set forth in Section 1-4.05.

## **1-9 ENGINEER'S STATUS DURING CONSTRUCTION**

### **1-9.01 CITY'S REPRESENTATIVE**

The ENGINEER will be the City's representative during the construction period. The ENGINEER shall decide any and all questions which may arise as to the quality or acceptability of materials furnished and work performed, and as to the manner of performance and rate of progress of the work; all questions which arise as to the interpretation of the plans and specifications, the proposal and the contract documents therefor; all questions as to the acceptable fulfillment of the contract on the part of the CONTRACTOR; and all questions as to claim and compensation.

### **1-9.02 OBSERVATIONS ON THE SITE**

The ENGINEER will make observations on the Site during construction to monitor the progress and quality of the WORK and to determine, in general, if the WORK is proceeding in accordance with the Contract

Documents. The ENGINEER will not be required to make exhaustive or continuous inspections to check the quality or quantity of the WORK.

### **1-9.03 PROJECT REPRESENTATION**

The ENGINEER may furnish a Resident Project Representative to assist in observing the performance of the WORK.

### **1-9.04 CLARIFICATIONS**

The ENGINEER will issue with reasonable promptness such written Clarifications of the requirements of the Contract Documents as the ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

### **1-9.05 AUTHORIZED VARIATIONS IN WORK**

The ENGINEER may authorize variations in the WORK from the requirements of the Contract Documents. These may be accomplished by a Field Order and will require the CONTRACTOR to perform the WORK involved in a manner that minimizes the impact to the WORK and the Contract Times. If the CONTRACTOR believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Times, the CONTRACTOR may make a claim therefor as provided in Sections 1-11 or 1-12.

### **1-9.06 REJECTING DEFECTIVE WORK**

The ENGINEER will have authority to reject Defective Work and will also have authority to require special inspection or testing of the WORK as provided in Section 1-13.

### **1-9.07 CONTRACTOR SUBMITTALS, CHANGE ORDERS, AND PAYMENTS**

- A. In accordance with the procedures set forth in the General Conditions and Special provisions, the ENGINEER will review all CONTRACTOR submittals.
- B. The ENGINEER's responsibilities for Change Orders are set forth in Sections 1-10, 1-11, and 1-12.
- C. The ENGINEER's responsibilities for Applications for payment are set forth in Section 1-14.

### **1-9.08 DECISIONS ON DISPUTES**

The ENGINEER will be the initial interpreter of the requirements of the Contract Documents and of the acceptability of the WORK thereunder. Claims, disputes, and other matters relating to the acceptability of the WORK and interpretation of the requirements of the Contract Document pertaining to the performance of the work shall be determined by the ENGINEER. Any claims in respect to changes in the Contract Price or Contract Times shall be resolved in accordance with the requirements set forth in Sections 1-10, 1-11, and 1-12.

### **1-9.09 LIMITATIONS ON ENGINEER'S RESPONSIBILITIES**

- A. Neither the ENGINEER's authority to act under this Section 1-9 or other provisions of the Contract Documents nor any decision made by the ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the ENGINEER to the CONTRACTOR, any Subcontractor, any Supplier, any surety for any of them, or any other person or organization performing any of the WORK.
- B. Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed," "as reviewed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," or "satisfactory," or adjectives of like effect or import are used to describe a requirement, direction, review, or judgment will be solely to evaluate the WORK for compliance with the requirements of the Contract Documents, and conformance with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents, unless there is a specific statement indicating otherwise. The use of any such term or adjective shall not be effective to assign to the ENGINEER any duty or authority to supervise or direct the performance of the WORK or any duty or authority to undertake responsibility contrary to the provisions of Section 1-9.09C.

- C. The ENGINEER will not supervise, direct, control, or have authority over or be responsible for the CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of the CONTRACTOR to comply with Laws and Regulations applicable to the performance of the WORK. The ENGINEER will not be responsible for the CONTRACTOR's failure to perform the WORK in accordance with the Contract Documents. The ENGINEER will not be responsible for the acts or omissions of the CONTRACTOR nor of any Subcontractor, Supplier, or any other person or organization performing any of the WORK.

## **1-10 CHANGES IN THE WORK**

### **1-10.01 GENERAL**

- A. Without invalidating the Agreement and without notice to any surety, the City may at any time or from time to time, order additions, deletions, or revisions in the WORK. Such additions, deletions or revisions will be authorized by a Change Order or Field Order. Upon receipt of any such document, CONTRACTOR shall promptly proceed to implement the additions, deletions, or revisions in the WORK in accordance with the applicable conditions of the Contract Documents.
- B. The CONTRACTOR shall not be entitled to an increase in the contract Price nor an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented by Change Order, except in the case of an emergency and except in the case of uncovering work as provided in Sections 1-13.03.F and G.
- C. The City and the CONTRACTOR shall execute appropriate Change Orders covering:
  - a. Changes in the WORK which are ordered by the City pursuant to Section 1-10.01A.;
  - b. Changes required because of acceptance of Defective Work under Section 1-13.06; and
  - c. Changes in the Contract Price or Contract Times which are agreed to by the parties under Sections 1-11 and/or 1-12, respectively.
- D. If notice of any change in the WORK is required to be given to a surety, the giving of any such notice shall be the CONTRACTOR's responsibility. If the change in the WORK affects the Contract Price, the City may require an adjustment to the amount of any applicable Bond and the amount of each applicable Bond shall be adjusted accordingly.
- E. If the City and CONTRACTOR agree as to the extent, if any, of an increase in the Contract Price or an extension or shortening of the Contract Times that should be allowed as a result of a Field Order, the CONTRACTOR shall proceed so as to minimize the impact on and delays to the WORK pending the issuance of a Change Order.
- F. If the City and the CONTRACTOR are unable to agree as to the extent, if any, of an increase in the Contract Price or an extension or shortening of the Contract Times that should be allowed as a result of a Field Order, the ENGINEER can direct the CONTRACTOR to proceed on the basis of time and materials so as to minimize the impact on and delays to the WORK, and the CONTRACTOR may make a claim as provided in Sections 1-11 and 1-12.

### **1-10.02 ALLOWABLE QUANTITY VARIATIONS**

- A. In the event of an increase or decrease in the quantity of any bid item under a unit price contract, the total amount of work actually done or materials or equipment furnished will be paid for according to the unit price established for such work under the Contract Documents, wherever such unit price has been established; provided, that an adjustment in the Contract Price may be made for changes which result in an increase or decrease in excess of 25 percent of the estimated quantity of any unit price bid item of the WORK.
- B. In the event a part of the WORK is to be entirely eliminated and no lump sum or unit price is named in the Contract Documents to cover such eliminated work, the price of the eliminated work shall be agreed upon by the City and the CONTRACTOR by Change Order.

## **1-11 CHANGE OF CONTRACT PRICE**

### **1-11.01 GENERAL**

- A. The Contract Price constitutes the total compensation payable to the CONTRACTOR FOR PERFORMING THE work. All duties, responsibilities, and obligations assigned to or undertaken by the CONTRACTOR to complete the WORK shall be at its expense without change in the Contract Price.
- B. The Contract Price may only be changed by a Change Order. The value of any work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
  - a. Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
  - b. By mutual acceptance of a lump sum, which may include an allowance for overhead and profit not necessarily in accordance with Section 1-11.04; or
  - c. On the basis of the cost of work (determined as provided in Section 1-11.03) plus the CONTRACTOR's overhead and profit (determined as provided in Section 1-11.04).
- C. Any claim for an increase in the Contract Price shall be based on written notice delivered by the CONTRACTOR to the ENGINEER promptly (but in no event later than 10 days) after the start of the event giving rise to the claim and shall state the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 60 days after the start of such event (unless the ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR's written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR is entitled as a result of such event. All claims for adjustment in the Contract Price will be determined by the ENGINEER. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph C.

### **1-11.02 COSTS RELATING TO WEATHER**

The CONTRACTOR shall have no claims against the City for damages for any injury to work, materials, or equipment, resulting from the action of the elements. If, however, in the opinion of the ENGINEER, the CONTRACTOR has made all reasonable efforts to protect the materials, equipment, and work, the CONTRACTOR may be granted a reasonable extension of Contract Times to make proper repairs, renewals, and replacements of the work, materials, or equipment.

### **1-11.03 COST OF WORK (BASED ON TIME AND MATERIALS)**

- A. **General:** The term "cost of work" means the sum of all costs necessarily incurred and paid by the CONTRACTOR for labor, materials, and equipment in the proper performance of extra work. Except as otherwise may be agreed to in writing by the City, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Section 1-11.05.
- B. **Labor:** The costs of labor will be the actual cost for wages prevailing for each craft or type of workers performing the extra work at the time the extra work is done, plus employer payments of payroll taxes, workers compensation insurance, liability insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. Labor costs for equipment operators and helpers will be paid only when such costs are not included in the invoice for equipment rental. The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to extra work shall be paid. Nondirect labor costs including superintendence shall be considered part of the markup set out in Section 1-11.04.
- C. **Materials:** Materials must be specifically authorized by the ENGINEER. The cost of materials reported shall be at invoice or lowest current price at which materials are locally available and delivered to the Site in the quantities involved, plus the cost of freight, delivery and storage, subject to the following:

- a. All trade discounts and rebaters shall accrue to the City, and the CONTRACTOR shall make provisions so that they may be obtained;
  - b. 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 ENGINEER. Except for actual costs incurred in the handling of such materials, markup will not be allowed;
  - c. 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 extra work items or the current wholesale price for such materials delivered to the Site, whichever price is lower; and
  - d. If in the opinion of the ENGINEER the cost of material is excessive, or the CONTRACTOR does not furnish satisfactory evidence of the cost of such material, then the cost shall be deemed to be the lowest current wholesale price for the quantity concerned delivered to the Site less trade discount. The City reserves the right to furnish materials for the extra work and no claim will be allowed by the CONTRACTOR for costs and profit on such materials.
- D. **Equipment:** The CONTRACTOR will be paid for the use of equipment at the rental rate listed for such equipment specified in the current California Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates." Such rental rate will be used to compute payments for equipment whether the equipment is under the 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 will be the rate resulting in the least total cost to the City for the total period of use. If it is deemed necessary by the CONTRACTOR to use equipment not listed in the above-referenced publication, an equitable rental rate for the equipment will be established by the ENGINEER. The CONTRACTOR may furnish cost data which might assist the ENGINEER in the establishment of the rental rate. Payment for equipment shall be subject to the following:
- a. All equipment shall, in the opinion of the ENGINEER, be in good working condition and suitable for the purpose for which the equipment is to be used;
  - b. Before construction equipment is used on the extra work, the CONTRACTOR shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the ENGINEER, in duplicate, a description of the equipment and its identifying number;
  - c. Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for 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;
  - d. Individual pieces of equipment or tools having a replacement value of \$500 or less, whether or not consumed by use, will be considered to be small tools and no payment will be made therefore.
- E. **Equipment Rental Time:** The rental time to be paid for equipment on the Site will be the time the equipment is in productive operation on the extra work being performed and, in addition, will include the time required to move the equipment to the location of the extra 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 extra work, even though located at the Site of the extra work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power, except that no payment will be made for loading and transporting costs when the equipment is used at the Site of the extra work on other than the extra work. Rental time will not be allowed while equipment is inoperative due to breakdowns. The rental time of equipment on the work Site will be computed subject to the following:
- a. When hourly rates are listed, any part of an hour less than 30 minutes of operation will be considered to be half-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation;
  - b. When daily rates are listed, any part of a day less than 4 hours operation will be considered to be half-day of operation. When owner-operated equipment is used to perform extra

work to be paid for on a time and materials basis, the CONTRACTOR will be paid for the equipment and operator, as set forth in Paragraphs c, d, and e, following;

- c. Payment for the equipment will be made in accordance with the provisions in Section 1-11.03D, herein;
- d. Payment for the cost of labor and subsistence or travel allowance will be made at the rates paid by the CONTRACTOR to other workers operating similar equipment already on the Site, or in the absence of such labor, established by collective bargaining agreements for the type of workmen and location of the extra work, whether or not the operator is actually covered by such an agreement. A labor surcharge will be added to the cost of labor described herein accordance with the provisions of Section 1-11.03B, herein, which surcharge shall constitute full compensation for payments imposed by state and federal laws and all other payments made to or on behalf of workers other than actual wages; and
- e. To the direct cost of equipment rental and labor, computed as provided herein, will be added the allowances for equipment rental and labor as provided in Section 1-11.04, herein.

F. **Special Services:** Special work or services are defined as that work characterized by extraordinary complexity, sophistication, innovation, or a combination of the foregoing attributes which are unique to the construction industry. The ENGINEER will make estimates for payment for special services and may consider the following:

- a. When the ENGINEER and the CONTRACTOR, determine that a special service or work is required which cannot be performed by the forces of the CONTRACTOR or those of any of its Subcontractors, the special service or work may be performed by an entity especially skilled in the work to be performed. After validation of invoices and determination of market values by the ENGINEER, invoices for special services or work based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs;
- b. When the CONTRACTOR is required to perform work necessitating special fabrication or matching process in a fabrication or a machine shop facility away from the Site, the charges for that portion of the work performed at the off-site facility may, by agreement, be accepted as a special service and accordingly, the invoices for the work may be accepted without detailed itemization; and
- c. All invoices for special services will be adjusted by deducting all trade discounts. In lieu of the allowances for overhead and profit specified in Section 1-11.04, herein, an allowance of 15 percent will be added to invoices for special services.

G. **Sureties;** All work performed hereunder shall be subject to all provisions of the Contract Documents and the CONTRACTOR's sureties shall be bound with reference thereto as under the original Agreement. Copies of all amendments to Bonds or supplemental Bonds shall be submitted to the City for review prior to the performance of any work hereunder.

#### 1-11.04 CONTRACTOR'S OVERHEAD AND PROFIT

A. Extra work ordered on the basis of time and materials will be paid for at the actual necessary cost as determined by the ENGINEER, plus allowances for overhead and profit. No additional mark-ups and/or surcharges will be added to the cost. The allowance for overhead and profit will include full compensation for superintendence, taxes, field office expense, extended overhead, home office overhead, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided for under Section 1-11.03. The allowance for overhead and profit will be made in accordance with the following schedule:

Overhead and Profit Allowance  
Labor ..... 20 percent  
Materials ..... 15percent  
Equipment... 15 percent

To the sum of the costs and markups provided for in this Section, an additional 2 percent of the sum will be added as compensation for Bonds and insurance.

- B. It is understood that labor, materials, and equipment for extra work may be furnished by the CONTRACTOR or by the Subcontractor on behalf of the CONTRACTOR. When all or any part of the extra work is performed by a Subcontractor, the allowance specified herein will be applied to the labor, materials, and equipment costs of the Subcontractor, to which the CONTRACTOR may add 5 percent of the Subcontractor's total cost for the extra work. Regardless of the number of hierarchical tiers of Subcontractors, the 5 percent increase above the Subcontractor's total cost which includes the allowances for overhead and profit specified herein may be applied one time only.

#### **1-11.05 EXCLUDED COSTS**

The term "cost of the work" shall not include any of the following:

- A. Payroll costs and other compensation of CONTRACTOR's officers, executives, proprietors, partners, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR whether at the Site or in CONTRACTOR's principal or a branch office for general administration of the WORK all of which are to be considered administrative costs covered by the CONTRACTOR's allowance for overhead and profit;
- B. Non-direct labor costs, including superintendence, shall be considered part of the markup for overhead and profit, and no additional payment will be allowed for such;
- C. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site;
- D. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the WORK and charges against CONTRACTOR for delinquent payments;
- E. Cost of premiums for all Bonds and for all insurance whether or no CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except as provided by Section 1-11.04 above);
- F. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damages to property; and
- G. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in Section 1-11.04.

#### **1-11.06 CONTRACTOR'S EXTRA WORK REPORT**

In order to be paid for extra work, the CONTRACTOR must submit a daily extra work report on the form furnished by the ENGINEER. The form must be completely filled out based on the provisions of Sections 1-11.03 through 1-11.05 and signed by the CONTRACTOR and ENGINEER at the end of each work day. Failure to complete the form and obtain appropriate signatures by the next working day after the extra work of the previous day was completed will result in CONTRACTOR's costs for extra work being disallowed.

### **1-12 CHANGE OF CONTRACT TIMES**

#### **1-12.01 GENERAL**

- A. The Contract Times may only be changed by a Change Order. Any claim for an extension of the Contract Times shall be based on written notice delivered by the CONTRACTOR to the ENGINEER promptly (but in no event later than 10 days) after the start of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within 30 days after the start of such event (unless the ENGINEER allows an additional period of time for the submission of additional or more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR's written statement that the adjustment claimed is the entire adjustment to which the CONTRACTOR is entitled as a result of said event. All claims for adjustment in the Contract Times will be determined by the ENGINEER. No claim for an adjustment in the Contract Times will be valid if not submitted in accordance with the requirements of this Paragraph 1-12.01 A. An increase in Contract Times does not mean that the CONTRACTOR is due an increase in Contract Price. Only compensable time extensions will result in an increase in Contract Price.

- B. All time limits stated in the Contract Documents are of the essence of the Agreement.
- C. When CONTRACTOR is prevented from completing any part of the WORK within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost on the critical path of the WORK due to such delay, if a claim is made therefor as provided in Paragraph 1-12.01.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by City; acts or neglect of those performing other work as contemplated by Section 1-7; and fires, floods, epidemics, abnormal weather conditions, or acts of God. Delays attributable to and within the control of any Subcontractor or Supplier shall be deemed to be delays within the control of the CONTRACTOR.
- D. In no event will City be liable to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for any increase in the Contract Price or other damages arising out of or resulting from the following:
  - a. Delays caused by or within the control of CONTRACTOR; or
  - b. Delays beyond the control of both City and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by those performing other work as contemplated by Section 1-7.

**1-12.02 EXTENSIONS OF CONTRACT TIMES FOR DELAY DUE TO WEATHER**

- A. The CONTRACTOR's construction schedule shall anticipate delay due to unusually severe weather. The number of days of anticipated delay is 10 days for this project.
- B. Contract Times may be extended by the ENGINEER because of delays in excess of the anticipated delay. The CONTRACTOR shall, within 10 days of the beginning of any such delay, notify the ENGINEER in writing and request an extension of Contract Times. The ENGINEER will ascertain the facts and the extent of the delay and extend the Contract Times when, in its judgment, the findings of the fact justify such an extension.

**1-13 INSPECTIONS AND TESTS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

**1-13.01 NOTICE OF DEFECTIVE WORK**

Prompt notice of Defective Work known to the ENGINEER will be given to the CONTRACTOR. All Defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Section 1-13. Defective Work may be rejected even if approved by prior inspection.

**1-13.02 ACCESS TO WORK**

ENGINEER and other representatives and personnel of City, independent testing laboratories, and governmental agencies with jurisdictional interests shall have access to the WORK at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

**1-13.03 INSPECTIONS AND TESTS**

- A. The CONTRACTOR shall give the ENGINEER not less than 24 hours' notice of readiness of the WORK for all required inspections, tests, or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. The City shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
  - a. For inspection, tests, or approvals covered by Paragraphs 11-13.03C and 11-13.03D below;



- b. That costs incurred in connection with tests or inspections conducted pursuant to Paragraph 1-13.03G. shall be paid as provided in said Paragraph 1-13.03G; and
  - c. As otherwise provided in the Contract Documents.
- C. If Laws and Regulations of any public body having jurisdiction require any WORK (or any part thereof) to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests or approvals; pay all costs in connection therewith; and furnish the ENGINEER the required certificates of inspection or approval.
- D. The CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for the ENGINEER's acceptance of materials or equipment to be incorporated in the WORK or acceptance of materials, mix designs, or equipment submitted for approval prior to the CONTRACTOR's purchase thereof for incorporation in the WORK. Such inspections, tests, or approvals shall be performed by organizations acceptable to the ENGINEER.
- E. The ENGINEER will make, or have made, such inspections and tests as the ENGINEER deems necessary to see that the WORK is being accomplished in accordance with the requirements of the Contract Documents. Unless otherwise specified, the cost of such inspection and testing will be borne by the City. In the event such inspections or tests reveal non-compliance with the requirements of the Contract Documents, the CONTRACTOR shall bear the cost of corrective measures deemed necessary by the ENGINEER, as well as the cost of subsequent reinspection and retesting. Neither observations by the ENGINEER nor inspections, tests, or approvals by others shall relieve the CONTRACTOR from the CONTRACTOR's obligation to perform the WORK in accordance with the Contract Documents.
- F. If any WORK (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of the ENGINEER, it must, if requested by the ENGINEER, be uncovered for observation. Such uncovering shall be at the CONTRACTOR's expense unless the CONTRACTOR has given the ENGINEER not less than 24 hours notice of the CONTRACTOR's intention to perform such test or to cover the same and the ENGINEER has not acted with reasonable promptness in response to such notice.
- G. If any WORK is covered contrary to the written request of the ENGINEER, it must, if requested by the ENGINEER, be uncovered for the ENGINEER's observation and recovered at the CONTRACTOR's expense. If the ENGINEER considers it necessary or advisable that covered WORK be observed by the ENGINEER or inspected or tested by others, the CONTRACTOR, at the ENGINEER's request shall uncover, expose, or otherwise make available for observation, inspection, or testing as the ENGINEER may require, that portion of the WORK in question, furnishing all necessary labor, material, and equipment. If it is found that such work is Defective Work, the CONTRACTOR shall bear all direct, indirect, and consequential costs and damages of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction, including but not limited to, fees and charges of engineers, architects, attorneys, and other professionals. However, if such work is not found to be Defective Work, the CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, the CONTRACTOR may make a claim therefor as provided in Sections 1-11 and 1-12.
- H. No acceptance of equipment, materials, or work shall be construed to result from such inspections by the ENGINEER. Any inspections or tests or waivers thereof shall not relieve the CONTRACTOR of its responsibility for meeting the requirement of the Contract.

#### **1-13.04 City MAY STOP THE WORK**

If Defective Work is identified, the ENGINEER may order the CONTRACTOR to stop performance of the WORK, or any portion thereof, until the cause for such order has been eliminated; however, this right of the ENGINEER to stop the WORK shall not give rise to any duty on the part of the ENGINEER to exercise this right for the benefit of the CONTRACTOR or any other party.

### **1-13.05 CORRECTION OR REMOVAL OF DEFECTIVE WORK**

If required by the ENGINEER, the CONTRACTOR shall promptly either correct all Defective Work, whether or not fabricated, installed, or completed, or, if the work has been rejected by the ENGINEER, remove it from the Site and replace it with non-defective WORK. The CONTRACTOR shall bear all direct, indirect, and consequential costs and damages of such correction or removal, including but not limited to fees and charges of engineers, architects, attorneys, and other professionals made necessary thereby.

### **1-13.06 ACCEPTANCE OF DEFECTIVE WORK**

If, instead of requiring correction or removal and replacement of Defective Work, the City prefers to accept the Defective Work, the City may do so. The CONTRACTOR shall bear all direct, indirect, and consequential costs attributable to the City's evaluation of and determination to accept such Defective Work. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the WORK, and the City shall be entitled to an appropriate decrease in the Contract Price.

### **1-13.07 City MAY CORRECT DEFECTIVE WORK**

- A. If the CONTRACTOR fails within a reasonable time after written notice from the ENGINEER to correct Defective Work, or to remove and replace Defective Work as required by the ENGINEER in accordance with Paragraph 1-13.05A., or if the CONTRACTOR fails to perform the WORK in accordance with the Contract Documents, or if the CONTRACTOR fails to comply with any other provision of the Contract Documents, the City may, after seven days written notice to the CONTRACTOR, correct and remedy any such deficiency.
- B. In exercising the rights and remedies under this paragraph, the City shall proceed with corrective and remedial action. In connection with such corrective and remedial action, the City may exclude the CONTRACTOR from all or part of the Site, take possession of all or part of the WORK, and suspend the CONTRACTOR's services related thereto and incorporate in the WORK all materials and equipment for which the City has paid the CONTRACTOR whether stored at the Site or elsewhere. The CONTRACTOR shall provide the City and its ENGINEER, access to the Site to enable City to exercise the rights and remedies under this paragraph.
- C. All direct, indirect, and consequential cost and damages incurred by the City in exercising the rights and remedies under this paragraph will be charged against the CONTRACTOR and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the WORK; and the City shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, the City may make a claim therefor as provided in Section 1-11. Such claim 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 CONTRACTOR's Defective Work and all direct, indirect, and consequential damages associated therewith.
- D. The CONTRACTOR shall not be allowed an extension of Contract Times (or Milestones) because of any delay in the performance of the WORK attributable to the exercise by City of City's rights and remedies under this paragraph.

### **1-13.08 CORRECTION PERIOD**

- A. The correction period for Defective Work shall be the longer of:
  - a. One year after the date of final acceptance;
  - b. Such time as may be prescribed by Laws and Regulations;
  - c. Such time as specified by the terms of any applicable special guarantee required by the Contract Documents; or
  - d. Such time as specified by any specific provision of the Contract Documents.
- B. If, during the correction period as defined in Paragraph 1-13.08A above, any work is found to be Defective Work, the City shall have the same remedies as set forth in Sections 1-13.05, 1-13.06, and 1-13.07 above.

- C. Where Defective Work (and damage to other work resulting therefrom) has been corrected, removed, or replaced under this paragraph, the correction period hereunder with respect to such work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

## **1-14 PAYMENTS TO CONTRACTOR AND COMPLETION**

### **1-14.01 SCHEDULE OF VALUES (LUMP SUM PRICE BREAKDOWN)**

The schedule of values or lump sum price breakdown established as provided in the General Conditions shall serve as the basis for progress payments and shall be incorporated into a form of "Application for Payment acceptable to the ENGINEER.

### **1-14.02 UNIT PRICE BID SCHEDULE**

Progress payments on account of unit price work will be based on the number of units completed.

### **1-14.03 APPLICATION FOR PROGRESS PAYMENT**

- A. Unless otherwise prescribed by law, on the 25th of each month, the CONTRACTOR shall submit to the ENGINEER for review, the Application for Payment filled out and signed by the CONTRACTOR covering the WORK completed as of the Application for Payment and accompanied by such supporting documentation as is required by the Contract Documents.
- B. The Application for Payment shall identify, as a subtotal, the amount of the CONTRACTOR total earnings to date; plus the value of materials stored at the Site which have not yet been incorporated in the WORK; and less a deductive adjustment for materials installed which were not previously incorporated in the WORK, but for which payment was allowed under the provisions for payment for materials stored at the Site, but not yet incorporated in the WORK.
- C. The net payment due the CONTRACTOR shall be the above-mentioned subtotal from which shall be deducted the amount of retainage specified in these General Conditions and the total amount of all previous payments made to the CONTRACTOR.
- D. At the discretion of the ENGINEER, if requested by the Contractor a payment for materials stored at the Site may be considered. The said amount shall be based upon the value of all acceptable materials and equipment not incorporated in the WORK but delivered and suitably stored at the Site or at another location agreed to in writing; provided, each such individual item has a value of more than \$5,000 and will become a permanent part of the WORK. The Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that the CONTRACTOR 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 the City's interest therein, all of which will be satisfactory to the City. In no case payment for the materials stored at site will be made for an amount more than 70% of the bid item or agreed schedule of values the specific item, where the material is supposed to be incorporated.
- E. A **Five percent (5%)** retention of payment amount shall be held by the City from the amount of each Application for Payment.
- F. **OPTIONAL:** Partial payments for mobilization/demobilization costs shall be as follows:
  - a. Thirty-five percent (35%) of the amount bid for mobilization/ demobilization or 1.75 percent of the original Contract Price, whichever is less, shall be paid in each of the first two progress payments.
  - b. The balance of the amount bid for mobilization/demobilization shall be paid upon completion of all WORK on the project.

### **1-14.04 CONTRACTOR'S WARRANTY OF TITLE**

The CONTRACTOR warrants and guarantees that title to all WORK, materials, and equipment covered by an Application for Payment, whether incorporated in the WORK or not, will pass to the City no later than the time of payment, free and clear of all Liens.

#### **1-14.05 REVIEW OF APPLICATIONS FOR PROGRESS PAYMENT**

- A. The ENGINEER will, within 7 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the application to the City, or return the application to the CONTRACTOR indicating in writing the ENGINEER'S REASONS FOR REFUSING TO RECOMMEND PAYMENT. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the application. If the ENGINEER still disagrees with a portion of the application, it will submit the application recommending the undisputed portion of the application to the City for payment and provide reasons for recommending non-payment of the disputed amount. Thirty days after presentation of the Application for Payment with the ENGINEER'S recommendation, the amount recommended will (subject to the provisions of Paragraph 1-14.05B.) become due and when due will be paid by the City to the CONTRACTOR.
- B. The ENGINEER, in its discretion, may refuse to recommend the whole or any part of any payment. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in ENGINEER'S opinion to protect City from loss because:
- a. The work is Defective Work or the completed WORK has been damaged requiring correction or replacement.
  - b. The Contract Price has been reduced by written amendment or Change Order.
  - c. The City has been required to correct Defective Work or complete WORK in accordance with Section 1-13.07.
  - d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in Sections 1-15.01 through 15.04 inclusive.
  - e. Third party claims filed or reasonable evidence indicating probable filing of such claims; or
  - f. Failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment; or
  - g. Reasonable evidence that the work cannot be completed for the unpaid balance of the contract sum; or
  - h. Failure of the Contractor to submit an acceptable construction schedule or failure to update the schedule; or
  - i. Damage to the City or another contractor; or
  - j. Reasonable evidence that the work will not be completed within the time provided for in the Contract; or Contractor's failure or inability to obtain or maintain insurance coverage and bonds as required by the Contract throughout the course of the job; or
  - k. Persistent failure to carry out the work in accordance with the Contract; or
  - l. Failure to deliver copies of certified payrolls, as specified in Section 1-17.11, General Conditions.
  - m. In addition, the City may deduct from any such payments due the Contractor any amounts the City may be currently or in the future authorized to retain pursuant to federal, state, or local laws or regulations, any amounts due the City from the Contractor, and any other amounts which the City is otherwise authorized to retain as specified in Special Provisions.
- C. The City may refuse to make payment of the full amount recommended by the ENGINEER because:
- a. Claims have been made against City on account of CONTRACTOR'S performance or furnishing of the WORK.
  - b. Liens have been filed in connection with the WORK, except where CONTRACTOR has delivered a specific Bond satisfactory to City to secure the satisfaction and discharge of such Liens.
  - c. There are other items entitling City to set-off against the amount recommended, or
  - d. City has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.05B. through 14.05C and Sections 15.01 through 15.04 inclusive.

The City must give the CONTRACTOR immediate written notice stating the reasons for such action and promptly pay the CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by City and CONTRACTOR, when CONTRACTOR corrects to City's satisfaction the reasons for such action.

#### **1-14.06 COMPLETION**

When the CONTRACTOR considers the WORK ready for its intended use, the CONTRACTOR shall notify the ENGINEER in writing that the WORK is complete. The CONTRACTOR shall attach to this request a list of all work items that remain to be completed and a request that the ENGINEER prepare a Notice of Completion. Within a reasonable time thereafter, the CONTRACTOR, and the ENGINEER shall make an inspection of the WORK to determine the status of completion. If the ENGINEER considers the WORK complete, the ENGINEER will prepare and execute and deliver for Agency approval and recordation the Notice of Completion signed by the ENGINEER and CONTRACTOR, which shall fix the date of completion.

#### **1-14.07 PARTIAL UTILIZATION**

- A. The City shall have the right to utilize or place into service any item of equipment or other usable portion of the WORK prior to completion of the WORK. Whenever the City plans to exercise said right, the CONTRACTOR will be notified in writing by the ENGINEER, identifying the specific portion or portions of the WORK to be so utilized or otherwise placed into service.
- B. It shall be understood by the CONTRACTOR that until such written notification is issued, all responsibility for care and maintenance of all of the WORK shall be borne by the CONTRACTOR. Upon issuance of said written notice of Partial Utilization, the City will accept responsibility for the protection and maintenance of all such items or portions of the WORK described in the written notice.
- C. The CONTRACTOR shall retain full responsibility for satisfactory completion of the WORK, regardless of whether a portion thereof has been partially utilized by the City prior to completion of the WORK.

#### **1-14.08 FINAL APPLICATION FOR PAYMENT**

After the CONTRACTOR has completed all of the remaining work items referred to in Sections 1-14.06 and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in the General Conditions), and other documents, all as required by the Contract Documents, and after the ENGINEER has indicated that the WORK is acceptable, the CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to the City) of all Liens arising out of or filed in connection with the WORK.

#### **1-14.09 FINAL PAYMENT AND ACCEPTANCE**

- A. If, on the basis of the ENGINEER's observation of the WORK during construction and final inspection, and the ENGINEER's review of the final Application for Payment and accompanying documentation, all as required by the Contract Documents, the ENGINEER is satisfied that the WORK has been completed and the CONTRACTOR's other obligations under the Contract Documents have been fulfilled, the ENGINEER will, within 14 days after receipt of the final Application for Payment, indicate in writing the ENGINEER's recommendation of payment and present the application to the City for payment.
- B. After acceptance of the WORK by the City Council, the City will make final payment to the CONTRACTOR of the amount remaining after deducting all prior payments and all amounts to be kept or retained under the provisions of the Contract Documents, including the following items:
  - a. Liquidated damages, as applicable;
  - b. Amounts withheld by City under Paragraph 1-14.05B. and C. which have not been released; and
  - c. In accordance with Section 1-17.06, one-and-one-half times the value of outstanding items of correction work or punch list items yet uncompleted or uncorrected, as applicable. All such work shall be completed or corrected to the satisfaction of the ENGINEER as required by the Contract Documents, otherwise the CONTRACTOR does hereby waive any and all claims to all monies withheld by the City to cover the value of all such uncompleted or uncorrected items.

- C. Prior to final payment by the City, the CONTRACTOR must provide the City a fully-executed Conditional Waiver and Release Upon Final Payment in accordance with California Civil Code Section 3262.

## **1-15 SUSPENSION OF WORK AND TERMINATION**

### **1-15.01 SUSPENSION OF WORK BY City**

The City may, at any time and without cause, suspend the WORK or any portion thereof for a period of not more than 90 days by notice in writing to the CONTRACTOR. The CONTRACTOR shall resume the WORK on receipt of a notice of resumption of work. The CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both directly attributable to any suspension if the CONTRACTOR makes an approval claim therefor as provided in Sections 1-11 and 1-12.

### **1-15.02 TERMINATION OF AGREEMENT BY ENGINEER FOR DEFAULT**

- A. In the event of default by the CONTRACTOR, the ENGINEER may give seven days written notice to the CONTRACTOR and the CONTRACTOR's surety of City's intent to terminate the Agreement and provide the CONTRACTOR an opportunity to remedy the conditions constituting the default within a specified period of time. It will be considered a default by the CONTRACTOR whenever CONTRACTOR shall:
  - a. Declare bankruptcy, become insolvent, or assign its assets for the benefit of its creditors;
  - b. Disregard or violate the Laws or Regulations of any public body having jurisdiction;
  - c. Fail to provide materials or workmanship meeting the requirements of the Contract Documents;
  - d. Disregard or violate provisions of the Contract Documents or ENGINEER's instructions;
  - e. Fail to prosecute the WORK according to the approved progress schedule;
  - f. Fail to provide a qualified superintendent, competent workmen, or materials or equipment meeting the requirements of the Contract Documents;
  - g. Disregard the authority of the ENGINEER; or
  - h. Assign or subcontract any part of the work without the ENGINEER's consent.
- B. If the CONTRACTOR fails to remedy the conditions constituting default within the time allowed, the ENGINEER may then issue the notice of termination.
- C. In the event the Agreement is terminated in accordance with Paragraph 1-15.02A., herein, the City may take possession of the WORK and may complete the WORK by whatever method or means the City may select. The cost of completing the WORK will be deducted from the balance which would have been due the CONTRACTOR had the Agreement not been terminated and the WORK completed in accordance with the Contract Documents. If such cost exceeds the balance which would have been due, the CONTRACTOR shall pay the excess amount to the City. If such cost is less than the balance which would have been due, the CONTRACTOR shall not have claim to the difference.

### **1-15.03 TERMINATION OF AGREEMENT BY City FOR CONVENIENCE**

- A. Upon seven days' written notice to the CONTRACTOR, the City may, without cause and without prejudice to any other right or remedy of the City, elect to terminate the Agreement. In such case, the CONTRACTOR shall be paid (without duplication of any items):
  - a. For completed and acceptable WORK executed in accordance with the Contract Documents, prior to the effective date of termination, including fair and reasonable sums for overhead and profit of such WORK;
  - b. For expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted WORK, plus fair and reasonable sums or overhead and profit on such expenses;
  - c. For all reasonable claims, costs, losses, and damages incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and
  - d. For reasonable expenses directly attributable to termination.

- B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

#### **1-15.04 TERMINATION OF AGREEMENT BY CONTRACTOR**

- A. The CONTRACTOR may terminate the Agreement upon 14 days written notice to the ENGINEER whenever:
  - a. The WORK has been suspended under the provisions of Section 1-15.01, herein, for more than 90 consecutive days through no fault or negligence of the CONTRACTOR, and notice to resume work or to terminate the Agreement has not been received from the ENGINEER within this time period; or
  - b. The City should fail to pay the CONTRACTOR any monies due him in accordance with the terms of the Contract Documents and within 60 days after presentation to the ENGINEER by the CONTRACTOR of a request therefor, unless within said 14-day period the City shall have remedied the condition upon which the payment delay was based.
- B. In the event of such termination, the CONTRACTOR shall have no claims against the City except for those claims specifically enumerated in Section 1-15.03, herein, and as determined in accordance with the requirements of said paragraph.

### **1-16 GENERAL TERMS**

#### **1-16.01 GIVING NOTICE**

Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

#### **1-16.02 TITLE TO MATERIALS FOUND ON THE WORK**

The City reserves the right to retain title to all soils, stone, sand, gravel, and other materials developed and obtained from excavations and other operations connected with the WORK. Unless otherwise specified in the Contract Documents, neither the CONTRACTOR nor any Subcontractor shall have any right, title, or interest in or to any such materials. The CONTRACTOR will be permitted to use in the WORK, without charge, any such materials which meet the requirements of the Contract Documents.

#### **1-16.03 RIGHT TO AUDIT**

If the CONTRACTOR submits a claim to the ENGINEER for additional compensation, the City shall have the right, as a condition to considering the claim, and as a basis for evaluation of the claim, and until the claim has been settled, to audit the CONTRACTOR's books to the extent they are relevant. This right shall include the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to discovery and verify all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred and for which the claim has been submitted. The right to audit shall include the right to inspect the CONTRACTOR's plant or such parts thereof, as may be or have been engaged in the performance of the WORK. The CONTRACTOR further agrees that the right to audit encompasses all subcontracts and is binding upon Subcontractors. The rights to examine and inspect herein provided for shall be exercisable through such representatives as the City deems desirable during the CONTRACTOR's normal business hours at the office of the CONTRACTOR. The CONTRACTOR shall make available to the ENGINEER for auditing, all relevant accounting records and documents, and other financial data, and upon request, shall submit true copies of requested records to the ENGINEER.

#### **1-16.04 SURVIVAL OF OBLIGATIONS**

All representations, indemnifications, warranties, and guaranties 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 Agreement.

### **1-16.05 CONTROLLING LAW**

This Agreement is to be governed by the law of the state in which the Project is located.

### **1-16.06 SEVERABILITY**

If any term or provision of this Agreement is declared invalid or unenforceable by any court of lawful jurisdiction, the remaining terms and provisions of the Agreement shall not be affected thereby and shall remain in full force and effect.

### **1-16.07 WAIVER**

The waiver by the City of any breach or violation of any term, covenant or condition of this Agreement or of any provision, ordinance, or law shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance, or law. The subsequent payment of any monies or fee by the City which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by CONTRACTOR or any term, covenant, condition of this Agreement or of any applicable law or ordinance.

## **1-17 CALIFORNIA STATE REQUIREMENTS**

### **1-17.01 STATE WAGE DETERMINATIONS**

- A. As required by Section 1770 and following, of the California Labor Code, the CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages available file at the office of the City Clerk, which copies shall be made available to any interested party on request. The CONTRACTOR shall post a copy of such determination at each job site.
- B. In accordance with Section 1775 of the California Labor Code, the CONTRACTOR shall, as a penalty to the City, forfeit not more than **\$200.00** for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director for the work or craft in which the worker is employed for any public work done under the contract by him or her or by any subcontractor under him or her.

### **1-17.02 WORKERS' COMPENSATION**

- A. In accordance with the provisions of Section 3700 of the California Labor Code, the CONTRACTOR shall secure the payment of compensation to its employees.
- B. Prior to beginning work under the Contract, the CONTRACTOR shall sign and file with the ENGINEER the following certification:

"I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the WORK of this Contract."
- C. Notwithstanding the foregoing provisions, before the Contract is executed on behalf of the City, a bidder to whom a contract has been awarded shall furnish satisfactory evidence that it has secured in the manner required and provided by law the payment of workers' compensation.

### **1-17.03 APPRENTICES ON PUBLIC WORKS**

The CONTRACTOR shall comply with all applicable provisions of Section 1777.5 of the California Labor Code relating to employment of apprentices on public works.

### **1-17.04 WORKING HOURS**

The CONTRACTOR shall comply with all applicable provisions of Section 1810 to 1815, inclusive, of the California Labor Code relating to working hours. The CONTRACTOR shall, as a penalty to the City, forfeit \$25.00 for each worker employed in the execution of the Contract by the CONTRACTOR or by any subcontractor for each calendar day during which such worker is required or permitted to work more than



8 hours in any one calendar day and 40 hours in any one calendar week, unless such worker receives compensation for all hours worked in excess of 8 hours at not less than 1-1/2 times the basic rate of pay.

#### **1-17.05 CONTRACTOR NOT RESPONSIBLE FOR DAMAGE RESULTING FROM CERTAIN ACTS OF GOD**

As provided in Section 7105 of the California Public Contract Code, the CONTRACTOR shall not be responsible for the cost of repairing or restoring damage to the WORK which damage is determined to have been proximately caused by an act of God, in excess of 5 percent of the contracted amount, provided, that the WORK damaged was built in accordance with accepted and applicable building standards and the plans and specifications of the City. The CONTRACTOR shall obtain insurance to indemnify the City for any damage to the WORK caused by an act of God if the insurance premium is a separate bid item in the bidding schedule for the WORK. For purposes of this Section, the term "acts of God" shall include only the following occurrences or conditions and effects: earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves.

#### **1-17.06 NOTICE OF COMPLETION**

In accordance with the Sections 3086 and 3093 of the California Civil Code, within 10 days after date of acceptance of the WORK by the City of Pinole's City Council, the ENGINEER will file, in the County Recorder's office, a Notice of Completion of the WORK.

#### **1-17.07 UNPAID CLAIMS**

If, at any time prior to the expiration of the period for service of a stop notice, there is served upon the City a stop notice as provided in Sections 3179 and 3210 of the California Civil Code, the City shall, until the discharge thereof, withhold from the monies under its control so much of said monies due or to become due to the CONTRACTOR under this Contract as shall be sufficient to answer the claim stated in such stop notice and to provide for the reasonable cost of any litigation thereunder; provided, that if the ENGINEER shall, in its discretion, permit CONTRACTOR to file with the ENGINEER the bond referred to in Section 3196 of the Civil Code of the State of California, said monies shall not thereafter be withheld on account of such stop notice.

#### **1-17.08 RETAINAGE FROM MONTHLY PAYMENTS**

- A. Pursuant to Section 22300 of the California Public Contract Code, the CONTRACTOR may substitute securities for any money withheld by the City to insure performance under the Contract. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the City or with a state or federally chartered bank in California as to the escrow agent, who shall return such securities to the CONTRACTOR upon satisfactory completion of the Contract.
- B. Alternatively, the CONTRACTOR may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of the CONTRACTOR. At the expense of the CONTRACTOR, the CONTRACTOR may direct the investment of the payments into securities and the CONTRACTOR shall receive the interest earned on the investments upon the same terms provided in Section 22300 of the Public Contract Code securities deposited by the CONTRACTOR. The CONTRACTOR shall be responsible for paying all fees for the expenses incurred by the escrow agent in administering the escrow account and all expenses of the City. These expenses and payment terms shall be determined by the City's Finance Director or his/her designee and the escrow agent. Upon satisfactory completion of the Contract, the CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City, pursuant to the terms of Section 22300 of the Public Contract Code. The CONTRACTOR shall pay to each subcontractor, not later than 20 days of 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 the CONTRACTOR.
- C. Securities eligible for investment under Section 22300 shall be limited to those listed in Section 16430 of the Government Code and to bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the CONTRACTOR and the City.

### **1-17.09 PUBLIC WORKS CONTRACTS; ASSIGNMENT TO AWARDING BODY**

In accordance with Section 7103.5 of the California Public Contract Code, the CONTRACTOR and Subcontractors shall conform to the following requirements. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the CONTRACTOR or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the CONTRACTOR, without further acknowledgment by the parties.

### **1-17.10 PAYROLL RECORDS; RETENTION; INSPECTION; NONCOMPLIANCE PENALTIES; RULES AND REGULATIONS**

- A. In accordance with Section 1776 of the California Labor Code the CONTRACTOR and each Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
  - a. The information contained in the payroll record is true and correct.
  - b. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
- B. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR on the following basis:
  - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request as well as submitted electronically online to the Department of Industrial Relations Labor Commissioner: <https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>.
  - b. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
  - c. A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the CONTRACTOR, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the CONTRACTOR.
- C. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.
- D. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, 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.
- E. The CONTRACTOR shall inform the ENGINEER of the location of the records including the street address, City and County, and shall, within 5 working days, provide a notice of change of location and address.

- F. The CONTRACTOR shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the CONTRACTOR must comply with this Section. In the event that the CONTRACTOR fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25.00) 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, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

#### **1-17.11 CULTURAL RESOURCES**

The CONTRACTOR's attention is directed to the provisions of the Clean Water Grant Program Bulletin 76A which augments the National Historic Preservation Act of 1966 (16 U.S.C. 470) as specified under Section 01560 - Temporary Environmental Controls, of the General Conditions.

#### **1-17.12 PROTECTION OF WORKERS IN TRENCH EXCAVATIONS**

- A. As required by Section 6705 of the California Labor Code and in addition thereto, whenever work under the Contract involves the excavation of any trench or trenches 5 feet or more in depth, the CONTRACTOR shall submit for acceptance by the ENGINEER, to whom authority to accept has been delegated, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation, of such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders of the Division of Occupational Safety and Health, the plan shall be prepared by a registered civil or structural engineer employed by the CONTRACTOR, and all costs therefore shall be included in the price named in the Contract for completion of the WORK as set forth in the Contract Documents. Nothing in this Section shall be deemed to allow the use of a shoring, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this Section shall be construed to impose tort liability on the City or any of its officers, agents, representatives, or employees.
- B. Excavation shall not start until the CONTRACTOR has obtained a permit from the California Division of Industrial Safety and has posted it at the site.

#### **1-17.13 CONCRETE FORMS, FALSEWORK, AND SHORING**

The CONTRACTOR shall comply fully with the requirements of Section 1717 of the Construction Safety Orders, State of California, Department of Industrial Relations, regarding the design of concrete forms, falsework and shoring, and the inspection of same prior to placement of concrete. Where the said Section 1717 requires the services of a civil engineer registered in the State of California to approve design calculations and working drawings of the falsework or shoring system, or to inspect such system prior to placement of concrete, the CONTRACTOR shall employ a registered civil engineer for these purposes, and all costs therefore shall be included in the price named in the Contract for completion of the WORK as set forth in the Contract Documents.

#### **1-17.14 REMOVAL, RELOCATION, OR PROTECTION OF EXISTING UTILITIES**

- A. In accordance with the provisions with the provisions of Section 4215 of the California Government Code, the City shall assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the site of any construction project that is a subject of the Contract, if such utilities are not identified by the City in the plans and specifications made a part of the invitation for bids. The City will compensate CONTRACTOR for the costs of locating, repairing damage not due to the failure of the CONTRACTOR to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work.
- B. The CONTRACTOR shall not be assessed liquidated damages for delay in completion of the project, when such delay was caused by the failure of the public agency or the owner of the utility to provide for removal or relocation of such utility facilities. Nothing herein shall be deemed to require the public agency to indicate the presence of existing service laterals or appurtenances when the presence of such utilities on the site of the construction project can be inferred from the

presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of construction; provided however, nothing herein shall relieve the public agency from identifying main or trunklines in the plans and specifications.

- C. If the CONTRACTOR while performing the Contract discovers utility facilities not identified by the public agency in the Contract Documents it shall immediately notify the public agency and utility in writing.
- D. The public utility, where they are the owner, shall have the sole discretion to perform such repairs or relocation work or permit the CONTRACTOR to do such repairs or relocation work at a reasonable price.

#### **1-17.15 CONTRACTOR LICENSE REQUIREMENTS**

- A. In accordance with Section 7028.15 of the California Business and Professions Code:
- B. It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:
  - a. The person is particularly exempted from this chapter.
  - b. The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or any local agency project governed by Section 20103.5 of the Public Contract Code.
- C. If a person has previously been convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contract work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.
- D. In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purpose of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.
- E. This section shall not apply to a joint venture license, as required by Section 7029.1 of the California Business and Professions Code. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.
- F. This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.
- G. Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 and 7028.13 inclusive of the California Business and Professions Code. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.
- H. Any compliance or noncompliance with subdivision (G) of this paragraph shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.
- I. A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within

three business days. For the purposes of this section, a telephone response by the board shall be deemed sufficient.

#### **1-17.16 DIGGING TRENCHES OR EXCAVATIONS; NOTICE ON DISCOVERY OF HAZARDOUS WASTE OR OTHER UNUSUAL CONDITIONS; INVESTIGATIONS; CHANGE ORDERS; EFFECT ON CONTRACT**

If this Contract involves digging trenches or other excavations that extend deeper than four feet below the surface, the following shall apply:

- A. The CONTRACTOR shall promptly, and before the following conditions are disturbed, notify the ENGINEER in writing, of any:
  - a. 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.
  - b. Subsurface or latent physical conditions at the site differing from those indicated.
  - c. 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.
  - d. The ENGINEER shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the CONTRACTOR'S cost of, or the time required for, performance of any part of the work shall issue a change order the procedures described in the Contract.
  - e. In the event that a dispute arises between the ENGINEER and the CONTRACTOR whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR'S cost of, or time required for, performance of any part of the work, the CONTRACTOR shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. The CONTRACTOR shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

#### **1-17.17 RETENTION PROCEEDS; WITHHOLDING; DISBURSEMENT**

In accordance with Section 7107 of the Public Contract Code with respects to all contracts entered into on or after January 1, 1993 relating to the construction of any public work of improvement the following shall apply:

- A. The retention proceeds withheld from any payment by the City from the original CONTRACTOR, or by the original CONTRACTOR from any subcontractor, shall be subject to this Section 1-17.17.
- B. Within 60 days after the date of completion of the WORK, including any punch-list WORK, the retention withheld by the City shall be released. In the event of a dispute between the ENGINEER and the original CONTRACTOR, the City may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. For the purposes of this paragraph, "completion" means any of the following:
  - a. The occupation, beneficial use, and enjoyment of a work of improvement, excluding any operation only for testing, startup, or commissioning, by the City, accompanied by cessation of labor on the work of improvement.
  - b. The acceptance by the City of Pinole's Council of the work of improvement.
  - c. After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 100 days or more, due to factors beyond the control of the CONTRACTOR.

- d. After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 30 days or more, if the ENGINEER files for record a notice of cessation or a notice of completion.
- C. Subject to Section 1-17.17, within 10 days from the time that all or any portion of the retention proceeds are received by the original CONTRACTOR, the original 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 the original 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.
- D. The original CONTRACTOR may withhold from a subcontractor its portion of the retention proceeds if a bona fide dispute exists between the subcontractor and the original CONTRACTOR. The amount withheld from the retention payment shall not exceed 150 percent of the estimated value of the disputed amount.
- E. In the event that retention payments are not made within the time periods required by this paragraph 17.18, the City or original CONTRACTOR shall be subject to a charge of 2 percent per month on the improperly withheld amount, in lieu of any interest otherwise due. Additionally, in any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to attorney's fees and costs.
- F. Any attempted waiver of the provisions of this section shall be void as against the public policy of this state.

#### **1-17.18 TIMELY PROGRESS PAYMENTS; INTEREST; PAYMENT REQUESTS**

- A. If the City fails to make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from the CONTRACTOR, the City shall pay interest to the CONTRACTOR equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.
- B. Upon receipt of a payment request, the ENGINEER shall act in accordance with both of the following:
  - a. Each payment request shall be reviewed by the ENGINEER as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
  - b. Any payment request determined not to be a proper payment request suitable for payment shall be returned to the CONTRACTOR as soon as practicable, but not later than seven days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.
- C. The number of days available to the City to make a payment without incurring interest pursuant to this paragraph shall be reduced by the number of days by which the City exceeds the seven-day requirement set forth above.
- D. For purposes of this paragraph:
  - a. A "progress payment" includes all payments due the CONTRACTOR, except that portion of the final payment designated by the contract as retention earnings.
  - b. A payment request shall be considered properly executed if funds are available for payment of the payment request, and payments is not delayed due to an audit inquiry by the financial officer of the City.

#### **1-17.19 PREFERENCE FOR MATERIAL**

In accordance with Section 3400 of the California Public Contract Code, the CONTRACTOR will be provided a period prior to award of the contract for submission of data substantiating a request for a substitution of "as equal" item.

## 1-17.20 RESOLUTION OF CONSTRUCTION CLAIMS

- A. In accordance with Section 20104 et Seq. of the California Public Contract Code. This paragraph applies to all claims of \$375,000 or less which arise between the CONTRACTOR and the City under this Contract for:
- a. A time extension;
  - b. Payment of money or damages arising from work done by or on behalf of, the CONTRACTOR pursuant to this CONTRACT and payment of which is not otherwise expressly provided for or the CONTRACTOR is not otherwise entitled to; or
  - c. An amount the payment of which is disputed by the ENGINEER.
- B. For any claim set out under Paragraph A above, the following requirements apply:
- a. The claim shall be in writing and include the documents necessary to substantiate the claim and be accompanied by the following certification:

"CONTRACT PROVISION REQUIRING PERSONAL CERTIFICATION OF ALL CLAIMS:

I, \_\_\_\_\_, BEING THE \_\_\_\_\_  
(MUST BE AN OFFICER) OF \_\_\_\_\_ (GENERAL CONTRACTOR), DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND DO PERSONALLY CERTIFY AND ATTEST THAT: I HAVE THOROUGHLY REVIEWED THE ATTACHED CLAIM FOR ADDITIONAL COMPENSATION AND/OR EXTENSION OF TIME, AND KNOW ITS CONTENTS, AND SAID CLAIM IS MADE IN GOOD FAITH; THE SUPPORTING DATA IS TRUTHFUL AND ACCURATE; THAT THE AMOUNT REQUESTED ACCURATELY REFLECTS THE CONTRACT ADJUSTMENT FOR WHICH THE CONTRACTOR BELIEVES THE City IS LIABLE; AND, FURTHER THAT I AM FAMILIAR WITH CALIFORNIA PENAL CODE SECTION 12650, ET SEQ. PERTAINING TO FALSE CLAIMS, AND FURTHER KNOW AND UNDERSTAND THAT SUBMISSION OR CERTIFICATION OF A FALSE CLAIM MAY LEAD TO FINES, IMPRISONMENT AND/OR OTHER SEVERE LEGAL CONSEQUENCES."

Claims must be filed on or before the date of final payment. Nothing herein is intended to extend the time limit or supersede notice requirements otherwise provided by Contract for the filing of claims.

The claim must include an actual cost documentation, including hours of work performed, equipment operation costs, and labor and overhead costs, which should be established at a standard percentage. Any overhead costs listed when paid, shall provide full and complete payment for any and all overhead, including jobsite overhead, home office overhead, as well as additional costs arising from disruption, resequencing or acceleration. A notice of POTENTIAL CLAIM shall be submitted in advance of the performance of any work, regardless of type, in which the CONTRACTOR may claim an additional cost. CONTRACTOR shall provide prompt notification of any disagreement in quantities of work performed along with a detailed accounting by means of a schedule update demonstrating any delays incurred.

- b. For claims of less than fifty thousand dollars (\$50,000), the ENGINEER shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the CONTRACTOR.

If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the ENGINEER and the CONTRACTOR.

The ENGINEER's written response to the claim, as further documented, shall be submitted to the CONTRACTOR within 15 days after receipt of further documentation or within a

period of time no greater than that taken by the CONTRACTOR in producing the additional information, whichever is greater.

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

If additional information is thereafter required, it shall be requested and provided upon mutual agreement of the ENGINEER and the CONTRACTOR.

The ENGINEER's written response to the claim, as further documented, shall be submitted to CONTRACTOR within 30 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.

- d. If the CONTRACTOR disputes the ENGINEER's written response, or the ENGINEER fails to respond within the time prescribed, the CONTRACTOR may notify the ENGINEER, in writing, either within 15 days of receipt of the ENGINEER's response or within 15 days of the ENGINEER's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the ENGINEER shall schedule a meet and confer conference within 30 days for settlement of the dispute.
- e. Following the meet and confer conference, if the claim or any portion remains in dispute, the CONTRACTOR may 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. 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 CONTRACTOR submits its written claim pursuant to subdivision (a) until the time the claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

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

- a. Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.
- b. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of Article 1.5 of Chapter 1 of Part 3 of Division 2 of the California Public Contract Code shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause,



determines a different division. In no event shall these fees or expenses be paid by state or county funds.

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

- c. The City shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in this Contract.
- d. In any suit filed under Section 20104.4 of the California Public Contract Code, the City shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.



### III. SPECIAL PROVISIONS

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**SP-1 DESCRIPTION OF WORK**

The work to be done consists, in general, of installing electrical and site improvements for electric vehicle charging station at the Pinole Safety Building and all other work specified in the contract documents and as shown on the plans.

**SP-2 ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS**

If the CONTRACTOR discovers any errors, omissions, discrepancies, or conflicts in the Contract, he/she shall immediately inform the ENGINEER in writing. The ENGINEER will promptly resolve such matters by issuing addenda or change orders. Failure or delay to act on the part of the ENGINEER shall not constitute a waiver of any right afforded the City or the ENGINEER by the Contract or constitute an implied approval. Any work affected by such discoveries that is performed by the CONTRACTOR prior to authorization by the City shall be at the CONTRACTOR'S risk.

Unless otherwise noted below, conflicts or inconsistencies between parts of the Contract will be resolved by the ENGINEER with a change order or an addendum, if required. Addenda and change orders bearing the most recent date shall prevail over addenda or change orders bearing earlier dates. Any reference to addenda-changed specifications or drawings shall be considered to have been changed accordingly.

In resolving conflicts, errors, or discrepancies, the order of precedence shall be as stated in the General Conditions.

**SP-3 COOPERATION**

Attention is directed to Sections 5-1.20, "Coordination with Other Entities", and 5-1.36D, "Nonhighway Facilities", of the Standard Specifications and these special provisions.

The CONTRACTOR shall not adjust gas, electric, television cable, telephone, and Pinole County structures. The CONTRACTOR will notify each agency who will be in turn adjust their own structures at least seven (7) working days prior to covering/burying these facilities at no cost to the City. Failure to do so shall result in the CONTRACTOR being liable for the utility agencies' claims.

**SP-4 OBSTRUCTIONS**

Attention is directed to Sections 5-1.36D, "Nonhighway Facilities", and 15, "Existing Facilities", of the Standard Specifications and these special provisions.

The CONTRACTOR's attention is directed to the existence of certain underground facilities that may require special precautions be taken by the CONTRACTOR to protect the health, safety and welfare of workmen and of the public. Facilities requiring special precautions include, but are not limited to: conductors of petroleum products, oxygen, chlorine and toxic or flammable gases; natural gas in pipelines greater than 6 inches in diameter or pipelines operating at pressures greater than 60 psi (gage); underground electric supply system conductors or cables either directly buried or in duct or conduit which do not have concentric neutral conductors or other effectively grounded metal shields or sheaths; and underground electrical conductors with potential to ground of more than 300 volts.

The CONTRACTOR shall notify the ENGINEER and the appropriate regional notification center for operators of subsurface installations at least 5 working days prior to performing any excavation or other work close to any underground pipeline, conduit, duct, wire or other structure. Regional notification centers include but are not limited to the following:

Underground Service Alert  
Northern California (USA)  
Telephone: 1 (800) 227-2600

If the CONTRACTOR's certain operation is delayed, in the opinion of the ENGINEER, by the discovery of an underground utility not indicated on the plans or not marked by USA, the CONTRACTOR shall be paid a fair and reasonable compensation for the actual loss. Actual loss shall be understood to include no items of expense other than idle time of equipment exclusively used in such operation and necessary payments for idle time of labor exclusively required for such operation only, determined as follows:

- 1) Compensation for idle equipment shall be applied at the reduced Caltrans' Equipment Rental Rates where the right of way delay factor for each classification of equipment shall be applied to such equipment rental rate. No markup shall be applied for overhead or profit.
- 2) Compensation for idle time of labor shall be actual wages paid to the workers. No markup shall be added for overhead and profit.
- 3) The time for which such compensation will be paid will not exceed eight (8) hours for each incident.
- 4) The CONTRACTOR shall be granted an extension of time for the delay.
- 5) No monetary compensation will be allowed for delays due to utilities indicated on the plans or marked by USA.

**SP-5 ORDER OF WORK**

The CONTRACTOR shall submit a work plan to the City for review and shall identify proposed order of work to maximize efficiency of construction, minimize impact to the community and maintain safety.

**SP-6 DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

There is no DBE goal for this work.

**SP-7 FEDERAL LOBBYING RESTRICTIONS**

Section 1352, Title 31, United States Code prohibits Federal funds from being expended by the recipient or any lower tier sub recipient of a Federal-aid contract to pay for any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal-aid contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement.

If any funds other than Federal funds have been paid for the same purposes in connection with this Federal-aid contract, the recipient must submit an executed certification and, if required, submit a completed disclosure form as part of the bid documents. A certification for Federal-aid contracts regarding payment of funds to lobby Congress or a Federal agency is included in the Proposal. Standard Form - LLL, "Disclosure of Lobbying Activities," with instructions for completion of the Standard Form is also included in the Proposal. Signing the Proposal will constitute signature of the Certification.

The above referenced certification and disclosure of lobbying activities must be included in each subcontract and any lower-tier contracts exceeding \$100,000. All disclosure forms, but not certifications, must be forwarded from tier to tier until received by the Engineer.

Contractor, the subcontractors, and any lower-tier contractors must file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by the Contractor, the subcontractors, and any lower-tier contractors. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(3) A change in the officer(s), employees(s), or Member(s) contacted to influence or attempt to influence a covered Federal Action.

**SP-8 PROJECT AND CONSTRUCTION AREA SIGNS**

Not required.

**SP-9 SANITATION FACILITIES**

The contractor must conform to the requirements of Section 13.16.070 of the Pinole Municipal Code, requiring the maintenance of not less than one chemical toilet, approved by the Health Officer, on the premises, for each twenty (20) employees or fractional part thereof working at a construction job site, unless specifically exempt from this requirement by the Engineer. Alternate sanitary facilities if suitably located and adequately available may be substituted for the facilities required by Section 13.16.070, subject to approval of the Engineer. The job site location(s) of the chemical toilet must be approved by the Engineer.

MEASUREMENT AND PAYMENT –All costs incurred for providing, maintaining and removal of sanitation facilities shall be included in the various bid items and will be full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, as directed by the Engineer, and no additional compensation will be allowed therefore.

**SP-10 CONSTRUCTION STAKING**

Section 5-1.26, "Construction Surveys," of the Standard Specifications must be deleted in its entirety and replaced with the following:

This work will consist of furnishing and setting construction and marks to establish lines and grades required for the completion of the work as shown on the plans and as specified in the Standard Specifications and these Special Provisions.

CONTRACTOR must provide all construction surveying, staking and layout necessary to establish the lines and grades required for the completion of the work shown on the plans and as specified in the Contract documents. The construction survey crew must follow the California Department of Transportation's Surveys Manual (Surveys Manual) at all times and be under the direction and "responsible charge" of a Professional Land Surveyor registered in the State of California or a Registered Civil Engineer authorized to practice land surveying in the State of California. Construction stakes must be removed from the site of the work when no longer needed.

Survey data for the construction control surveys, horizontal and vertical, is shown on the plans. Electronic copies of design files may not be available for Contractor's use. The Surveyor must set stakes or marks in conformance with the requirements in Chapter 12, "Construction Surveys," of the Surveys Manual. Before starting any survey work, Contractor must submit in writing for approval by the Engineer the proposed procedures, methods, equipment and typical stake markings to be used.

All computations necessary to establish the exact positions of the work from actual control points must be made by the CONTRACTOR. All computations, survey notes, and other records necessary to accomplish the work must be neat, legible, and accurate. Copies of such computations, notes, and other records must be furnished to the Engineer prior to beginning work.

The Surveyor will be required to provide daily survey notes and cut sheets to the Engineer during the progress of this construction project and all construction staking and surveying must be approved by the Engineer prior to the start of construction.

Construction stakes must be removed from the site of the work when no longer needed. Upon completion of construction staking and prior to acceptance of the contract, all computations, survey notes, and other data used to accomplish the work must be furnished to the Engineer.

MEASUREMENT AND PAYMENT – If no separate bid item is provided for Construction staking/Surveying all costs incurred for construction staking shall be included in various bid items and will be full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in furnishing and setting construction and marks to establish and lines and grades, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, as directed by the Engineer, and no additional compensation will be allowed therefore.

**SP-11 NOISE AND VIBRATION**

Noise and vibration must conform to Section 14-8, "Noise and Vibration," of the Standard Specifications and these Special Provisions.

The noise level from Contractor's operations, between the hours of 9:00 p.m. and 6:00 a.m., must not exceed 86 dB at a distance of fifty (50) feet. This requirement will not relieve Contractor from his responsibility for complying with local ordinances regulating noise level.

The noise level requirement must apply to the equipment on the job or related to the job, including but not limited to trucks, transit mixers or transient equipment that may or may not be owned by you. The use of loud sound signals must be avoided in favor of light warnings except those required by safety laws for the protection of personnel.

MEASUREMENT AND PAYMENT – If no separate bid item is provided for, all costs incurred for shall be included in the various bid items and will be the full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, as directed by the Engineer, and no additional compensation will be allowed therefore.

**SP-12 MAINTAINING TRAFFIC**

Attention is directed to Sections 7-1.03, "Public Convenience", 7-1.04, "Public Safety", of the Standard Specifications.

At least five (5) working days prior to beginning of each phase of construction (i.e., piping installation, paving, pavement repair, concrete construction, etc.), the CONTRACTOR shall:

- A. Notify all adjacent residents, businesses, City Police and Fire, Green Waste Recovery (residential refuse service company), Waste Management Company (industrial refuse service company), and Transit Operators by written notices detailing the type, limits, date and the hours of work. Details of the notice shall be submitted to the ENGINEER for review and approval at least five (5) days prior to delivering these notices.
- B. Where required, post streets with temporary "No Parking/Tow Away" signs at 100-foot intervals at least 72 hours in advance. These signs shall be furnished by the CONTRACTOR and shall state the date; day of week and hour parking is prohibited.

Illuminated traffic cones when used during the hours of darkness shall be affixed or covered with reflective cone sleeves as specified in Section 12-3.10, "Traffic Cones", of the Standard Specifications.

Full compensation for temporary delineation shall be considered as included in the prices paid for the contract in terms of work which obliterated the existing delineation and no separate payment will be made therefore.



When working in or blocking any intersection, the CONTRACTOR shall provide flag persons to direct traffic at that intersection. This is in addition to other required flag persons.

Personal vehicles of the CONTRACTOR's employees shall not be parked on the traveled way, including any section closed to public traffic. The CONTRACTOR, at all times, shall provide flag person(s) to direct delivery trucks and CONTRACTOR's vehicles entering or leaving the public traffic.

The CONTRACTOR shall notify the City of his/her intent to begin work at least 5 days before work is begun. The CONTRACTOR shall cooperate with local authorities relative to handling traffic through the area and shall make his/her own arrangements relative to keeping the working area clear of parked vehicles.

NO work: No work and/or preparation of work shall be performed between 5:00 p.m. and 7:00 a.m. unless approved by the ENGINEER in writing, except work required under said Sections 7-1.03 and 7-1.04 of the Standard Specifications or specified elsewhere in the special provisions.

Except as otherwise provided, the full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays, after 4:00 p.m. on Fridays, on designated legal holidays, during the holiday shutdown period (in applicable areas), and when construction operations are not actively in progress.

Designated legal holidays and the holiday shutdown period are outlined in "Hours of Work" of these Special Provisions.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of the work may be permitted upon the written request of the CONTRACTOR if in the opinion of the ENGINEER public traffic will be better served and the work expedited. Such deviations shall not be adopted until the ENGINEER has indicated his/her written approval. All other modifications will be made by contract change order.

Prior to commencing construction which will affect existing traffic, the contractor shall submit for review by the Engineer, a Traffic Control Plan on 11"x17" or 22"x34" sheet(s) of paper which contains only information specially related to work zone traffic control. If the Contractor proposes to use the latest edition of California Department of Transportation Manual of Traffic Controls for Construction and Maintenance of Work Zones in lieu of a traffic control plan, in specific work operations, he/she shall submit in writing for consideration which Typical Application Diagram will be used for each work operation. A Traffic Control Plan or proposal shall be submitted for review per Caltrans and City specifications/ permit requirements. No work shall commence on Public / County / State right of way until a traffic control plan is approved and implemented.

In addition to the traffic control plan, the Contractor shall submit a haul route for approval by the Engineer. The route must minimize traffic on residential streets that are not part of the project. Temporary staging of construction materials shall not occur on streets or areas that are not within the immediate limits of the project.

The Traffic Control Plan shall contain a title block which contains the contractor's name, address, phone number, project superintendent's name, contract name, dates and hours traffic control will be in effect, and a space for review acknowledgement by the City.

The content of the Traffic Control Plan shall include, but not limited to, the following:

- A. Show location and limits of the work zone for each phase or specific operation of construction if requiring different traffic control.
- B. Give dimensions of lanes affected by traffic control that will be open to traffic.
- C. Indicate signing with MUTCD designation, cone placement (including spacing), changeable message signs, flashing arrow boards, pavement markings, and

- other methods of delineation and reference to appropriate standards and sign designations.
- D. Dimension location of signs and cone tapers.
  - E. Location of any and all flagmen, if applicable.
  - F. Identify side streets and driveways affected by construction and show how they will be handled.
  - G. Show how pedestrian and bicycle traffic will be handled through the construction site during all hours including edge grinding operation.
  - H. Show locations of night time lighting if applicable.
  - I. Modification to Traffic Signal operations in the vicinity of the project. Contractor shall be responsible for making arrangements with the City's Traffic Signal Technician at least 48 hours in advance before starting any work in or nearby a signalized intersection if any signal operations need to be modified.
  - J. Separate Traffic Control Plans shall be prepared for each phase of a construction project and shall be submitted for City's review and approval.

No work except for installation of project identification signs will be allowed to commence prior to approval of the Traffic Control Plan.

Residents, businesses, delivery to businesses, and customer parking shall be notified in writing by the Contractor at least five (5) calendar days prior to any activity that will impact access to their property.

The City Traffic Control Design and Construction Standards (Series 700) shown elsewhere in these specifications are guidelines only. The CONTRACTOR is not relieved from his/her responsibility for submitting his/her own traffic control plan.

**The CONTRACTOR's failure to comply with the requirements of this section will be sufficient cause for the ENGINEER to suspend work at no cost to the City.**

MEASUREMENT AND PAYMENT – All costs involved for completing all work described in this section shall be considered to be included in the contract bid price for JOB SITE MAINTENANCE and no additional compensation shall be allowed therefore.

#### **SP-13 REMOVAL OF ASBESTOS AND HAZARDOUS SUBSTANCES**

When the presence of asbestos or hazardous substances are not shown on the plans or indicated in the specifications and you encounter materials which you reasonably believe to be asbestos or a hazardous substance as defined in Section 25914.1 and 25914.2 of the Health and Safety Code, and the asbestos or hazardous substance has not been rendered harmless, you may continue work in unaffected areas reasonably believed to be safe. You must immediately cease work in the affected area and report the condition to the Engineer in writing.

In conformance with Section 25914.1 and 25914.2 of the Health and Safety Code, removal of asbestos or hazardous substances including exploratory work to identify and determine the extent of the asbestos or hazardous substance will be performed by separate contract, unless disclosed in the bid or contract documents.

If delay of work in the area delays the current controlling operation, you must submit an RFI to request a delay-related time or payment adjustment. Attention is directed to Section 8 1.07, "Delays," of the Standard Specifications.

#### **SP-14 DISPOSAL OF MATERIAL**

Attention is directed to Section 5-1.20B(4), "Contractor-Property Owner Agreement," of the Standard Specifications and these Special Provisions.

CONTRACTOR must make arrangements for disposing of materials outside the street right-of-way, and pay all costs involved. Disposable material must not be stockpiled in the street beyond the normal working hours.

Prior to any disposal of material, you must obtain written permission from the owner of the proposed disposal site. CONTRACTOR must submit the property owner's written permission to the Engineer and obtain the Engineer's written approval before moving the material offsite.

MEASUREMENT AND PAYMENT – If no separate bid item is provided, all costs incurred shall be included in various bid items and will be the full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, as directed by the Engineer, and no additional compensation will be allowed therefore.

#### **SP-15 QUALITY CONTROL AND QUALITY ASSURANCE**

Attention is directed to Sections 6, "Control of Materials" and 19-5, "Compaction," of the Standard Specifications and these Special Provisions.

This Section includes administrative and procedural requirements for quality assurance and quality control. Testing and inspecting services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.

1. Specific quality-assurance and -control requirements for individual construction activities are specified in the Sections that specify those activities. Requirements in those Sections may also cover production of standard products.
2. Specified tests, inspections, and related actions do not limit Contractor's other quality assurance and -control procedures that facilitate compliance with the Contract Document requirements.
3. Requirements for Contractor to provide quality-assurance and -control services required by Architect, City, City Representative, or authorities having jurisdiction are not limited by provisions of this Section.
4. Costs for re-testing and re-inspection, including special inspections and testing, regardless of the party responsible for the original testing and inspection, shall be the responsibility of the Contractor.

#### **DEFINITIONS**

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into the Work and completed construction comply with requirements. Services do not include contract enforcement activities performed by Architect, City Representative, or City Inspector.
- C. Mockups: Full-size, physical assemblies that are constructed on-site. Mockups are used to verify selections made under sample submittals, to demonstrate aesthetic effects and, where indicated, qualities of materials and execution, and to review construction, coordination, testing, or operation; they are not Samples. Approved mockups establish the standard by which the Work will be judged.
- D. Laboratory Mockups: Full-size, physical assemblies that are constructed at testing facility to verify performance characteristics.
- E. Preconstruction Testing: Tests and inspections that are performed specifically for the Project before products and materials are incorporated into the Work to verify performance or compliance with specified criteria.

- F. Product Testing: Tests and inspections that are performed by an NRTL, an NVLAP, or a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with industry standards.
- G. Source Quality-Control Testing: Tests and inspections that are performed at the source, i.e., plant, mill, factory, or shop.
- H. Field Quality-Control Testing: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- I. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- J. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - a. Using a term such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to tradespeople of the corresponding generic name.
- K. Experienced: When used with an entity, "experienced" means having successfully completed a minimum of five previous projects similar in size and scope to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.

#### CONFLICTING REQUIREMENTS

- A. General: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to City Representative or City Inspector for a decision before proceeding.
- B. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to City Representative or City Inspector for a decision before proceeding.

#### SUBMITTALS

- A. Qualification Data: For testing agencies specified in 1.6 "Quality Assurance" below to demonstrate their capabilities and experience. Include proof of qualifications in the form of a recent report on the inspection of the testing agency by a recognized authority.
- B. Reports: Prepare and submit certified written reports that include the following:
  - 1. Date of issue.
  - 2. Project title and number.
  - 3. Name, address, and telephone number of testing agency.
  - 4. Dates and locations of samples and tests or inspections.
  - 5. Names of individuals making tests and inspections.
  - 6. Description of the Work and test and inspection method.
  - 7. Identification of product and Specification Section.
  - 8. Complete test or inspection data.
  - 9. Test and inspection results and an interpretation of test results.
  - 10. Record of temperature and weather conditions at time of sample taking and testing and inspecting.
  - 11. Comments or professional opinion on whether tested or inspected Work complies with the Contract Document requirements.
  - 12. Name and signature of laboratory inspector.
  - 13. Recommendations on retesting and re-inspecting.

Permits, Licenses, and Certificates: For City's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee

payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

#### QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this Article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- C. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production to produce required units.
- D. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production to produce required units.
- E. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or product that are similar to those indicated for this Project in material, design, and extent.
- F. Specialists: Certain sections of the Specifications require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy qualification requirements indicated and shall be engaged for the activities indicated.
  - a. Requirement for specialists shall not supersede building codes and regulations governing the Work.
- G. Testing Agency Qualifications: An NRTL, an NVLAP, or an independent agency with the experience and capability to conduct testing and inspecting indicated, as documented according to ASTM E 548; and with additional qualifications specified in individual Sections; and where required by authorities having jurisdiction, that is acceptable to authorities.
  - a. NRTL: A nationally recognized testing laboratory according to 29 CFR 1910.7.
  - b. NVLAP: A testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program.
- H. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- I. Mockups: Before installing portions of the Work requiring mockups, build mockups for each form of construction and finish required to comply with the following requirements, using materials indicated for the completed Work:
  - a. Build mockups in location and of size indicated or, if not indicated, as directed by City Representative.
  - b. Notify City Representative and City Inspector seven days in advance of dates and times when mockups will be constructed.
  - c. Demonstrate the proposed range of aesthetic effects and workmanship.
  - d. Obtain City Representative and City Inspector's approval of mockups before starting work, fabrication, or construction. Allow seven days for initial review and each re-review of each mockup.
  - e. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed Work.
  - f. Demolish and remove mockups when directed, unless otherwise indicated.

#### QUALITY CONTROL

- A. City Responsibilities: Where quality-control services are indicated as City's responsibility, City will engage a qualified testing agency to perform these services.

1. City will furnish Contractor with names, addresses, and telephone numbers of testing agencies engaged and a description of types of testing and inspecting they are engaged to perform.
  2. Costs for retesting and re-inspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor, and the Contract Sum will be adjusted by Change Order.
- B. Tests and inspections not explicitly assigned to City are Contractor's responsibility. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
1. Where services are indicated as Contractor's responsibility, engage a qualified testing agency to perform these quality-control services. Contractor shall not employ same entity engaged by City, unless agreed to in writing by City.
  2. Notify testing agencies at least 48 hours in advance of time when Work that requires testing or inspecting will be performed.
  3. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
  4. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
  5. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
    - a. Contractor shall be responsible for the cost of testing and inspections scheduled outside of normal business hours.
- C. Manufacturer's Field Services: Where indicated, engage a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. Report results in writing as specified in Division 1 Section "Submittal Procedures."
- D. Retesting/Re-inspecting: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and re-inspecting, for construction that replaced Work that failed to comply with the Contract Documents. Costs for retesting and re-inspection shall be the responsibility of the Contractor.
- E. Testing Agency Responsibilities: Cooperate with City Representative, City Inspector, and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
1. Notify City Representative, City Inspector, and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
  2. Determine the location from which test samples will be taken and in which in-situ tests are conducted.
  3. Conduct and interpret tests and inspections and City in each report whether tested and inspected work complies with or deviates from requirements.
  4. Submit a certified written report, in duplicate, of each test, inspection, and similar quality-control service through Contractor.
  5. Do not release, revoke, alter, or increase the Contract Document requirements or approve or accept any portion of the Work.
  6. Do not perform any duties of Contractor.
- F. Associated Services: Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:
1. Access to the Work.
  2. Incidental labor and facilities necessary to facilitate tests and inspections.
  3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples.
  4. Facilities for storage and field curing of test samples.
  5. Delivery of samples to testing agencies.
  6. Preliminary design mix proposed for use for material mixes that require control by testing agency.

7. Security and protection for samples and for testing and inspecting equipment at Project site.
- G. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and - control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting. Schedule times for tests, inspections, obtaining samples, and similar activities.
- H. Schedule of Tests and Inspections: Prepare a schedule of tests, inspections, and similar quality control services required by the Contract Documents. Submit schedule within 30 days of date established for the Notice to Proceed.
- I. Distribution: Distribute schedule to City, City Representative, City Inspector, testing agencies, and each party involved in performance of portions of the Work where tests and inspections are required.

#### SPECIAL TESTS AND INSPECTIONS

Special Tests and Inspections: Conducted by a qualified testing agency as required by authorities having jurisdiction, as indicated in individual Specification Sections, and as follows:

1. Verifying that manufacturer maintains detailed fabrication and quality-control procedures and reviewing the completeness and adequacy of those procedures to perform the Work.
2. Notifying City Representative, City Inspector, and Contractor promptly of irregularities and deficiencies observed in the Work during performance of its services.
3. Submitting a certified written report of each test, inspection, and similar quality-control service to City Inspector, through City Representative, with copy to Contractor and to authorities having jurisdiction.
4. Submitting a final report of special tests and inspections at Substantial Completion, which includes a list of unresolved deficiencies.
5. Interpreting tests and inspections and stating in each report whether tested and inspected work complies with or deviates from the Contract Documents.
6. Retesting and re-inspecting corrected work.

#### TEST AND INSPECTION LOG

- A. Prepare a record of tests and inspections. Include the following:
  1. Date test or inspection was conducted.
  2. Description of the Work tested or inspected.
  3. Date test or inspection results were transmitted to City Representative.
  4. Identification of testing agency or special inspector conducting test or inspection.
- B. Maintain log at Project site. Post changes and modifications as they occur. Provide access to test and inspection log for City Representative and City Inspector's reference during normal working hours.

#### REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.
  1. Provide materials and comply with installation requirements specified in other Specification Sections. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as possible.
  2. Comply with the Contract Document requirements for Division 1 Section "Cutting and Patching."
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

MEASUREMENT AND PAYMENT – If no separate bid item is provided all costs incurred shall be included in various bid items and will be full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, as directed by the Engineer, and no additional compensation will be allowed therefore.

**SP-16 SUBMITTALS AND REQUEST FOR INTERPRETATION (RFI)**

Submit samples, drawings, and data for the Engineer's approval which will demonstrate fully that the construction, and the materials and equipment to be furnished will comply with the provisions and intent of this specification.

Submit all samples, drawings and data, unless specified otherwise, in the quantity required for return to you, plus three, which the Engineer will retain. Label each sample, naming the project, the source of the material, and the proposed location of use on the project.

Restrict each submittal to only one Specification Section or portion thereof. Unless otherwise specifically permitted by the Engineer, make all submittals in groups containing all associated items for complete systems. The Engineer may reject partial submittals as not complying with the provisions of the contract documents.

Where the specifications indicate that you must follow manufacturer's instructions for installation of materials or equipment, those instructions must be submitted to the Agency prior to the start of work whether or not instructions are listed specifically as a submittal. When referenced, the manufacturers printed installation instructions will have the same effect as if printed in the contract documents.

Make all shop drawings accurately to a scale sufficiently large to show all pertinent features of the item and its method of connection to the work. Make all shop drawing prints in blue or black line on white background. Reproductions of Agency drawings are not acceptable.

You must not use red color marks on submittals. Duplicate all marks on all copies submitted and ensure marks are photocopy reproducible. Include legible scale details, sizes, dimensions, performance characteristics, capacities, test data, anchoring details, installation instructions, storage and handling instructions, color charts, layout drawings, parts catalogs, rough-in diagrams, wiring diagrams, controls, weights, and other pertinent data. Provide, at a minimum, the detail provided in the Contract Documents.

Prior to submittal for Engineer's review, use all means necessary to fully coordinate all materials, including the following procedures:

1. Determine and verify all field dimensions and conditions, materials, catalog numbers, and similar data.
2. Coordinate as required with all trades and with all public agencies involved.
3. Secure all necessary approvals from public agencies and others and signify by stamp, or other means, that they have been secured.

You must make all submittals far enough in advance of scheduled dates of installation to provide all required time for reviews, for securing necessary approvals, for possible revision and resubmittal, and for placing orders and securing delivery.

Engineer prefers use of an online system for submittal submission, review and approval process. Minimum submittal review period is 15 working days. Submittals requiring coordination with multiple departments will require significantly more review time. Contractor must discuss with the Engineer and submit long lead items well in advance for getting approval. Re-submittal will start the review period time requirement as stated above.

At least one copy of each submittal will be returned to you marked "Reviewed", "Reviewed as Noted" or "No exceptions taken", "Revise and Resubmit", or "Rejected." Submittals marked "Reviewed as Noted" or "No exceptions taken" need not be resubmitted, but the notes must be followed. If a submittal is rejected, it will be marked to indicate what is unsatisfactory. Resubmit revised drawings or data as indicated, in number of copies specified above.

Review of each submittal by the Engineer will be general only and must not be construed as:

1. Permitting any departure from the contract requirements.



2. Relieving you of the responsibility for any errors and omissions in details, dimensions, or of other nature that may exist.
3. Approving departures from additional details or instructions previously furnished by the Engineer.
4. Relieving you from verifying all field conditions and dimensions.

Any submittals which are returned to you for resubmittal due to incompleteness or noncompliance more than once will cause additional review time and expense for the Agency. You must reimburse the Agency for all costs associated with the third and subsequent review of any submittals. The Agency reserves the right to deduct resubmittal review costs from amounts due to you.

You must furnish and deliver to the Agency three (3) copies of operating and maintenance instructions and parts lists for all mechanical and electrical equipment furnished on the project. These instructions must be suitably bound in labeled and indexed ring binders. No progress payment in excess of ninety percent (90%) of the Contract amount will be made until all such instructions have been received from you.

#### REQUEST FOR INTERPRETATION (RFI)

- A. Request for Interpretation (RFI): Request from Contractor seeking interpretation or clarification of some requirement of Contract Documents and not involving change in Contract Sum or Contract Time.
  1. Improper RFI: An RFI meeting any of the following conditions:
    - i. RFI not prepared in accordance with requirements of this Section
    - ii. RFI missing graphic solution proposal from contractor where appropriate
    - iii. RFI with subject listed as improper subject matter in "GENERAL" article of this section.
  2. Frivolous RFI: RFI that requests information that is clearly indicated on or reasonably inferable from Contract Documents.
- B. Proposal Request: document issued by the City after Contract award which may include drawings and other information used to solicit proposal for change in Work.

#### GENERAL

- A. Immediately on discovery of the need for additional information or interpretation of the Contract Documents, Contractor shall prepare and submit an RFI in the form specified.
- B. Submit RFI from subcontractor or material supplier through Contractor to City Representative who shall review and sign each RFI prior to submittal.
  1. City Representative will return RFIs submitted by other entities controlled by Contractor with no response.
  2. Coordinate and submit RFIs in a prompt manner so as to avoid delays in Contractor's work or work of subcontractors.
- C. Improper subjects for RFIs: Do not submit RFI for following:
  1. Requests for approval of submittals.
  2. Requests for approval of substitutions.
  3. Requests for approval of Contractor's means and methods.
  4. Requests for coordination information already indicated in the Contract Documents.
  5. Requests for coordination of various materials and systems indicated on Contract Documents with field conditions and with each other.
  6. To provide as-built information required by Record documents
  7. To request changes which are known to entail additional cost or credit, or alter Contract Time.
  8. Requests for interpretation of Architect's actions on submittals.
  9. Incomplete RFIs or inaccurately prepared RFIs.

Submit RFI on a form, subject to City Representative's prior review and approval. Form shall be completely filled in and if prepared and submitted electronically, and shall be fully legible. RFI must be submitted via web-based system. Address for web address and login information will be distributed at Pre-Construction Conference. Electronic form of attached Request for Interpretation

will be provided upon request. Number RFIs sequentially using only next sequential number. Do not include subcontractors RFI number on form; include date submitted. Each page of attachments to RFI shall bear RFI number and shall be consecutively numbered.

Content of RFIs:

1. Specifically identify if time response interpretation is required to avoid impact on Construction Schedule and Cost.
2. Include a detailed, legible description of item needing information or interpretation and the following:
  - Project name.
  - Project number.
  - Date.
  - Name of Contractor.
  - Name of City Representative
  - Name of Architect.
  - RFI number, numbered sequentially.
  - RFI subject.
  - Specification Section number and title and related paragraphs, as appropriate.
  - Drawing number and detail references, as appropriate.
  - Field dimensions and conditions, as appropriate.
  - Contractor's suggested resolution.
  - Contractor's signature.
3. If Contractor's solution(s) impacts the Contract Time or the Contract Sum, Contractor shall notify the City of impact in the RFI.
4. Attachments: Include sketches, descriptions, measurements, photos, Product Data, Shop Drawings, coordination drawings, and other information necessary to fully describe items needing interpretation. Include dimensions, thicknesses, structural grid references, and details of affected materials, assemblies, and attachments on attached sketches.

RFI shall include written and graphic solutions proposed by Contractor. City, City Representative and Architect will determine if proposal is in accord with Contract Documents and design intent of Project.

1. Contractor's failure to make reasonable effort to propose realistic solution may result in Request for Interpretation returned with no action.
2. Submit separate RFI for each item or, subject to Architect's approval, group of closely related items requiring interpretation or clarification.

Improper or Frivolous RFI:

1. Will be returned unanswered and shall be labeled as frivolous in the official RFI log.
2. At Contractor's request, after notification by the City that RFI is improper or frivolous, RFI will be processed with processing costs charged to Contractor as follows:
2. Contractor shall reimburse City for Architect's account for time spent in processing improper or frivolous RFI at the following standard hourly rates. Hourly rates include mandatory and customary contributions and benefits including employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.
  - a. Project Manager: \$189/hour.
  - b. Project Architect: \$120/hour.
  - c. Project Engineer: \$177/hour.

REVIEW

- A. Submit Electronic copy of completed RFI form to City Representative who will promptly forward to the Architect for action, including required attachments.
  1. RFI received after 3pm will have the following business day recorded as receipt of RFI date.
  2. RFI received after 12pm on Fridays will not be processed until the following Monday, which will be the recorded receipt of RFI date.

- B. Allow minimum of 14 calendar days review and response time for each RFI.
  - 1. Requested response time indicated on RFI shall be consistent with minimum review period specified.
  - 2. Requested response time will be extended where required by concurrent review of excessive number of RFIs, including improper and frivolous RFIs.
- C. Architect's Action: Architect will review each RFI, determine action required, and respond.
  - 1. The following RFIs will be returned without action:
    - a. RFIs that meet improper or frivolous definitions as listed in this section.
  - 2. Architect's action may include a request for additional information, in which case Architect's time for response will date from time of receipt of additional information.
  - 3. Architect's action on RFIs that may result in a change to the Contract Time or the Contract Sum may be eligible for Contractor to submit Change Order.
  - 4. If Contractor believes the RFI response warrants a change in the Contract Time or the Contract Sum, notify City Representative in writing within Five (5) calendar days of receipt of the RFI response.
- D. On receipt of Architect's action, the City Representative will distribute the RFI response to the affected parties. Review response and notify City Representative and Architect within Five (5) calendar days if Contractor disagrees with response.

MEASUREMENT AND PAYMENT – If there is no separate bid item listed all costs incurred shall be included in various bid items and will be full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section and no additional compensation will be allowed therefore.

**SP-17 WATERING**

Watering shall conform to the provisions in Section 17, "Watering", of the Standard Specifications except that full compensation for developing water supply shall be considered as included in the prices paid for various contract items for work involving the use of water and no separate payment will be made therefor. The application of water for dust control will not be considered as extra work under any circumstances.

**SP-18 PROGRESS SCHEDULE**

The CONTRACTOR shall submit a schedule which includes all major tasks and milestones to the City for review at least ten (10) working days prior to start of work. CONTRACTOR shall also produce updated schedule on a weekly basis during weekly progress meetings or as agreed by the ENGINEER.

After beginning of work, updated schedules shall be submitted. No progress payments will be processed without accepted updated schedules.

Payment for the original schedule and updated, weekly schedules shall be considered to be included in the various items of work and no additional compensation will be allowed therefore.

**SP-19 SUPERINTENDENCE**

The CONTRACTOR shall designate in writing before starting work, an authorized representative who shall have the authority to represent and act for the CONTRACTOR for the duration of the contract. Any change in the designation shall require prior approval of the ENGINEER.

When the CONTRACTOR is comprised of two (2) or more persons, firms, partnerships or corporations functioning on a joint venture basis, said CONTRACTOR shall designate in writing before starting work, the name of one authorized representative who shall have the authority to represent and act for the CONTRACTOR.

Said authorized representative shall be present at the site of work at all times while work is actually in progress on the contract. When work is not in progress and during periods when work is suspended, arrangements acceptable to the ENGINEER shall be made for any emergency work, which may be required.

If work is in progress and the authorized representative is not on site, the City reserves the right to stop the work at no cost to the City.

Once the work begins, the Superintendent shall keep the ENGINEER informed of the CONTRACTOR's daily schedule. The ENGINEER shall have at least twenty-four (24 hour advance notice of all work, on a daily basis, including SUBCONTRACTOR's work. If the CONTRACTOR fails to notify the ENGINEER, the ENGINEER reserves the right to stop the work at no cost to the City.

In the case of urgency or emergency where the CONTRACTOR's authorized representative is not present on any particular part of the work and where the ENGINEER wishes to give notification or direction, it will be given to and be obeyed by the superintendent or foreperson who may have charge of the particular work or it will be given to and be obeyed by any worker in the area should the superintendent or foreperson not be immediately available.

All costs involved in superintendence shall be included in the contract prices paid for various items of work and no additional payment will be allowed therefore.

#### **SP-20 CONDUCT**

- A. The use or consumption of alcoholic beverages or controlled substances is strictly forbidden on any part of City owned or controlled property.
- B. Contractor shall not permit any person to operate a motor vehicle or heavy equipment while taking prescription or non-prescription medication that may impair their ability to operate safely.
- C. City property is a NO SMOKING place. No smoking or use of tobacco products is allowed on the property. There are no designated smoking areas. Anyone found smoking will be immediately removed from the jobsite.
- D. Contractor personnel shall be courteous to all business invitees, visitors, City employees and consultant's staff.
- E. Unacceptable behavior on the part of the workers anywhere on the project site, including parking lots may lead to the identifiable Contractor's personnel being removed from the project.
- F. Personal grooming, personal hygiene and language by Contractors must be constructed in a professional manner at all times. Use of foul and off-color language will not be tolerated and can result in Contractor removal from jobsite.
- G. No clothing, accessories, or hardhat stickers that display political, offensive, derogatory or inflammatory wording or graphics shall be worn on the worksite.
- H. Workers clothing must be clean of visible dusts and dirt when outside of the Project site.
- I. No radios or music shall be allowed on the Project including headphone systems. Personnel must be able to hear alarms and warnings in the immediate area. (This does not pertain to the use of two-way hand held communication equipment or phones).

#### **SP-21 SAFETY REQUIREMENT**

The CONTRACTOR shall comply with all CAL/OSHA safety requirements. It shall be the CONTRACTOR's sole responsibility for making sure these safety requirements are met and the CONTRACTOR shall fully assume all liabilities for any damages and/or injuries resulting from his or her failure to comply with the safety requirements. Failure on the City's part to stop unsafe practices shall, in no way, relieve the CONTRACTOR of his/her responsibility.

The CONTRACTOR shall first call City Emergency Center at 911, if any gas lines or electrical power lines are broken or damaged.

#### **SP-22 CLEANLINESS OF STREET**

Attention is directed to Section 12.16.100 of the Pinole Municipal Code which reads:

Section 12.16.100: Vehicles Spilling Loads: It is unlawful for any person to use any vehicle for the conveyance or removal of dirt, gravel, rock or other material without having the same so constructed and loaded as to prevent contents thereof from being scattered or deposited upon the streets over which said vehicles may be driven.”

The contractor must keep the streets affected by this project mechanically swept at a frequency to be solely determined by the Engineer.

Full compensation for providing all labor, materials, tools, equipment and incidentals and for doing all the work involved in this section, complete in place, as shown on the plans, as specified in the Standard Specifications and as described in these Special Provisions, as directed by the Engineer are included in various bids items and no additional compensation will be allowed therefore.

**SP-23 PROJECT APPEARANCE**

The CONTRACTOR shall maintain a neat appearance to the work area.

When practicable, debris developed during construction shall be disposed of concurrently with its removal. Stockpiling on the street shall not be allowed. The CONTRACTOR shall solely be responsible for securing staging and/or stockpiling areas other than that is available within the project limits.

The CONTRACTOR shall provide dust control as often as required during the construction, and shall clean the roads/streets with street sweepers at least once a day at the end of each working day or more often if safety or appearance conditions warrant. Failure to maintain dust control, street cleaning and/or any required work specified in this section shall result in the City performing the work with other forces and back charge the CONTRACTOR for the costs.

Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as included in prices paid for the various contract items of work involved and no additional compensation will be allowed therefore.

**SP-24 RESPONSIBILITY FOR DAMAGE**

The CONTRACTOR shall indemnify, hold harmless, release and defend the City, its officers, officials, employees and agents from and against any and all liabilities, claims, demands, losses, damages, expenses, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the activities of the CONTRACTOR, his/her subcontractors, employees and agents, except such loss or damage which was caused by the sole negligence or willful misconduct of the City, its employees or agents. The City may retain so much of the money due the CONTRACTOR as shall be considered necessary, until disposition has been made of claims or suits for damages as aforesaid.

**SP-25 GUARANTEE OF WORK**

Neither the final certificate of payment nor any provision in the contract nor partial or entire use of the improvements embraced in this contract by the City or the public shall constitute an acceptance of work not done in accordance with the contract or relieve the CONTRACTOR of liability in respect to any warranties or responsibility for faulty materials or workmanship. The CONTRACTOR's attention is directed to Section 1-5, "Bonds and Insurance", of the General Conditions.

**SP-26 NOTICE TO PROCEED, BEGINNING OF WORK, CONTRACT TIME, TIME OF COMPLETION, AND LIQUIDATED DAMAGES**

The CONTRACTOR shall begin work within ten (10) working days from the date of Notice to Proceed and shall diligently prosecute the same to completion before the expiration of allocated working days for this project in the Construction Agreement from the date of starting work. The CONTRACTOR shall complete all of the work directed by the ENGINEER in all parts and requirements within the time set forth. A working day is defined in these specifications.

The CONTRACTOR is on notice that it may take approximately eight (8) weeks from the bid opening to obtain the City's City Council to award the contract, to process the construction agreement, and to issue the Notice to Proceed.

A working day is defined as any day, except as follows:

- a. Saturdays, Sundays, and City of Pinole legal holidays
- b. Days on which the CONTRACTOR is prevented by inclement weather or conditions resulting immediately therefrom adverse to the current controlling operation or operations, as determined by the ENGINEER, from proceeding with at least 75 percent of the normal labor and equipment force engaged on that operation or operations for at least 60 percent of the total daily time being currently spent on the controlling operation or operations.

Should the CONTRACTOR prepare to begin work at the regular starting time of any day on which inclement weather, or the conditions resulting from the weather, or the condition of the work, prevents the work from beginning at the usual starting time and the crew is dismissed as a result thereof and the CONTRACTOR does not proceed with at least 75 percent of the normal labor and equipment force engaged in the current controlling operation or operations for at least 60 percent of the total daily time being currently spent on the controlling operation or operations, the CONTRACTOR will not be charged for a working day whether or not conditions should change thereafter during that day and the major portion of the day could be considered to be suitable for those construction operations.

Determination that a day is a non-working day by reason of inclement weather or conditions resulting immediately therefrom shall be made by the ENGINEER. The CONTRACTOR will be allowed 10 days from the issuance of the weekly statement of working days in which to file a written protest setting forth in what respects the CONTRACTOR differs from the ENGINEER; otherwise, the decision of the ENGINEER shall be deemed to have been accepted by the CONTRACTOR as correct. The ENGINEER will furnish the CONTRACTOR a weekly statement showing the number of working days charged to the contract for the preceding week, the number of working days of time extensions being considered or approved, the number of working days originally specified for the completion of the contract, and the number of working days remaining to complete the contract and any time extensions thereof.

The CONTRACTOR shall pay to the City liquidated damages as mentioned in the Construction Agreement per day for each and every calendar day's delay in finishing the work in excess of the number of days prescribed for completion of this project (and/or in excess of the number of days prescribed for any scheduled operations or works described in the Special Provisions).

#### **SP-27 HOURS OF WORK**

Weekdays – Weekdays (Monday through Friday) hours shall be from 7:00 a.m. to 5:00 p.m. for all required work except those hours approved by the City or specified in "Order of Work" Section of these special provisions. Work hours for City of Pinole and Caltrans right of way shall be governed by their respective permit conditions.

Night Hours – Other than emergency work, there will be no night hours allowed on this project.

Administrative deductions in the sum of One thousand Dollars (\$1000) per day will be assessed against the CONTRACTOR if he fails to comply with any of the daily conditions or operations such as maintaining erosion control facilities, job site/street cleanliness and daily cleanup and traffic control and flagging, as described in the General Conditions, these Special Provisions, and the Technical Specifications.

If the CONTRACTOR closes a street or sidewalk without prior notice and approval of the ENGINEER within 24 hours, the associated operation will be shutdown at the CONTRACTOR's expense.

Holidays - Designated legal holidays are: January 1st, the third Monday in January, the third Monday in February, the last Monday in May, July 4th, the first Monday in September, the second Monday in October, November 11th, Thanksgiving Day, the day after Thanksgiving, December 24th and December 25th. When a designated legal holiday falls on a Sunday, the following Monday shall be a designated legal holiday. When November 11th falls on a Saturday, the preceding Friday shall be a designated legal holiday. The Contractor shall not work on the legal holidays unless approved in writing by the Engineer.

**SP-28 RECORD ("AS-BUILT") DRAWINGS**

The CONTRACTOR shall furnish Record Drawings of the complete project and procure from the ENGINEER a full sized set of Contract Drawings. Construction drawings shall be on the construction site at all times while the work is in progress. Drawings shall show approved substitutions, if any, of material including manufacturer's name and catalog number. The Drawings shall be to scale and all indications shall be neat and legible. All information noted on the CONTRACTOR's job-site print shall be transferred to the Record Drawings by CONTRACTOR and all indications shall be recorded in a neat, legible and orderly way. The Record Drawings shall be signed by the CONTRACTOR and turned over to the ENGINEER before the final acceptance of the project. If the CONTRACTOR fails to provide the City with an acceptable "Record Drawings", the City shall deduct **TWENTY THOUSAND DOLLARS (\$20,000)** from the amount due CONTRACTOR.

**SP-29 NOTICE OF POTENTIAL CLAIM**

If for any reason the CONTRACTOR deems that additional compensation is due him/her for work or materials not clearly provided for in the contract, plans, or specifications or previously authorized extra work, a Notice of Potential Claim shall be made. The CONTRACTOR shall give the ENGINEER a written Notice of Potential Claim for such additional compensation before work begins on the items on which the claim is based. The notice shall set forth the reasons for which the CONTRACTOR believes additional compensation will or may be due and the nature of the costs involved. The CONTRACTOR shall afford the ENGINEER every opportunity and facility for keeping records of the actual cost of the work. The CONTRACTOR shall keep records of the disputed work in accordance with Contract General Conditions, Section 1-11.3, "Cost of Work (Based on Time and Materials)."

If such notification is not given or the ENGINEER is not afforded proper opportunity by the CONTRACTOR for keeping strict account of actual cost as required, then the CONTRACTOR hereby agrees to waive any claim for such additional compensation. Such notice by the CONTRACTOR and the fact that the ENGINEER has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the CONTRACTOR shall, within 10 calendar days, submit his/her written claim to the ENGINEER who will present it to the City for consideration in accordance with local laws or ordinances. The CONTRACTOR is directed to Section 1-17.20 "Resolution of Construction Claims" of the General Conditions.

Any claim for overhead type expenses or costs, in addition to being certified as stated above, shall be supported by an audit report of an independent Certified Public Accountant. Any claim for overhead shall also be subject to audit by the City at its discretion.

Any costs or expenses incurred by the City in reviewing or auditing any claims that are not supported by the CONTRACTOR's cost accounting or other records shall be deemed to be damages incurred by the City within the meaning of the California False Claims Act.

Nothing in this subsection shall be construed as a waiver of the CONTRACTOR's right to dispute final payment based on differences in in-place quantity measurements or computations of unit priced pay items.

**SP-30 PAYMENT FOR MATERIALS ON HAND**

At the discretion of the ENGINEER, partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the contract, plans, and specifications. Such delivered costs of stored or stockpile materials may be included in the next partial payment after the following conditions are met:

1. The material has been stored or stockpiled and protected at the sole expense of the CONTRACTOR at a location acceptable to the City and in a manner acceptable to the ENGINEER.
2. The CONTRACTOR has furnished the ENGINEER with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
3. The CONTRACTOR has furnished the ENGINEER with satisfactory evidence that the material and transportation costs have been paid.
4. The CONTRACTOR has furnished the City legal title (free of liens or encumbrances of any kind) to the material so stored or stockpiled.
5. The CONTRACTOR has furnished the City evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at anytime prior to use in the work.
6. The CONTRACTOR shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this subsection.

It is understood and agreed that the transfer of title and the City's payment for such stored or stockpiled materials shall in no way relieve the CONTRACTOR of his/her responsibility for furnishing and placing such materials in accordance with the requirements of the contract, plans, and specifications. In no case will the amount of partial payments for materials on hand exceed 70% of the contract price for the contract items in which the material is intended to be used.

**SP-31 ACCESS TO DRIVEWAYS**

All accesses for local businesses and residents shall be maintained at all times. Temporary ramps will be required each night for access to driveways for residences and commercial access. The Contractor shall coordinate with each driveway user as needed.

**SP-32 ARCHAEOLOGICAL MONITORING**

In the event that archaeological materials are found during construction, CONTRACTOR shall notify the ENGINEER immediately and shall temporarily cease work in the area until a determination or investigation of the site can be made by a qualified archaeologist. Archaeologist services shall be provided by the City at no cost to the CONTRACTOR.

**SP-33 STORM WATER MANAGEMENT, AND SEDIMENT AND EROSION CONTROL**

CONTRACTOR shall prepare storm water management, and sediment and erosion control measures for implementation and shall maintain these measures during the construction period as required by the Regional Water Quality Control Board (RWQCB) permit.

As the area to be disturbed by construction activities is more than one acre, the CONTRACTOR shall be required to file a Notice of Intention (NOI), pay all the fees including but not limited to annual construction general permit fees, annual construction general permit fees (biofiltration swale) etc., prepare the SWPPP, BMP, etc. as required by RWQCB permit.

Storm water management, and sediment and erosion control shall include, but not be limited to fiber rolls (sediment logs or wattles), straw bales, drain rock, check dams, silt fencing, siltation basins and as required for construction conditions. Measures shall be submitted to the



ENGINEER for review seven (7) days prior to start of construction. The CONTRACTOR shall be responsible for providing the measures that would comply with the RWQCB.

The CONTRACTOR shall also place drain rock bags around storm drain inlets/catch basins, and install drain rock check dams at 50-foot intervals within 100 feet upstream from the inlets/catch basins.

The CONTRACTOR shall comply with all Federal, State and local regulations and ordinances governing storm water pollution prevention.

As required, the CONTRACTOR shall file a Notice of Intent (NOI) with the RWQCB, and shall comply with the National Pollution Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Association with Construction Activity requirements. The CONTRACTOR shall prepare and implement a Storm Water Pollution Plan (SWPPP). Resources used in developing the SWPPP shall include the "California Storm Water Best Management Practice Handbook for Construction Activity," and the San Francisco Bay Regional Water Quality Control Board's "Information on Erosion and Sediment Controls for Construction Projects." The SWPPP shall be submitted for review and acceptance prior to start of work. The CONTRACTOR shall have an accepted and implemented SWPPP as part of Mobilization. The SWPPP shall, at a minimum, include Best Management Practices (BMPs), acceptable to the City, to address the following:

1. Housekeeping
2. Waste Containment and Control.
3. Minimizing Disturbed Areas.
4. Stabilize Disturbed Areas.
5. Protect Slopes and Channels.
6. Control Site Perimeter.
7. Control of Internal Erosion.
8. Disposal of Storm Water and Ground Water
9. Sediment Control.
10. Liquid Waste Management.
11. Concrete Waste Management.
12. Hazardous Waste Management.
13. Employee and SUBCONTRACTOR Training.
14. Vehicle and Equipment Fueling and Maintenance.
15. Spill Prevention and Control.
16. Contaminated Soil Management.
17. Sawcutting.
18. Paving and Asphalt Work.

19. Street Cleaning.

Employ and utilize environmental protection methods, obtain all necessary permits, and fully observe all local, state, and federal regulations.

All costs involved for completing all work described in this section shall be considered to be included in the contract price paid for under the lump sum bid item "JOB SITE MAINTENANCE" and no additional compensation shall be allowed therefore.

SP-34 ITEM INCREASES AND DECREASES -

This section will not be applicable for the LUMP SUM bid items where the contractor is required to produce a mutually agreed upon schedule of values for progress payment.

**Increased or Decreased Quantities**

Increases or decreases in the quantity of a contract item of work will be determined by comparing the total pay quantity of that item of work with the ENGINEER's Estimate therefor.

If the total pay quantity of any item of work required under the contract varies from the ENGINEER's Estimate therefore by 25 percent or less for increases and 25 percent or less for decreases, payment will be made for the quantity of work of the item performed at the contract unit price.

If the total pay quantity of any item of work required under the contract varies from the ENGINEER's Estimate therefor by more than 25 percent for increases and 25 percent for decreases, in the absence of an executed contract change order specifying the compensation to be paid, the compensation payable to the CONTRACTOR will be determined in accordance with the following sections.

**Increases of More Than 25 Percent**

Should the total pay quantity of any item of work required under the contract exceed the ENGINEER's Estimate therefore by more than 25 percent, the work in excess of 125 percent of the estimate and not covered by an executed contract change order specifying the compensation to be paid therefor will be paid for by adjusting the contract unit price based upon a force account analysis.

The adjustment of the contract unit price will be the difference between the contract unit price and the actual unit cost which will be determined as hereinafter provided, of the total pay quantity of the item. If the costs applicable to the item of work include fixed costs, the fixed costs will be deemed to have been recovered by the CONTRACTOR by the payments made for 125 percent of the ENGINEER's Estimate of the quantity for the item, and in computing the actual unit cost, the fixed costs will be excluded. Subject to the above provisions, the actual unit cost will be determined by the ENGINEER in the same manner as if the work were to be paid for on a force account basis.

When the compensation payable for the number of units of an item of work performed in excess of 125 percent of the ENGINEER's Estimate is less than \$5,000 at the applicable contract unit price, the ENGINEER reserves the right to make no adjustment in the contract unit price if the ENGINEER so elects, except that an adjustment will be made if requested in writing by the CONTRACTOR.

**Decreases of More Than 25 Percent**

Should the total pay quantity of any item of work required under the contract be less than 25 percent of the ENGINEER's Estimate therefore, an adjustment in compensation pursuant to this Section will not be made unless the CONTRACTOR so requests in writing. If the CONTRACTOR so requests, the quantity of the item performed, unless covered by an executed contract change

order specifying the compensation payable therefor, will be paid for by adjusting the contract unit price based upon a force account analysis. In no case shall the payment for that work be less than that which would be made at the contract unit price.

The adjustment of the contract unit price will be the difference between the contract unit price and the actual unit cost, which will be determined as hereinafter provided, of the total pay quantity of the item, including fixed costs. The actual unit cost will be determined by the ENGINEER in the same manner as if the work were to be paid for on a force account basis; or the adjustment will be as agreed to by the CONTRACTOR and the ENGINEER.

The payment for the total pay quantity of the item of work will in no case exceed the payment which would be made for the performance of 25 percent of the ENGINEER's Estimate of the quantity for the item at the original contract unit price.

**SP-35 EXISTING WATER VALVES, MONUMENTS AND MANHOLES**

The City shall have access at all times to water valves, monuments, and manholes except immediately following a construction operation as noted below.

Prior to placement of paving, all manholes, monuments, and valves covered by paving, shall be clearly marked in white paint before the close of that work day. Throughout the construction process, the City shall have access to manholes, monuments, and valves within 48 hours of any operation affecting the manholes, monuments and valves.

A penalty of Five Hundred Dollars (\$500) per each valve, monument, and manhole that is not raised, or that the City is not provided easy access to, will be assessed against the contractor for each calendar day.

**SP-36 WAGE RATES**

The General Prevailing Wage Determination Made by the Director of Industrial Relations Pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.2. The CONTRACTOR can download this information from the web site: <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

The most current prevailing wage rates available at the time of bid opening shall be used.

**SP-37 INSTRUCTIONS TO BIDDERS**

Section 17, "Award of Contract" of the Instruction to Bidders is amended to read:

**The award of contract shall be based on the lowest Base Bid.** However, the Contractor shall submit a bid for each add alternate section. The City reserves the right to award, to the lowest responsive bidder, the combination of base bid plus add alternate sections that will allow the most work to be completed within the City's budget.



## IV. TECHNICAL SPECIFICATIONS



**SECTION IV. TECHNICAL SPECIFICATIONS  
ELECTRIC VEHICLE CHARGING STATIONS**

The Technical Specifications contained herein have been prepared by or under the direction of Robert Stevens, a registered professional engineer.



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Date: 10.14.2022

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## TECHNICAL SPECIFICATIONS

### SECTION 1-01. SUBMITTALS

The Contractor shall provide submittals in an electronic format to the Engineer for review and approval. The Contractor shall not proceed with procuring materials or commencing work until the submittal receives a favorable review by the Engineer. The Engineer shall have at least five working days to review all submittals. Prior to the Pre-Construction, the Contractor shall furnish the following:

1. Designation of Project Superintendent.
2. 24-hour contact information.
3. Primary and Secondary Notification
4. Construction schedule
5. Vehicular and Pedestrian Traffic Control Plan for each phase of the work
6. Striping materials
7. Concrete Mix Design
8. Electric vehicle chargers
9. Conductors
10. Breakers
11. Conduit and related appurtenances

The City reserves the right to require additional submittals from the Contractor that are not specifically identified above. See the Special Provisions for additional submittals required.

**PAYMENT** - Full compensation for conforming to this section shall be considered as included in the prices paid for the various items of work and no additional compensation will be allowed therefor.

### SECTION 1-02. MOBILIZATION/ DEMOBILIZATION

Mobilization shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site; for the establishment of offices and other facilities necessary for work on the project; and for all other work and operations which must be performed or costs incurred prior to beginning work on the various contract items on the project site.

The contractor shall photograph or video the areas of work to document existing field conditions prior to commencing work. These photographs or video shall be supplied to the Engineer prior to commencing work.

The Contractor shall not maintain staging, equipment parking, or materials within the project limits. The Contractor shall obtain a site for use as a Construction Staging Area in the vicinity of the project. This area should be of sufficient size to store the contractor's equipment, materials and other items necessary for completing the project.

Once the project is substantially complete, the Contractor shall demobilize from the site. This work shall include, but is not limited to the following:

1. Removing all traffic control devices and temporary signage;
2. Remove all storm water pollution prevention devices;
3. Removing trash and rubbish from the site;
4. Removing Underground Service Alerts and other temporary markings from the pavement and sidewalks; and
5. Removing all equipment and materials from the site.

**PAYMENT** - The contract lump sum price paid for "Mobilization" (**Bid Item #1**) includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in mobilizing and demobilizing personnel, materials, and equipment, complete in place, as shown on the Plans, as specified in the Standard Specifications, these Specifications, and as directed by the Engineer.

**SECTION 1-03. SAW CUT EXISTING PAVEMENT**

The Contractor shall saw cut asphalt and concrete where required. Saw cutting shall be vertical and neatly edged and all the way through pavement to the sub grade. The sawing method shall consist of cutting a groove through the pavement with a power driven concrete saw or equivalent. The Contractor shall provide a vacuum to remove water and debris during the saw cutting process.

**PAYMENT** - Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as included in prices paid for other elements of work and no additional compensation will be allowed therefor.

**SECTION 1-04. CLEARING AND GRUBBING**

In the locations shown in the Plans, described in these Special Provisions, the Contractor shall demolish and remove materials from the site to accommodate the improvements. These include the following:

1. Concrete sidewalk and asphalt.
2. Vegetation.
3. Signs.
4. Any other features required to complete construction.

In the locations that the Contractor is to remove markers, markings, and lines, the Contractor shall use methods that do not damage the pavement's surface.

All materials shall be disposed in accordance with Section SP-14 Disposal of Materials of the Special Provisions.

**PAYMENT** -The contract price paid per lump sum for "Clearing and Grubbing" (**Bid Item #3**) includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in preparing the site for construction, complete in place, including, but not limited to, debris disposal, as shown on the plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

**SECTION 1-05. ASPHALT CONCRETE PAVEMENT**

Hot mix asphalt shall conform to the provisions of in Section 39, "Hot Mix Asphalt," of the 2018 Standard Specifications and these Specifications. The asphalt used is for installation of plugs as shown in the Plans. All asphalt shall be ½" Type A and shall use a PG 64-10 binder.

**PAYMENT** - Full compensation for conforming to the provisions in this section, not otherwise provided for, shall be considered as included in prices paid for other elements of work and no additional compensation will be allowed therefor.

**SECTION 1-06. CONCRETE SIDEWALKS, CURBS, GUTTERS, AND VERTICAL CURBS**

The Contractor shall place concrete flatwork and other elements to complete the project. All work in this section shall be done in accordance with and Section 73, "Concrete Curbs and Sidewalks" of the Standard Specifications, except as modified in these General Conditions and Special Provisions. All concrete work shall be completed to the satisfaction of the Engineer prior to placement of pavement.

**Mix Design**

Prior to commencing work, the Contractor shall submit source and mix design for concrete conforming to the requirements of Section 73-1.02 of the Standard Specifications. Lampblack shall be added to the concrete mix in the amount not less than one pound or more than two pounds of best quality lampblack to each cubic yard of concrete.

**Layout of Improvements**

The Plans provide the general location and description of the work to be performed. The Contractor shall review field conditions and layout the improvements consistent with the applicable City and CALTRANS standard drawings. The Contractor shall furnish sufficient measuring equipment to verify that grades are



compliant with accessible standards. The Contractor shall discuss the proposed improvements with the Engineer and when approved, begin rough grading.

#### **Concrete Removal**

As directed by the Engineer, the Contractor shall saw cut and remove existing concrete as described in the Clearing and Grubbing section of these Technical Specifications.

#### **Subgrade and Base Preparation**

After removal of the existing concrete, the Contractor shall excavate and prepare the subgrade as which shall include scarification to 90% and placement of aggregate base to 95% relative compaction. The Contractor shall use extreme caution when excavating near tree roots and shall notify the City arborist if roots greater than 1 inch are encountered.

The Contractor shall take extra caution in areas where there is existing sewer laterals under the existing sidewalk at the new curb ramp locations. The Contractor shall repair any damaged sewer laterals at no additional cost to the project.

#### **Concrete Placement**

All new concrete curb & gutter shall be doweled and epoxied into the existing concrete using #4 rebar at 20" O.C. (minimum of 2).

The Contractor shall install formwork and receive approval from the Engineer prior to ordering concrete. The Contractor shall have sufficient personnel on site to manage the placement of the concrete.

Immediately after the surface of the concrete is finished, application of curing compound shall be made in accordance with Section 90-7.01B, "Curing Compound Method," of the Standard Specifications. The quality and quantity to be used shall be approved by the Engineer. The liquid compound shall contain a coloring matter which does not permanently alter the natural color of the concrete, but which will color sufficiently at the time of application to indicate readily the areas covered.

#### **Time**

The Contractor shall replace removed concrete with the final improvements within five (5) calendar days.

#### **Surface Restoration**

The Contractor shall grade the adjacent areas to conform to the existing conditions. This may include placing topsoil. Topsoil shall be procured and imported from a local supplier. The Contractor shall restore private property improvements. For conform grading within the public right of way, the Contractor shall place mulch once grading is complete.

#### **Charger Foundation.**

The Contractor shall prepare, form and pour a concrete foundation consistent with the manufacturer's requirements. This shall include a conduit to facilitate the installation of the conductors as well as the mounting hardware necessary for the charger. For the future charger location, the Contractor shall install a conduit stub that can be left in place that does not pose a trip hazard. This shall be Stub-Ease by Emergent Safety Supply or approved equal.

**PAYMENT** - The contract price paid per square foot for "Concrete Flatwork" (**Bid Item #11**) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work to construct sidewalks, curbs, and gutters, complete in place, including, excavation, scarification, placement of aggregate base, forming, concrete placement, disposal, and minor restoration as shown on the Plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

Payment for concrete flatwork includes concrete curbs and concrete curbs with gutters.

**PAYMENT** - The contract price paid for each "Charger Foundation" (**Bid Item #4**) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work to construct the foundation, complete in place, including, excavation, scarification, placement of aggregate

base, forming, rebar, conduit, concrete placement, disposal, and minor restoration as shown on the Plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

#### **SECTION 1-07. SIGNS**

Signs shall be placed in the locations shown on the Plans or where directed by the Engineer, and shall conform to the provisions in Section 56-2, "Roadside Signs" of the Standard Specifications and these Special Provisions. This work includes the following:

Posts for signs shall conform to State Standard Plan RS1. Posts shall have a bolt installed at the base of the post, as recommended by the manufacturer, and as directed by the Engineer. Posts shall be 12-gage galvanized steel 1.75-inch square tube with perforations, weighing 2.09 pounds per linear foot.

**PAYMENT** - The contract unit prices paid for each "New Post and Sign" (**Bid Item #14**) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work complete in place, as shown on the Plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

#### **SECTION 1-08. TRAFFIC STRIPES AND PAVEMENT MARKINGS**

Traffic stripes (traffic lines) and pavement markings shall be applied in conformance with the provisions in Section 84, "Traffic Stripes and Pavement Markings," of the Standard Specifications and these Technical Specifications.

All stripes and markings shall be the color of white and blue as indicated on the Plans. The Contractor shall apply the stripe and marking using one coat of paint and two applications of retroreflective glass beads as required in Section 84-2.02F of the Standard Specifications.

**PAYMENT** - The contract lump sum price paid for "Lines and Markings" (**Bid Item #12**) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work to stripe the parking lot complete in place, as shown on the Plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

#### **SECTION 1-09. CHARGING STATIONS**

The Contractor shall furnish and install a vehicle charging station that includes the following features:

- A single pedestal with two (2) standard SAE J1772™ Level 2 charging ports with locking holsters, each port supplying up to 7.2kW.
- The charger shall operate on a 30 ampere 208 volt circuit.
- The charger shall be ENERGY STAR® certified.
- The chargers should be mounted on a freestanding bollard.
- All software to operate the charging station shall provide for upgrades over a wireless connection.
- Each charger shall provide a cord that is at least 23 feet long.

Approved vendors include the following: Flow, Enel X, Blink, EV Connect, and ChargePoint. The Engineer has confirmed that the by ChargePoint model number CT4025-GW1 meets these Technical Specifications.

The Contractor shall procure all hardware required to install the electric vehicle charging station as well as a service plan that includes software upgrades and payment methods for a term of no less than 3 years.

The Contractor installing the charging station must be certified by the vendor of the charging station to install the unit. The Contractor shall provide documentation of said certification. All installation shall comply with the manufacturer's requirements. When complete, the Contractor shall certify that the standard 1-year warranty including parts and labor for any defect in manufacturing or workmanship is in effect.

The Contractor shall provide all operating documents to the City. In addition, the Contractor shall provide a one-hour training session on the use, operation, and maintenance of the charging station.

**PAYMENT** - The contract unit price paid for each "Electrical Vehicle Charging Station" (**Bid Item #2**) shall

include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work complete in place, including procuring and installing the unit, as shown on the Plans, as specified in the Standard Specifications and these Specifications, and as directed by the Engineer.

The Engineer will pay 50% of the unit price upon delivery of the charging station to the Contractor and the remainder upon installation.

**SECTION 1-10. ELECTRICAL WORK**

The Contractor shall complete all the electrical work necessary to install the electric vehicle charging stations as shown on the Plans. The installation of electrical components shall be completed in accordance with then 2019 California Electrical Code.

**1-10.1 Coordination and Verification**

The Contractor shall coordinate with the Engineer to confirm the live circuits existing Panel 1A Section 2. Shutoff of power within the building shall be coordinated with the Engineer. The Contractor shall provide 72 hours advance notice of electrical shutoff.

**PAYMENT** - Full compensation for site clean-up shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefor.

**1-10.2 Conduit Installation**

The Contractor shall install rigid metal conduit (RCM) raceways within the building as shown on the Plans. The routing shall be verified in the field by the Contractor. This work including coring the building wall and installing a water tight penetration. The Contractor shall install all necessary appurtenances to complete the installation including, but not limited to, conduit, fittings, bends, LB conduit bodies, and hangars.

The Contractor shall core drill the building and install a fitting to ensure a weathertight seal.

The Contractor shall schedule 40 polyvinyl chloride pipe outside of the building, except where noted in the plans, and shall restore all surfaces to existing or better condition as described elsewhere in these Technical Specifications. For locations outside of the building where rigid metal is to be installed, RCM shall be galvanized.

**PAYMENT** -The contract unit price paid per foot Outside Conduit or Inside Conduit [**Bid Items #5 and #6**] shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in furnishing placing the electrical conduit complete and in place, including trenching, disposal of unsuitable materials, building penetration, and surface restoration, as shown on the Plans, and as specified in the Standard Specifications and these Specifications, and as directed by the Engineer and no additional compensation will be allowed therefor.

**1-10.3 Pull Boxes**

The Contractor shall install a Number 6 pull box as illustrated in the Standard Plans. It shall be marked "electrical."

**PAYMENT** -The contract unit price per each Pull Box [**Bid Items #8**] shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in furnishing placing the box complete and in place, including trenching and disposal of unsuitable materials as shown on the Plans, and as specified in the Standard Specifications and these Specifications, and as directed by the Engineer and no additional compensation will be allowed therefor.

**1-10.4 Conductors and Wiring**

All conductors shall be copper and shall be rated for indoor/ outdoor applications. Provide wires of the following colors:

Wire	Color
Charger 1A Line 1	Black

Charger 1A Line 2	Red
Charger 1B Line 1	Yellow
Charger 1B Line 2	Blue
Charger 2A Line 1	Black
Charger 2A Line 2	Red
Charger 2B Line 1	Yellow
Charger 2B Line 2	Blue
Ground	Green

**PAYMENT** -The contract unit price paid per foot Conductors **[Bid Item #7]** shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in furnishing placing wiring complete and in place, as shown on the Plans, and as specified in the Standard Specifications and these Specifications, and as directed by the Engineer and no additional compensation will be allowed therefor.

This is measured as the total length of installed wire. For example, if four conductors are installed over a 8 feet of length, the measurement is 32 feet.

**1-10.5 Breakers**

Provide and install 120/240 volt 40 ampere dual pole non-GFCI breakers.

**PAYMENT** -The contract unit price per each 40A Dual Pole Breaker **[Bid Items #9]** shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in furnishing placing the box complete and in place, including trenching and disposal of unsuitable materials as shown on the Plans, and as specified in the Standard Specifications and these Specifications, and as directed by the Engineer and no additional compensation will be allowed therefor.

**1-10.6 Electrical Panel**

The Contractor shall install a panel, breakers, conductors, conduits, and appurtenances to transfer the inactive circuits defined in Section 1-10.1 of these Technical Specifications. The panel shall be 120/208 3 phase 4 wire unit capable of supporting at least 200 amperes.

**PAYMENT** - The contract unit price paid for each Electrical Panel (**Bid Items #10**) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work complete in place, as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

This is a revocable item. The Engineer may deduct this item from the Contract at any time.

**SECTION 1-11. SITE CLEAN-UP**

On completion of the work, the Contractor shall clean all portions of the project area. This work includes removing all debris, street sweeping, power washing, and removing paint marks within the work zone.

**PAYMENT** - Full compensation for site clean-up shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefor.



# V. CONSTRUCTION AGREEMENT

**CONSTRUCTION SERVICES AGREEMENT BETWEEN  
THE CITY OF PINOLE AND \_\_\_\_\_**

This agreement for Construction Services ("Agreement") is entered into on \_\_\_\_\_, 2022 between the CITY OF PINOLE, a municipal corporation, with offices located at 2131 Pear Street, Pinole, California ("City") and \_\_\_\_\_. ("Contractor") (together sometimes referred to as the "Parties").

WITNESSTH:

WHEREAS, Contractor and Contractor's Surety are providing the bonds attached hereto and incorporated by this reference; and

WHEREAS, City desires to contract with Contractor to perform the construction services detailed in this Agreement; and

In consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. **CONTRACT DOCUMENTS.** The Contract Documents referred to herein are incorporated herein by reference as if set forth in full in this Agreement. Work called for in any one Contract Document and not mentioned in another is to be performed and executed as if mentioned in all Contract Documents. The Contract Documents shall include the Notice Inviting Bids, Instructions to Bidders, Bid Forms (including the Bid, Bid Schedule(s), Information Required of Bidder, Bid Bond, and all required certificates, affidavits and other documentation), this Agreement, Performance Bond, Labor and Materials Bond, Maintenance Bond, General Conditions, any Supplementary General Conditions, Special Provisions, Specifications, Drawings, all Addenda, and Change Orders executed pursuant to the provisions of the Contract Documents. The General Conditions shall mean and refer to the current General Conditions of the City which are incorporated herein by this reference as if set forth herein. This Agreement, and the Contract Documents, includes the exhibits to this Agreement, including Exhibit A Required Federal-Aid Contract Language (For Local Assistance Construction Projects) (Includes Form FHWA-1273 from Bid Documents), and Exhibit B Minimum Wage Rates (Federal and State Prevailing Wage Rates from Bid Documents.)
2. **AGREEMENT CONTROLS.** In the event of a conflict between the terms and conditions as set forth in this Agreement and the terms and conditions set forth in other Contract Documents, the terms and conditions set forth in this Agreement shall prevail. Unless otherwise specifically provided herein, all works and phrases defined in the General Conditions shall have the same meaning and intent in this Agreement.
3. **INDEPENDENT CONTRACTOR.** It is specifically understood and agreed by all parties hereto that Contractor is, for the purposes of this Agreement, an independent contractor and not an employee of the City. Accordingly, Contractor shall not be deemed the City's employee for any purpose whatsoever. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever for or against the City.
4. **ASSIGNMENT.** This Agreement may not be assigned by Contractor, in whole or in part, without prior written consent of the City.
5. **TERMINATION.** This Agreement may not be canceled by the City at any time without penalty upon thirty (30) days' written notice. In the event of termination without fault of Contractor, the City shall pay Contractor for all services rendered prior to date of termination, and such payment shall be in full satisfaction of all services rendered hereunder.

6. **SCOPE OF CONTRACT.** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor and material and transportation necessary to perform and complete in a good and workman like manner to the satisfaction of the City, all the work called for, and in the manner designated in, and in strict conformity with the Project entitled:

Project Name:

Project No.:

Federal Project No.:

7. **CONTRACT AMOUNT AND PAYMENTS.** The City agrees to pay and Contractor agrees to accept, in full payment for the above work, \_\_\_\_\_ (\$\_\_\_\_\_) as stipulated sum price which Contractor bid in its Bid Form, subject to additions and deductions by Change Order(s) as provided in the General Conditions. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

8. **PROGRESS AND FINAL PAYMENTS.** Progress and final payments shall be in accordance with the General Conditions.

9. **RETENTION OF SUMS CHARGED AGAINST CONTRACTOR.** When, under the provisions of this Contract, the City is authorized to charge any sum of money against Contractor, the City may deduct and retain the amount of such charge from the amount of the next succeeding progress estimate, or from any other moneys due or that may become due to the Contractor from the City. If, on completion or termination of the Contract, sums due contractor are insufficient to pay the City's charges against Contractor, the City shall have the right to recover the balance from Contractor or his sureties.

10. **TIME OF COMPLETION.** The entire work shall be completed to the satisfaction of the City within \_\_\_\_\_ (\_\_\_\_\_) working days, commencing on the date of issuance of the Notice to Proceed. Failure to complete the entire work by the completion date and in the manner provided for by the Contract Documents shall subject Contractor to liquidated damages as hereinafter provided in this Agreement. Time is of the essence in these Contract Documents.

11. **PROJECT SITE.** Contractor shall perform the Services in such a manner as to cause a minimum of interference with City's operations and the operations of other contractors at each Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Services at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish. Each Project site may include all buildings, offices, and other locations where Services are to be performed, including any access roads. Contractor shall be solely responsible for the safe transportation and packing in proper containers and storage of any equipment required for performing the Services, whether owned, leased or rented. City will not be responsible for any such equipment which is lost, stolen or damaged or for any additional rental charges for such equipment. Equipment left or stored at a Project site, with or without permission, is at Contractor's sole risk. City may assume that anything left on the work site an unreasonable length of time after said work is completed has been abandoned. Any transportation furnished by City shall be solely as an accommodation and City shall have no liability therefore. Contractor acknowledges and agrees that it shall assume the risk and is solely responsible for its use of any City owned equipment and property provided by City for the performance of Services. City shall have no liability to Contractor therefore. In addition, Contractor further acknowledges and agrees that it shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or

other motorized vehicles as well as any equipment, tolls, or other property which is utilized by Contractor on each Project site.

**12 INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

**12.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than One Million Dollars (\$1,000,000.00) per accident.

California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, the Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's 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."

**12.2 General Liability Insurance.** General liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.

- a) Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- b) Claims-made coverage is not acceptable.
- c) The limits of liability shall not be less than:

Each occurrence:	TWO Million Dollars (\$2,000,000)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
- d) If a general aggregate limit of liability is used, the minimum general aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the general aggregate limit shall apply separately to the project that is the subject of the contract.
- e) If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- f) If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.



**12.3 Automobile Liability Insurance.** Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.

- a) Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
- b) The limits of liability per accident shall not be less than:  
Combined Single Limit                      One Million Dollars (\$1,000,000)

If Automobile Liability coverage, as required above, is provided by the Commercial General Liability form, the General Liability policy shall include an endorsement providing automobile liability as required above.

**12.4 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

**12.5 All Policies Requirements.**

**12.5.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**12.5.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Contractor shall, at the sole option of the City, provide City with (1) certified Certification of Insurance that demonstrates compliance with all applicable insurance provisions contained herein; and (2) upon request by the City, complete certified copies of all policies and/or complete certified copies of all endorsements that demonstrate compliance with this Section 5.

**12.5.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement must be attached to all insurance obtained in accordance with this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than ten (10) working days after Consultant is notified of the change in coverage.

**12.5.4 Additional insured; primary insurance.** A certified endorsement at least as broad as Insurance Services Office form number CG 20 10 (11/85 ed.) shall be attached to all policies stating that the City and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant in the course of providing services pursuant to this Agreement. The coverage shall

contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.

A certified endorsement shall be attached to all policies stating that coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

**12.5.5 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

**12.5.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

**12.5.7 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

**12.5.8 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

- 12.6** **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Contractor, its employees, agents and subcontractors.
- 13** **NO WAIVER OF REMEDIES.** Neither the inspection by the City or its agents, nor any order or certificate for the payment of money, nor any payment for, nor acceptance of the whole or any part of the work by the City, nor any extensions of time, nor any position taken by the City or its agents shall operate as a waiver of any provision of this Agreement or of any power herein reserved to the City or any right to damages herein provided, nor shall any waiver of any breach of the Agreement be held to be a waiver of any other or subsequent breach. All remedies provided in this Agreement shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, and the City shall have any and all equitable and legal remedies which it would in any case have.
- 14** **DETERMINATION OF DAMAGES.** The actual fact of the occurrences of damages and the actual amount of the damages which the City would suffer if the work were not completed within the specified times set forth are dependent upon many circumstances and conditions and, it is impracticable and extremely difficult to fix the actual damages. Damages which the City would suffer in the event of delay include loss of the use of the project, and, in addition, expenses of prolonged employment of an architectural and engineering staff; costs of administration, inspection, and supervision; and the loss suffered by the public within the City by reasons of the delay in the completion of the project to serve the public at the earliest possible time. Accordingly, the parties hereto agree, and by execution of this Agreement, Contractor acknowledges that he/she understands, has ascertained and agrees, that the amounts set forth herein as liquidated damages shall be presumed to be that amount of damages sustained by the failure of Contractor to complete the entire work within the times specified.
- 15** **LIQUIDATED DAMAGES.** The amount of the liquidated damages to be paid by Contractor to the City for failure to complete the entire work in the specified number of Working or Calendar Days (as extended, if applicable) will be \_\_\_\_\_ (\$\_\_\_\_\_) for each **Calendar Day**, continuing to the time at which the work is completed. Such amount is the actual cash value agreed upon as the loss to the City resulting from Contractor's delay.
- 16** **TERMINATION AFTER ALLOTTED WORKING OR CALENDAR DAYS.** In addition to any rights it may have, the City may terminate this Contract at any time after the allotted number of Working or Calendar Days as adjusted by any extensions of time for excusable delays that may have been granted. Upon such termination, Contractor shall not be entitled to receive any compensation for services rendered by him before or after such termination, and he shall be liable to the City for liquidated damages for all periods of time beyond such termination date until the work is completed.
- 17** **CONTRACT BANKRUPT.** If Contractor should commence any proceeding under the Bankruptcy Act, or if Contractor be adjudged a bankrupt, or if Contractor should make any assignment for the benefit of creditors, or if a receiver should be appointed on account of Contractor's insolvency, then the City may, without prejudice to any other right or remedy,

terminate the Contract and complete the work by giving notice to Contractor and his surety according to the provisions of Section 1-15 of the General Conditions. The City shall have the right to complete, or cause completion of the work, all as specified in the General Provisions of the Standard Specifications.

**18**

**PERFORMANCE AND PAYMENT BONDS.** The Contractor shall, before beginning said work, file two bonds with the City, each made payable to the City. These bonds shall be issued by a Surety Company authorized to do business in the State of California, and shall be maintained during the entire life of the Contract at the expense of the Contractor.

- a) One bond shall be in the amount of one hundred percent (100%) of the Contract and shall guarantee the Faithful Performance of the Contract.
- b) The second bond shall be the Payment Bond required by Part 4, Title 15, Chapter 7, Division Three of the Civil Code of the State of California and shall be in the amount of one hundred percent (100%) of the Contract.

Any alteration or alterations made in any provision of this Contract shall not operate to release any surety from liability on any bond required hereunder and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code.

Bonds shall only be accepted from an "Admitted surety insurer," which means an insurer to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state. **Contractor must submit** the original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws or other instrument entitling or authorizing the person who executed the bond to do so.

All bonds submitted shall include the following:

1. Full name and address of the Contractor Surety, and the City;
2. Contract Date;
3. Exact Contract Sum;
4. Project Name and Address;
5. Signature of the Contractor
6. Corporate Seal, if applicable;
7. Signature of Authorized Surety Representative;
8. Notarization of the Contractor and Surety;
9. Power of Attorney; and
10. Local contact for surety, with name, phone number, and address to which legal notices may be sent.

**19**

**SUBSTITUTION OF SECURITIES OF MONEY WITHHELD.** At any time prior to final payment, Contractor may request substitution of securities for any money withheld by the City to ensure performance of the Contract. At the expense of the Contractor, securities equivalent to the money withheld may be deposited with the City or with an approved financial institution as escrow agent according to a separate Security Agreement. Securities eligible for substitution shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit.

**20**

**GENERAL LIABILITY OF THE CONTRACTOR.** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, light, heat, utilities, transportation and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents and any applicable code or statute, whether or not specifically described herein, as long as same is reasonably inferable therefrom as being necessary to produce the intended results, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work. The mention of any specific duty or liability of Contractor and, any reference to any specific duty or liability shall be construed to be for the purpose of explanation.

**21**

**AUTHORITY OF THE CITY.** The City will decide all questions regarding the quality and acceptability of materials furnished, work performed, and rate of progress of the Work. The City will decide all questions regarding the interpretation and fulfillment of the Contract on the part of the Contractor, and all questions as to the rights of different prime contractors involved with the Work. The City will determine the amount and quality of the Work performed and materials furnished for which payment is to be made under the Contract.

The City will administer its authority through a duly designated representative identified at the pre-construction conference. The Contractor and City's designated representative (the Owner's Representative) shall make good faith attempts to resolve disputes that arise during the performance of the Work.

Any order given by the City not otherwise required by the Contract to be in writing shall be given or confirmed by the City in writing at the Contractor's request. Such request shall state the specific subject of the decision, order, instruction, or notice and, if it has been given orally, its date, time, place, author and recipient.

Any plan or method suggested to the Contractor by the ENGINEER, or any of the Owner's Representative, but not specified or required in writing, if adopted or followed in whole or in part by the Contractor, shall be used at the risk and responsibility of the Contractor. The City assumes no responsibility.

**22**

**RESPONSIBILITY OF THE CONTRACTOR** The Work shall be under the Contractor's responsible care and charge until completion and final acceptance, and the Contractor shall bear the entire risk of injury, loss, or damage to any part by any cause. The Contractor shall rebuild, repair, restore, and make good all injuries, losses or damage to any portion of the Work or the materials occasioned by any cause, and shall bear the entire expense.

The mention herein of any specific duty or responsibility imposed upon the Contractor shall not be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by the Contract, said reference being made herein merely for the purpose of explaining the specific duty or responsibility.

The Contractor shall do all of the work and furnish all labor, materials, tools, equipment, and appliances, except as otherwise herein expressly stipulated, necessary or proper for performing and completing the Work herein required, including any change order work or

disputed work directed by the City in conformity with the true meaning and intent of the Contract Documents, within the time specified.

**23** **INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.** To the fullest extent permitted by law, the Contractor shall indemnify, defend with counsel acceptable to the City, and hold harmless the City, its officers, officials, employees, agents, and volunteers from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions of this Contract, caused in whole or in part by any negligent or willful act or omission of the Contractor, its officers, employees, or agents, or anyone directly or indirectly acting on behalf of the Contractor, regardless of whether caused in part by a party indemnified hereunder. Nothing contained in the foregoing indemnity provisions shall be construed to require the Contractor to indemnify the indemnified party in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of that indemnified party

To the fullest extent permitted by law, the Contractor's duty to defend shall extend, without limitation, to any suit or action founded upon any losses, claims, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions hereof, or in any way arising out of or connected with this Contract.

The defense and indemnity obligations expressly extend to and include any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of damages to adjacent property caused by the conduct of the Work.

The defense and indemnity obligations expressly extend to and include any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of the violation by the Contractor, the Contractor's agents, employees, or independent contractors, Subcontractors or suppliers of any provisions of federal, State or local law, including applicable administrative regulations.

The defense and indemnity obligations also expressly extend to and include any claims, demands, damages, costs, expenses, or liability occasioned by injury to or death of any person, or any property damage to property owned by any person while on or about the site or as a result of the Work, whether such persons are on or about the site by right or not, whenever the Work is alleged to have been a contributing cause in any degree whatsoever.

In claims against any person or entity herein indemnified that are made by an employee of the Contractor or an employee of any of the Contractor's agents, independent contractors, Subcontractors or suppliers, a person indirectly employed by the Contractor or by any of the Contractor's agents, independent contractors, Subcontractors or suppliers, or anyone for whose acts the Contractor or any of the Contractor's agents, independent contractors, Subcontractors or suppliers may be liable, the defense and/or indemnification obligation herein shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or the Contractor's agents, independent contractors, Subcontractors or suppliers under workers' compensation acts, disability acts, or other employee benefit acts.

The indemnification obligations herein shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

The indemnities set forth herein shall not be limited by the insurance requirements set forth in the Contract Documents.

The indemnification requirements herein set forth shall extend to claims occurring after this Contract is terminated as well as while it is in force.

In the event the Contractor enters into any agreement with the owners of any adjacent property to enter upon or adjacent to such property for the purpose of performing this Contract, the Contractor shall fully indemnify, defend and save harmless such person, firm, or corporation, State or other governmental agency which owns or has any interest in the adjacent property. The form and content of the indemnification agreement shall be approved by the City prior to commencement of any work on or about such property. The Contractor also shall indemnify the City and other indemnities identified in this Section as provided in the Contract. These provisions shall be in addition to any other requirements of the owners of adjacent property.

## **24 LEGAL REQUIREMENTS.**

- 24.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 24.2 Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work in connection with this Agreement.
- 24.3 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.
- 24.4 Nondiscrimination and Equal Opportunity.** In compliance with federal, state and local laws, Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement.
- 24.5 Work Requiring Payment of Prevailing Wages.** The City affirmatively identifies this project as a "public work" as that term is defined by California Labor Code § 1720, and the project is, therefore, subject to prevailing wages under California Labor Code § 1771. In accordance with California Labor Code § 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which these services are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement. Contractor and its subcontractors shall fully comply with all the provision of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at job site and prohibitions against discrimination.

**24.6 Unfair Competition.** The following provision is included in this agreement pursuant to California Public Contract Code §7103.5.

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

**24.7 INCIDENTAL BENEFICIARIES.** It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the City and Contractor. Nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the City and Contractor that any such person or entity, other than the City and Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

## **25 MODIFICATION.**

**25.1 Amendments.** Any modification or amendment of any provision of this agreement shall be in writing and must be executed by both parties hereto.

**25.2 Assignment.** Contractor may not assign this Agreement or any interest therein without the prior written approval of the City.

**25.3 Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the City. Where written approval is granted by the City, Contractor shall supervise all work subcontracted by Contractor in performing the Services; shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work; the subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services; and Contractor is obligated to ensure that any and all subcontractors performing any Services shall be fully insured in all respects and to the same extent as set forth under Section 5, to City's satisfaction.

**25.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

**25.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

**25.5.1** Immediately terminate the Agreement;

**25.5.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor in accordance with this Agreement;



25.5.3 Retain a different Contractor to complete the Services not finished by Contractor;  
or

25.5.4 Charge Contractor the difference between the costs to complete the work at the time of breach and the amount that City would have paid Contractor if Contractor had completed the Work.

## **26 KEEPING AND STATUS OF RECORDS.**

26.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains in accordance with this Agreement and that relate to the matters covered under the terms of this Agreement shall be the property of the City.

26.2 **Contractor's Books and Records.** Contractor shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

26.3 **Confidential Information and Disclosure.** During the term of this Agreement, either party (the "Disclosing Party") may disclose confidential, proprietary or trade secret information (the "Information"), to the other party (the "Receiving Party"). The Receiving Party shall hold the Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Information. Contractor understands that City is a public City and is subject to the laws that may compel it to disclose information about Contractor's business.

## **27 MISCELLANEOUS PROVISIONS.**

27.1 **Attorneys' Fees.** If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

27.2 **Venue.** In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.

27.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect.

27.4 **Binding.** This Agreement shall bind and inure to the heirs, devisees, assignees and successors in interest of Contractor and to the successors in interest of the City in the same manner as if such parties had been expressly named herein.

- 27.5 Survivorship.** Any responsibility of Contractor for warranties, insurance, indemnity, record keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration, termination or cancellation of this Agreement.
- 27.6 No Implied Waiver of Breach.** In the event that either the City or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.
- 27.7 Contract Administration.** This Agreement shall be administered by the City Manager or her designee, who shall act as the City's representative. All correspondence shall be directed to or through the representative.
- 27.8 Notices.** Any written notice to Contractor shall be sent to:  
  
[INSERT CONTRACTOR CONTACT INFORMATION]  
  
Any written notice to City shall be sent to:  
  
Andrew Murraray, City Manager  
City of Pinole  
2131 Pear Street  
Pinole, CA 94564
- 27.9 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 27.10 Authority to Execute.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.
- 27.11 Counterparts.** This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all of the signatories hereto have signed a counterpart of this Agreement. All counterparts so executed shall constitute one Agreement binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the same counterpart.

The Parties have executed this Agreement as of the date signed by the City.

CITY OF PINOLE

CONTRACTOR

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

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

\_\_\_\_\_  
**Andrew Murray**  
**City Manager**

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Heather Bell  
City Clerk

Dated: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Eric Casher  
City Attorney

Dated: \_\_\_\_\_

\_\_\_\_\_  
**[Insert Name of Signatory]**  
**[Insert Name of Contractor]**

Dated: \_\_\_\_\_

**EXHIBIT A**

Required Federal-Aid Contract Language  
(For Local Assistance Construction Projects)  
(Includes Form FHWA-1273 from Bid Documents)

**EXHIBIT B**

Minimum Wage Rates

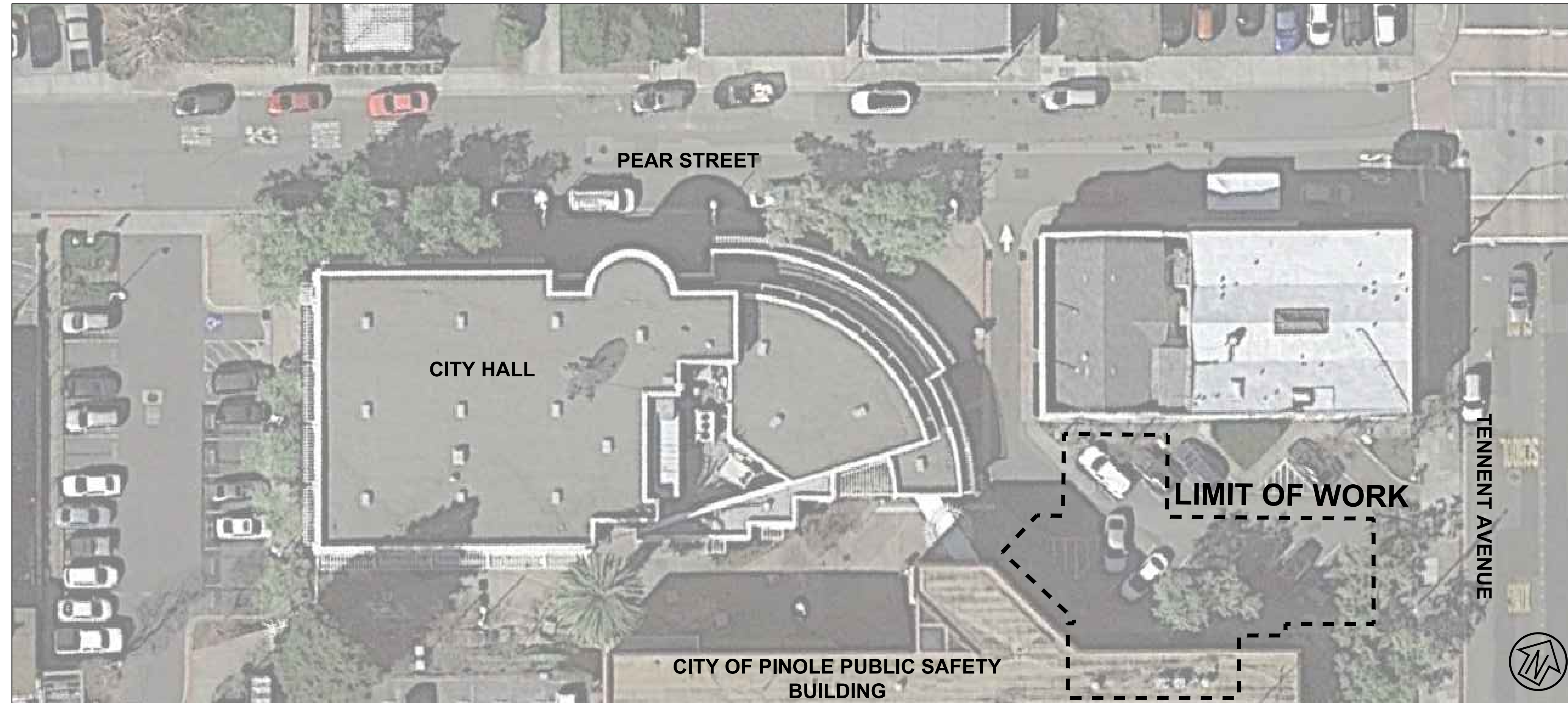
(Federal and State Prevailing Wage Rates from Bid Documents)



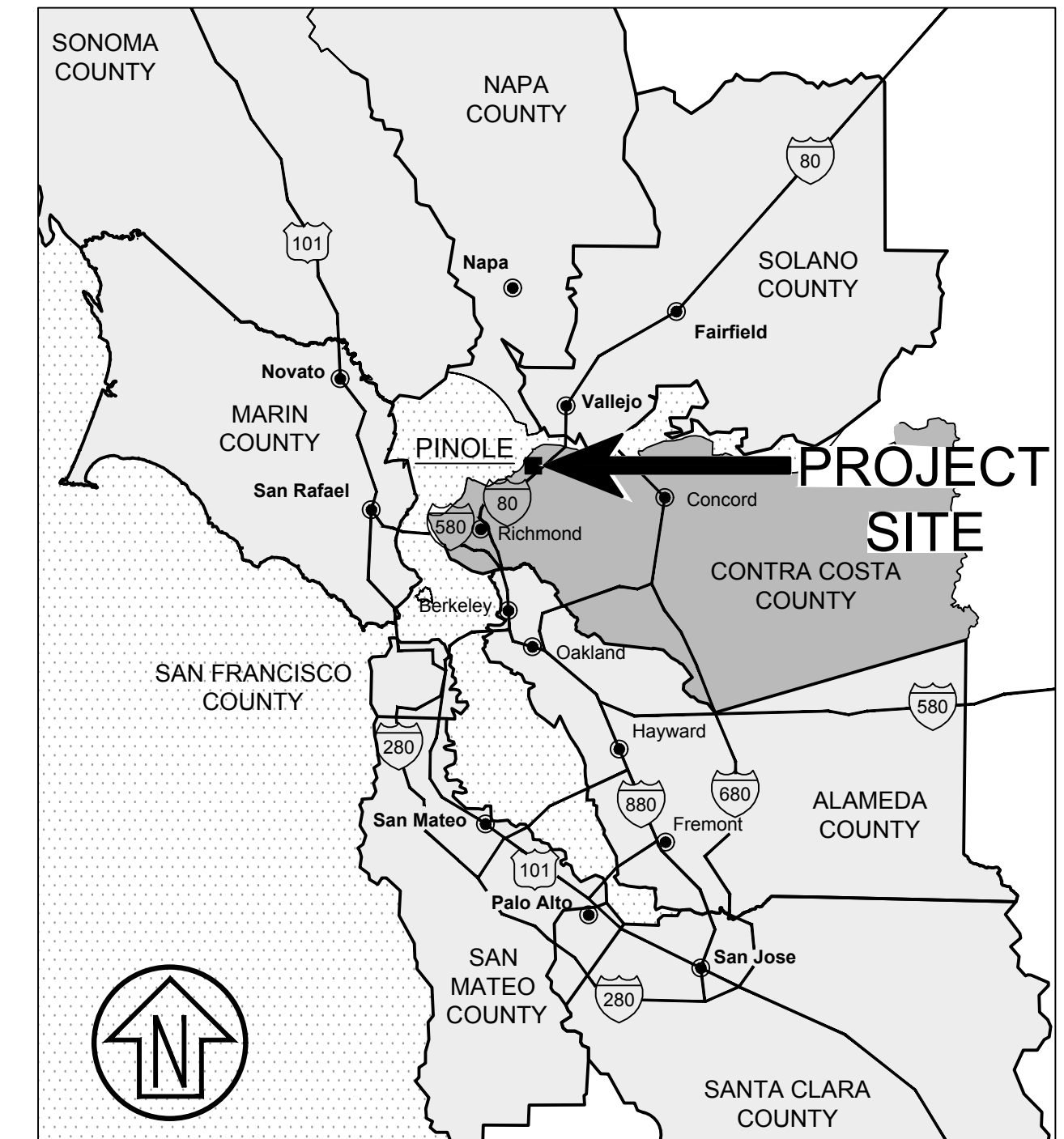
## VII. PROJECT PLANS

# CITY OF PINOLE

## ELECTRIC VEHICLE CHARGING STATIONS



VICINITY MAP



LOCATION MAP

### SHEET INDEX

- C1.00 TITLE SHEET
- C1.01 SITE IMPROVEMENT PLAN
- C1.02 ELECTRICAL PLAN

### CONTRA COSTA COUNTY PUBLIC WORKS (CCCPW) DEPARTMENT STANDARD PLANS

- CA70 STANDARD SIDEWALK DETAILS
- CA71 MEDIAN, CURB AND HMA DIKE DETAILS

### CALTRANS STANDARD PLANS

- A88A CURB RAMP DETAILS

**CSW ST2**  
**CSW/Stuber-Strooh**  
**Engineering Group, Inc.**

45 Leveroni Court,  
 Novato, CA 94949  
 (415) 883-9850

DRAWN: TE      CHECKED: RS  
 DESIGNED: TE      APPROVED: RS



City	Richmond
County	Contra Costa
State	California

## CITY OF PINOLE

### ELECTRIC VEHICLE CHARGING STATIONS

# TITLE SHEET

## CITY OF PINOLE

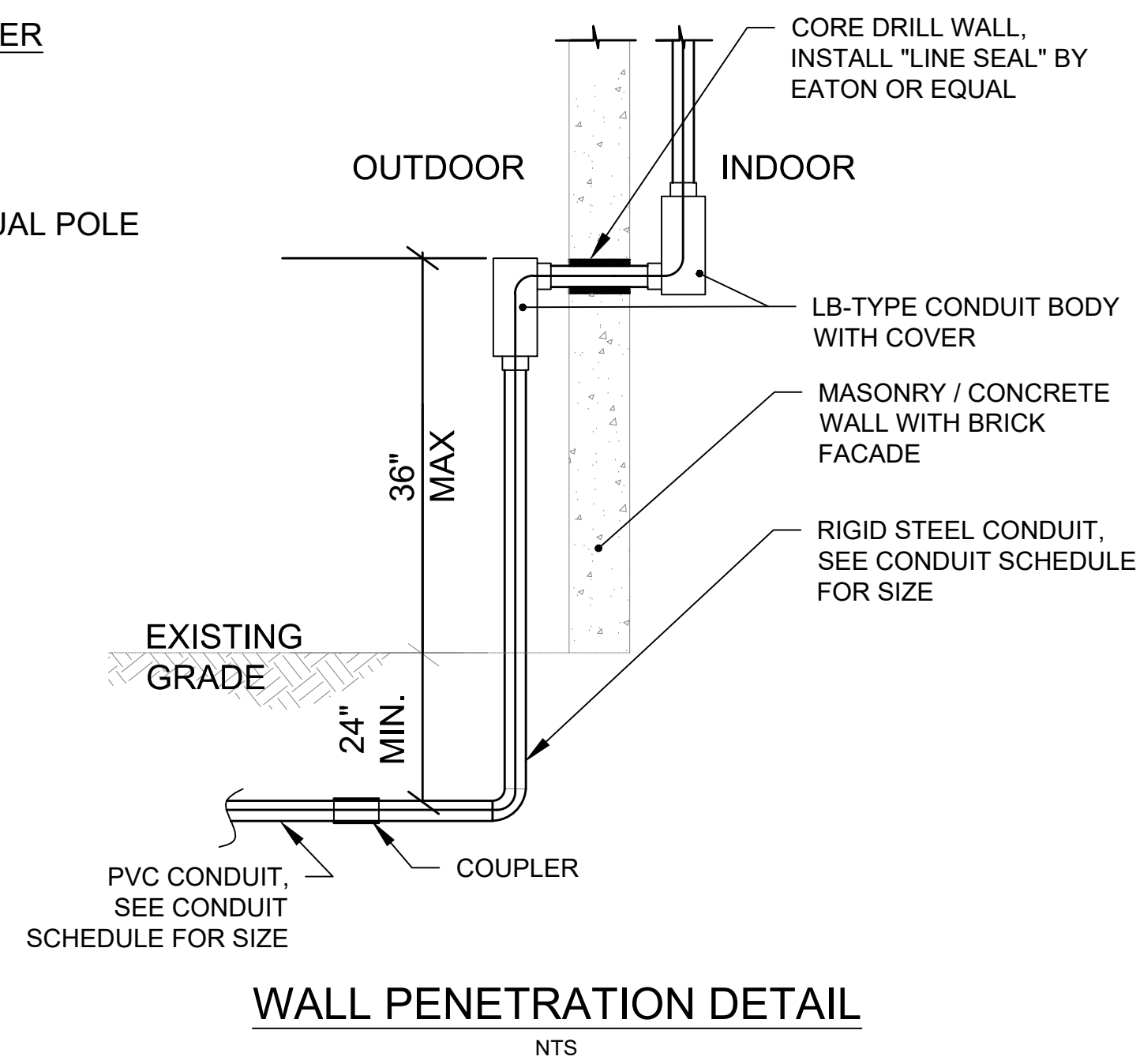
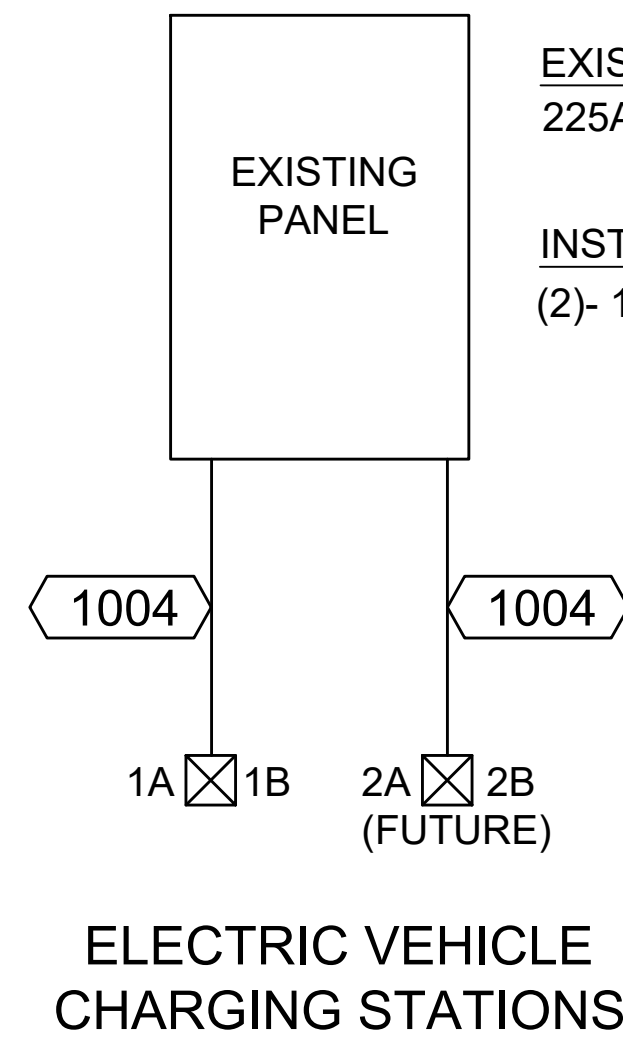
REVISIONS	
NO.	DESCRIPTION

DATE	04/25/2022	SCALE	AS NOTED
PROJECT NO.	2200097		
DRAWING	C1.00		
		1 OF 3	

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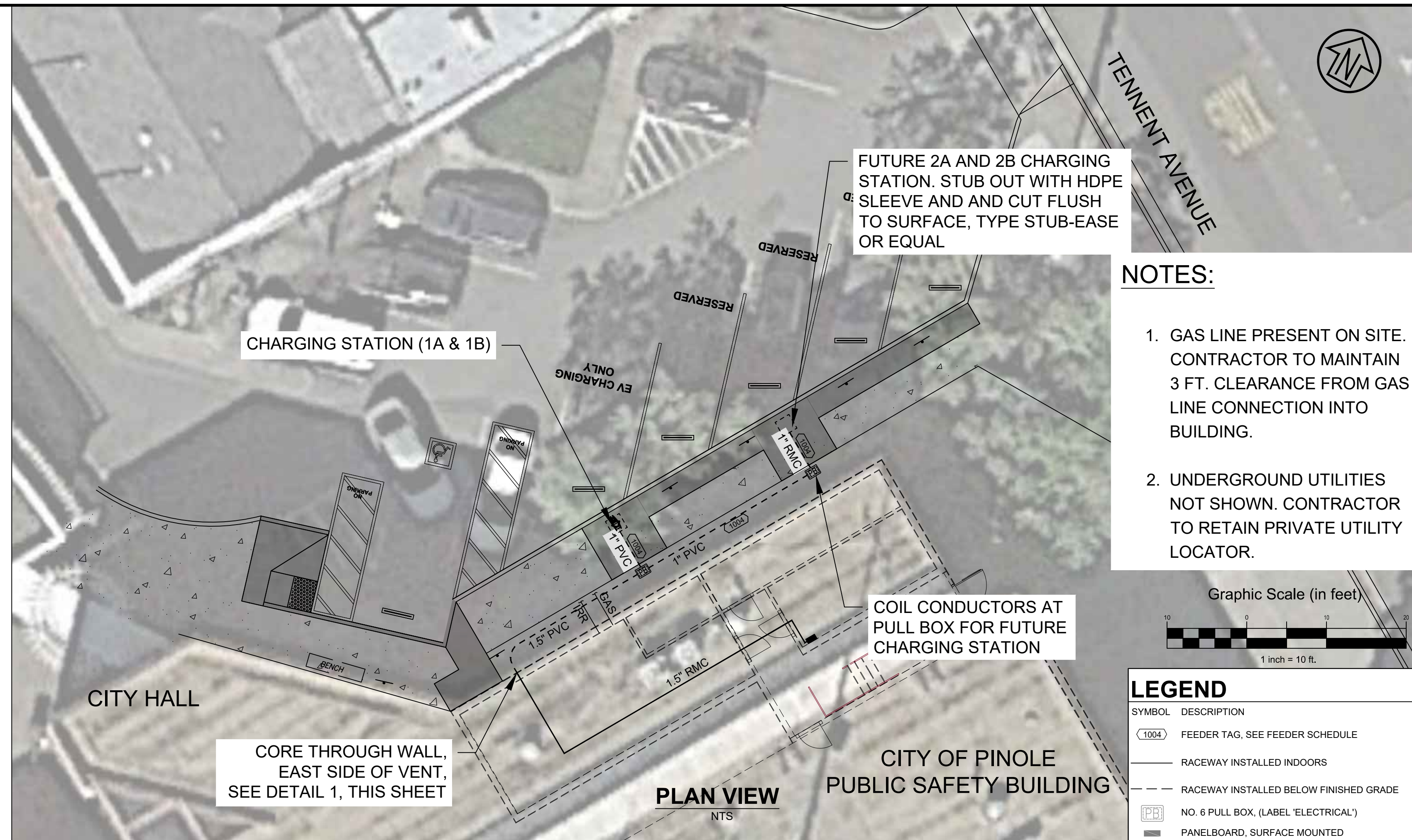


PARTIAL ONE LINE DIAGRAM

WALL PENETRATION DETAIL  
NTS

COPPER FEEDER SCHEDULE

FEEDER TAG	FEEDER DESCRIPTION	CONDUIT	CONDUCTORS	
			PHASE/NEUTRAL	GROUND
1004	40 AMP, 2 PHASE, 3 WIRE	SEE PLANS	8 #4 AWG	4 #4 AWG



NOTE:

FIELD VERIFY EXISTING PANEL 1A-2 TO DETERMINE IF CIRCUITS 31, 33, 35, 37 ARE ACTIVE. IF NOT ACTIVE, REPLACE WITH VEHICLE CHARGING CIRCUIT. IF ACTIVE, INSTALL NEW PANEL, WIRING, AND APPURTENANCES AS DESCRIBED IN TECHNICAL SPECIFICATIONS.

PANEL 1A-2		SECTION 2 OF 2		BUS RATING: 225 AMP		THREE PHASE		VOLTAGE									
LOCATION	INDOOR	SERVING	NORMAL	FLUSH SURFACE		MAIN BREAKER	4-WIRE		120/208								
PANEL AIC		MOUNTING	X			MAIN LUGS ONLY											
LOAD DESCRIPTION		VA Load				CB		VA Load		LOAD DESCRIPTION							
CONT.	RECP.	MOTOR	NON	AMP	POLE	CKT #	PH	CONT.	RECP.	MOTOR	NON						
?				20	1	31	A					?					
?				20	1	33	B					?					
?				20	1	35	C					?					
?				20	2	37	A					?					
?				20	2	39	B					?					
AC-3				20	2	41	C					?					
AC-3				20	2	43	A					Wire mold @ shop					
Receptacles at Shop				20	2	45	B					?					
Receptacles at Shop				20	2	47	C					Air dryers					
Air Compressor				20	3	49	A					Fan V-1					
Air Compressor				20	3	51	B					Fan V-1					
Air Compressor				20	3	53	C					Fan V-1					
Battery Charger				20	3	55	A					Washer 50 lb					
Battery Charger				20	3	57	B					Washer 50 lb					
Battery Charger				20	3	59	C					Washer 50 lb					
Totals																	
TOTAL LOAD FROM FIELD MEASURE				35,954 VA				Measured by MCE									
TOTAL CONTINUOUS LOAD @125%				VA													
TOTAL RECEPTACLE LOAD, 100% FOR FIRST 10KVA AND 50% FOR REMAINDER				VA													
TOTAL NON CONTINUOUS LOAD:				VA													
TOTAL MOTOR LOAD:				VA													
LARGEST MOTOR @ 25%				VA													
TOTAL DEMAND LOAD		35,954 VA		CONNECTED VA TOTAL PHASE		A 12,427		B 11,604		C 11,923		TOTAL CAPACITY (@ 80%)		64,800 VA		VA	

EXISTING

PANEL 1A-2		SECTION 2 OF 2		BUS RATING: 225 AMP		THREE PHASE		VOLTAGE							
LOCATION	INDOOR	SERVING	NORMAL	FLUSH SURFACE		MAIN BREAKER	4-WIRE		120/208						
PANEL AIC		MOUNTING	X			MAIN LUGS ONLY									
LOAD DESCRIPTION		VA Load				CB		VA Load		LOAD DESCRIPTION					
CONT.	RECP.	MOTOR	NON	AMP	POLE	CKT #	PH	CONT.	RECP.	MOTOR	NON				
Vehicle Charger 1A	1800			40	2	31	A					Future Vehicle Charger 2A			
-	1800			40	2	33	B					-			
Vehicle Charger 1B	1800			40	2	35	C					Future Vehicle Charger 2B			
-	1800			40	2	37	A					-			
?						39	B					?			
AC-3				20	2	41	C					?			
AC-3				20	2	43	A					Wire mold @ shop			
Receptacles at Shop				20	2	45	B					?			
Receptacles at Shop				20	2	47	C					Air dryers			
Air Compressor				20	3	49	A					Fan V-1			
Air Compressor				20	3	51	B					Fan V-1			
Air Compressor				20	3	53	C					Fan V-1			
Battery Charger				20	3	55	A					Washer 50 lb			
Battery Charger				20	3	57	B					Washer 50 lb			
Battery Charger				20	3	59	C					Washer 50 lb			
Totals	7200											7200			
TOTAL LOAD FROM FIELD MEASURE				35,954 VA				Measured by MCE							
TOTAL CONTINUOUS LOAD @125%				18,000 VA											
TOTAL RECEPTACLE LOAD, 100% FOR FIRST 10KVA AND 50% FOR REMAINDER				VA											
TOTAL NON CONTINUOUS LOAD:				VA											
TOTAL MOTOR LOAD:				VA											
LARGEST MOTOR @ 25%				VA											
TOTAL DEMAND LOAD		53,954 VA		CONNECTED VA TOTAL PHASE		A 17,827		B 15,204		C 15,523		TOTAL CAPACITY (@ 80%)		64,800 VA	

PROPOSED

CSW ST2  
CSW/Stuber-Stroch  
Engineering Group, Inc.

45 Leveroni Court,  
Novato, CA 94949  
(415) 883-9850



City Richmond  
County Contra Costa  
State California

CITY OF PINOLE  
ELECTRIC VEHICLE CHARGING STATIONS  
ELECTRICAL PLAN  
CITY OF PINOLE

REVISIONS

NO.	DESCRIPTION

DATE: 04/25/2022  
SCALE: AS NOTED  
PROJECT NO.: 2200097  
DRAWING: C1.02  
NO. 3 OF 3

