

- a. Consideration of Adopting a Resolution Approving the Greater East San Carlos (GESC) Slow Street Project.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** February 13, 2023

**ITEM TITLE:** Adopt a Resolution Appropriating \$35,000 from the General Capital Fund 0025 (Fund 25) for the Greater East San Carlos Neighborhood Slow Street Project; Approving the Plans and Specifications; and Authorizing a Call for Bids.

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### RECOMMENDATION:

Staff recommends that the City Council adopt a Resolution appropriating \$35,000 from the General Capital Fund 0025 (Fund 25) for the Greater East San Carlos Neighborhood Slow Street Project ("Project"), approving the plans and specifications, and authorizing a call for bids.

### FISCAL IMPLICATIONS:

The preliminary engineer's estimate to construct the Project is approximately \$30,000. With an 18% contingency, or \$5,000, the Project cost is expected to be \$35,000.

Staff is requesting an appropriation of \$35,000 from the General Capital Fund 0025 (Fund 25) to construct the Project. There are sufficient funds available in Fund 25 to accommodate this request. The ongoing maintenance cost has not yet been determined but will be presented to the City Council at the six month anniversary date of the Project's implementation.

### BACKGROUND:

Over the last several years, the City has received several requests from the Greater East San Carlos neighborhood ("GESC") for traffic calming to reduce speeds and cut-through traffic and increase safety.

The City has performed studies to evaluate existing conditions and potential solutions. The findings were presented to the Transportation and Circulation Commission in September 2021. In May 2022, the City Council directed staff to expand the study area to include residents and businesses on five additional streets, conduct more public outreach, and study other cities' solutions.

Extensive outreach was conducted throughout 2022. Staff mailed 393 postcard invitations to residents and business for four in-person and online public meetings. Subsequent to these meetings, residents of the GESC neighborhood proposed another solution: "Slow Street Improvements." This solution offers benefits similar to a partial street closure, but allows local two-way traffic passage. It does not interfere with fire access or fire site logistics (hose pull); however,

the Slow Street Improvements solution is not enforceable.

On December 8, 2022, an in-person workshop was held at Laureola Building to share the conceptual plans for the placement of pylons, signage, and street striping for the Project. The predominating concern was the loss of parking due to the amount of red curb areas proposed adjacent to the pylons. Staff has since revised the plans and minimized the impacts to parking as much as safely possible.

#### ANALYSIS:

Staff recommends that the City Council implement Slow Street measures at the eight intersections along Old County and Industrial Roads at McCue Avenue, and Cherry, Montgomery, and Hall Streets. The measure would include pylons and signage stating “local traffic only” as depicted in the attached plans. There are several benefits to this proposed solution. First, representatives from the GESC have already expressed their willingness to adopt this measure as a suitable alternative to partial or complete street closures. Second, evidence from neighboring Redwood City streets suggests that this solution is inexpensive, quickly implementable as it will not require warrant studies, and effective. Third, discussions with third party service providers and local safety officials have confirmed that there will be no significant logistical or safety issues presented by the pylons as they may be driven over by fire trucks if necessary. Finally, this solution will help address three primary goals gleaned from the public engagement meetings: (1) limit cut-through traffic, (2) decrease speed, and (3) increase safety.

Staff notes that although there are similarities with the Redwood City soft closures, there are also significant differences. Redwood City has implemented the soft closures on several of their streets in various parts of the city. These streets are not in a grid system concentrated in one neighborhood such as what is being proposed in the GESC neighborhood. Redwood City has experienced damage to the pylons from turning vehicles even on streets that are 40 feet or wider. The GESC neighborhood’s streets are 30 feet wide curb to curb, so the proposed red curbs will help to minimize potential damage to parked vehicles next to the pylons.

It is staff’s intent to measure the effectiveness of these measures in one year. During the community engagement meetings, participants expressed their concerns about the findings of W-Trans’ cut-through analysis. While W-Trans’ consultant explained the sound methodology of the study which used pre-pandemic cell phone data, they also clarified that the study did not collect cut-through traffic that zigzagged through the GESC. For example, a vehicle that cut to Industrial from Old County Road would be counted. However, a vehicle that cut from Old County Road to Cherry Street, then up Bayport Avenue to Montgomery Street and out to Industrial (or “zigzagged”) would not be counted. W-Trans has since worked with staff to identify an alternative traffic count methodology which was accepted by the neighbors. The effectiveness of the soft closures will be measured after one year.

#### ALTERNATIVES:

Options available to the City Council include:

1. Adopt a Resolution appropriating \$35,000 from the General Capital Fund 0025 (Fund 25) for the Greater East San Carlos Neighborhood Slow Street Project ("Project"), approving the plans and specifications, and authorizing a call for bids; or
2. Do not adopt the Resolution; or
3. Provide staff with alternative direction.

Respectfully submitted by:

Steven Machida, Public Works Director

Approved for submission by:

A handwritten signature in black ink, appearing to read 'J. Maltbie', is written above a horizontal line.

Jeff Maltbie, City Manager

ATTACHMENT(S):

1. Resolution
2. GESC Slow Street Project Plans
3. GESC Slow Street Project Specs

RESOLUTION NO. 2023 – \_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CARLOS  
APPROPRIATING \$35,000 FROM THE GENERAL CAPITAL FUND 0025 (FUND 25) FOR  
THE GREATER EAST SAN CARLOS NEIGHBORHOOD SLOW STREET PROJECT;  
APPROVING THE PLANS AND SPECIFICATIONS; AND AUTHORIZING A  
CALL FOR BIDS.**

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**WHEREAS**, in 2022, the City Council directed staff to expand the study area for a neighborhood traffic calming study for the Greater East San Carlos neighborhood (“GESC”); and

**WHEREAS**, in 2022, the GESC proposed the Greater East San Carlos Slow Street Project (“Project”) in accordance with guidance provided by City policies, lessons learned from other jurisdictions, practices published by the transportation industry, and community input regarding traffic concerns; and

**WHEREAS**, staff recommends that the City Council implement Slow Street measures at the eight intersections along Old County and Industrial Roads at McCue Avenue, and Cherry, Montgomery, and Hall Streets; and

**WHEREAS**, staff is requesting an appropriation of \$35,000 from the General Capital Fund 0025 (Fund 25) to construct the Project; and

**WHEREAS**, staff intends to measure the effectiveness of these measures after one year; and

**WHEREAS**, staff retained Advanced Mobility Group to prepare the plans, estimates and specifications documents.

**NOW, THEREFORE BE IT RESOLVED**, that the San Carlos City Council hereby appropriates \$35,000 from the General Capital Fund 0025 (Fund 25) for the Greater East San Carlos Neighborhood Slow Street Project, approves the plans and specifications, and authorizes a call for bids.

\* \* \* \* \*

I, City Clerk Crystal Mui, hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Carlos at a scheduled meeting thereof held on the 13<sup>th</sup> day of February 2023, by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

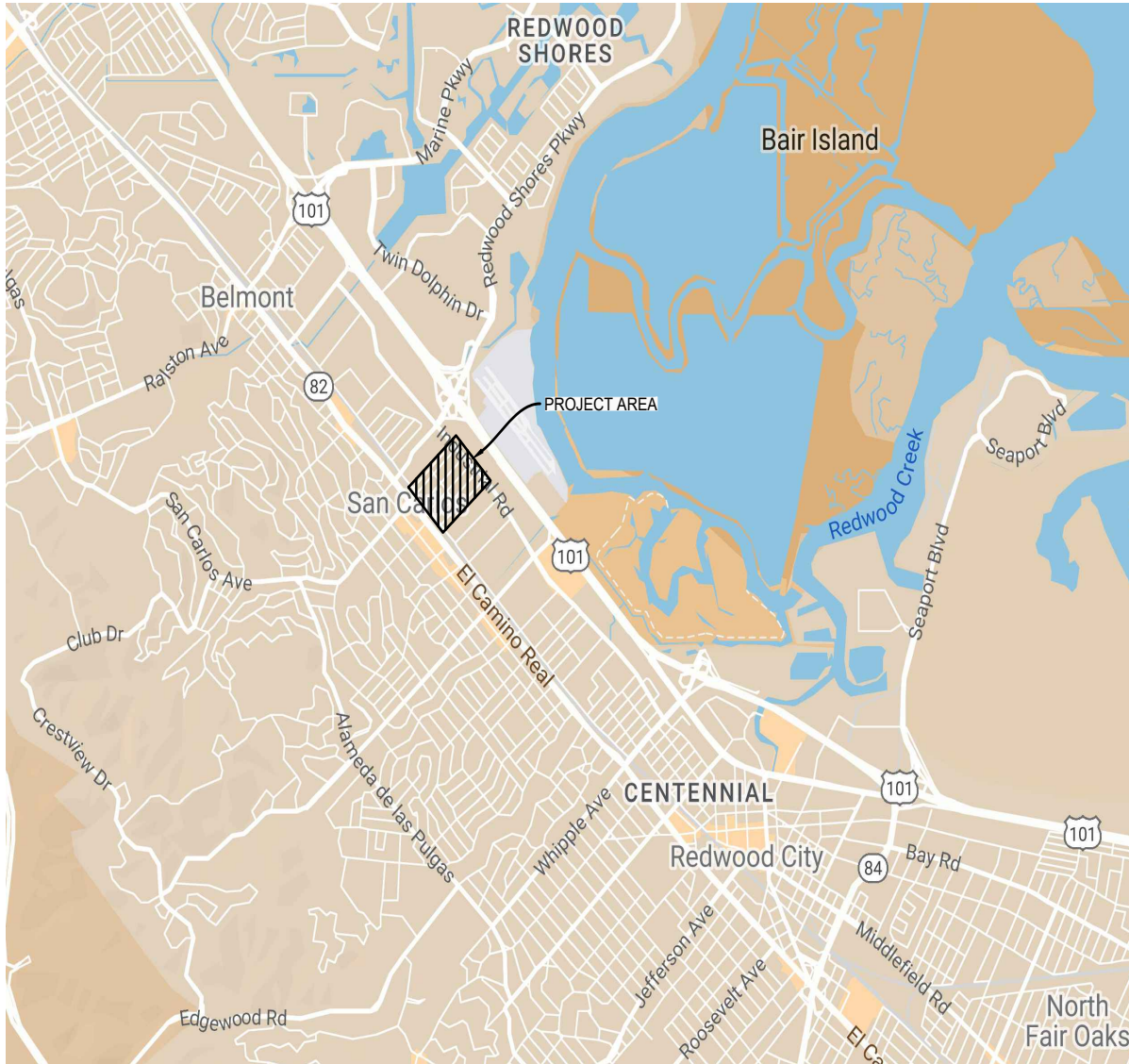
\_\_\_\_\_  
**CITY CLERK** of the City of San Carlos

APPROVED:

\_\_\_\_\_  
**MAYOR** of the City of San Carlos

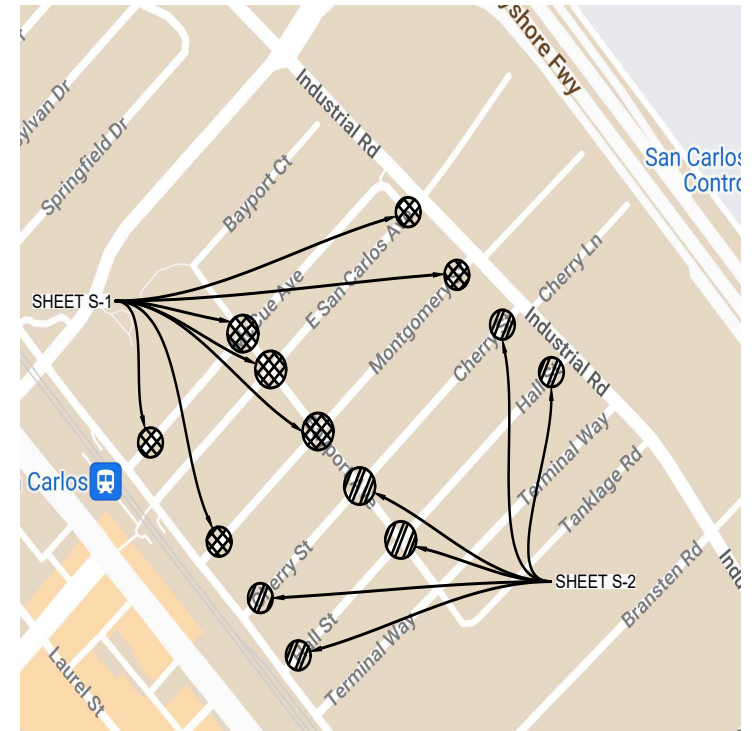
# NEIGHBORHOOD SLOW STREET IMPROVEMENTS

## CITY OF SAN CARLOS, CALIFORNIA



AREA MAP

INDEX OF SHEETS		
DWG.	SHEET NO.	DESCRIPTION
T-1	1	TITLE SHEET AND PROJECT LOCATION
S-1	2	MCCUE AVE AND MONTGOMERY ST AREA IMPROVEMENTS
S-2	3	CHERRY ST AND HALL ST AREA IMPROVEMENTS



PROJECT LOCATIONS



ADVANCED MOBILITY GROUP  
3003 OAK ROAD, SUITE 100  
WALNUT CREEK, CA 94597

DESIGNED	C. HIGBEE				
DRAWN	C. HIGBEE				
CHECKED	J. BHATTACHARYA				
DATE	1/30/2023				
SCALE	N/A	NO.	REVISION	BY	APP.

FINAL



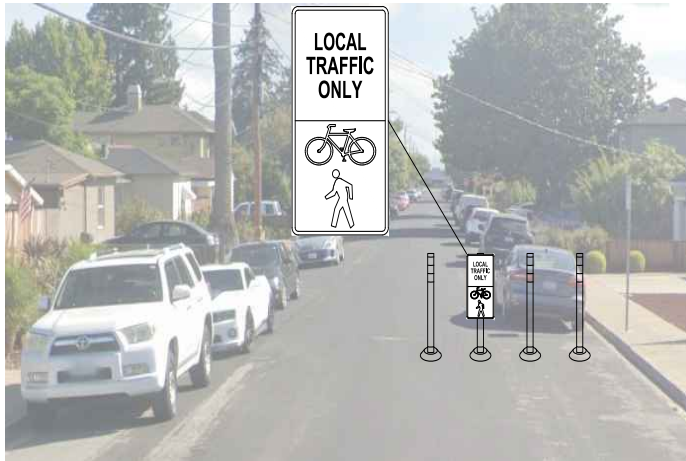
SAN CARLOS NEIGHBORHOOD SLOW STREET

TITLE SHEET AND PROJECT LOCATION

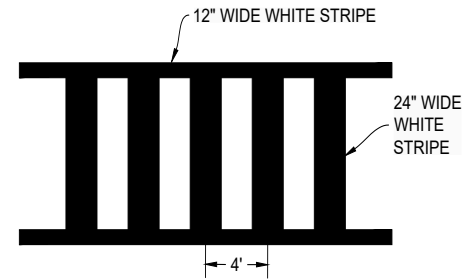
CITY OF SAN CARLOS  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

SHEET 1 OF 3  
DWG. T-1





DETAIL A: SOFT CLOSURE BARRICADE (TYPICAL APPLICATION)



DETAIL B: HIGH VISIBILITY CROSSWALK MARKING



ADVANCED MOBILITY GROUP  
3003 OAK ROAD, SUITE 100  
WALNUT CREEK, CA 94597

DESIGNED	C. HIGBEE				
DRAWN	C. HIGBEE				
CHECKED	J. BHATTACHARYA				
DATE	1/30/2023				
SCALE	1" = 40'	NO.	REVISION	BY	APP.

BENCHMARK  
  
FINAL

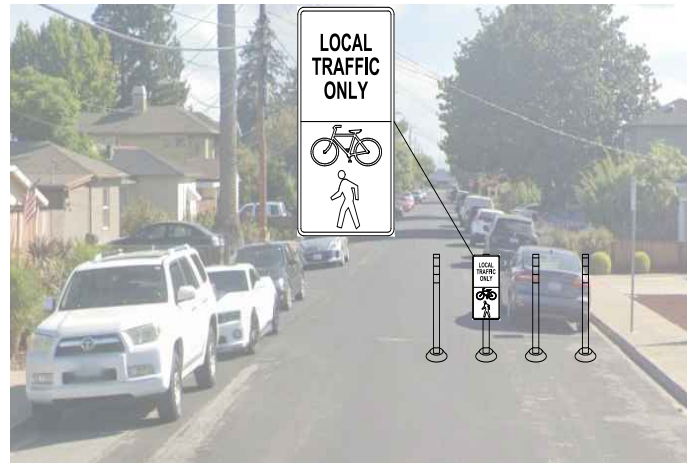


## SAN CARLOS NEIGHBORHOOD SLOW STREET

MCCUE AVE AND MONTGOMERY ST AREA IMPROVEMENTS

CITY OF SAN CARLOS  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

SHEET 2 OF 3  
DWG. S-1



DETAIL A: SOFT CLOSURE BARRICADE (TYPICAL APPLICATION)



ADVANCED MOBILITY GROUP  
3003 OAK ROAD, SUITE 100  
WALNUT CREEK, CA 94597

DESIGNED	C. HIGBEE				
DRAWN	C. HIGBEE				
CHECKED	J. BHATTACHARYA				
DATE	1/30/2023				
SCALE	1" = 40'	NO.	REVISION	BY	APP.

BENCHMARK  
**FINAL**



**SAN CARLOS NEIGHBORHOOD SLOW STREET**  
CHERRY STREET AND HALL STREET AREA IMPROVEMENTS

**CITY OF SAN CARLOS**  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

SHEET 3 OF 3  
DWG. S-2



**CITY OF SAN CARLOS**  
SAN MATEO COUNTY, CALIFORNIA

Public Works Department  
600 Elm Street  
San Carlos, CA 94070

**Contract Documents**  
For the

**Neighborhood Slow Streets Project**

**CITY PROJECT NO:**



**BID OPENING:**  
**BIDS DUE:**

**BID SET**



## Neighborhood Slow Streets Project

**City Project No.**

### **DESIGN CERTIFICATION**

The Plans and Technical Specifications contained herein have been prepared by, or under the responsible charge of, the following registered person(s):

Prepared by:

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CHRIS K.S. HIGBEE, P.E. SENIOR PROJECT ENGINEER	Date
Advanced Mobility Group (AMG)	
3003 Oak Road, Suite 100, Walnut Creek, Ca. 94597	
(925) 393-2291	

Approved for Construction:

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<b>GRACE LE, P.E., CITY ENGINEER</b>	Date
Public Works Department	
City of San Carlos	
600 Elm Street, San Carlos, CA 94070	
(650) 802-4201	





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**CITY OF SAN CARLOS  
SAN MATEO COUNTY, CALIFORNIA  
NOTICE INVITING SEALED PROPOSALS**

NOTICE IS HEREBY GIVEN that sealed proposals or bids will be publicly opened, examined and announced on **DATE TBD** at the hour of **2:00 p.m.** by the City Clerk of the City of San Carlos through a ZOOM video conference for the "**Neighborhood Slow Streets Project, City Project No. [REDACTED]**". **Sealed bid proposals shall be received in hand by the City Clerk before 12:00 p.m. on DATE TBD, which is different from the ZOOM bid opening time. Note – City Hall is closed to the public every Wednesday and Friday.** No Pre-Bid meeting has been scheduled for this project.

A **Class A, Contractor's License** is required for this work. Work will be done and payments will be made in accordance with provisions more particularly described in the plans and specifications adopted by the San Carlos City Council on July 12, 2021 and on file in the office of the City Clerk.

The scope of work generally includes the replacement of sanitary sewer laterals by way of pipe-bursting and traditional open trench. Bids are required for the entire work described herein in accordance with the instructions to bidders. The Engineer's Estimate is between \$25,000 and \$31,000.

Bids must be accompanied by a Proposal guarantee amounting to ten (10%) percent of the bid as described in the specifications. Said guarantee shall be forfeited to the City in case the bidder depositing the same does not, within fifteen days after written notice that the contract has been awarded to the Contractor (1) enter into a contract with the City and (2) furnish Performance and Payment Bonds as described in the specifications.

The City Council reserves the privilege of rejecting any and all proposals or to waive any irregularities or informalities in any proposals or in the bidding. No bidder may withdraw their proposal for a period of ninety (90) calendar days after the date set for opening of proposals.

As a "Public Works" project and pursuant to Section 1773 of the Labor Code, the general prevailing wage rates for San Mateo County shall apply to this contract, as determined by the Director of the California Department of Industrial Relations.

Plans and specifications, forms of proposals, bonds and contracts may be inspected or obtained from ARC Document Solutions at 829 Cherry Lane, San Carlos, CA 94070, (650) 631-2310; email at sancarlos@e-arc.com; or visit the City of San Carlos Website at [www.cityofsancarlos.org](http://www.cityofsancarlos.org) . Bidders must register with ARC Document Solutions to obtain further information.

Bidders are directed to the Instructions for Bidders for additional contract requirements.

Dated: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
/s/ CRYSTAL MUJ  
City Clerk

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**CITY OF SAN CARLOS  
SAN MATEO COUNTY, CALIFORNIA**

**INSTRUCTIONS TO BIDDERS**

1. Proposal Requirements: Bidder's attention is directed to the General Provisions of these Specifications for the requirements and conditions which must be adhered to in the preparation of the proposal form and submission of this proposal.
2. Receipt of Bids and Bid Opening: Proposals shall be received at the office of the City Clerk, 600 Elm Street, San Carlos, CA 94070, not later than the bid deadline described in the Notice Inviting Sealed Proposals. Proposals shall be submitted in a sealed envelope, plainly marked on the outside "**Neighborhood Slow Streets Project, City Project No.**".

All sealed bid proposals will be opened at 2:00 p.m. on **DATE TBD** via video conference using ZOOM. The following login can be used to take part in the bid opening:

- **URL:**
- **Meeting ID:**

To participate via audio only, call into the meeting by dialing **(xxx) xxx-xxxx** and entering the Meeting ID indicated above.

Sealed bids and proposal forms will be examined and declared on the same day by the City Clerk.

3. Time of Completion and Liquidated Damages: All work shall be diligently prosecuted to completion before the expiration of **Fourteen (14) Calendar Days** from the date of receipt of the "Notice to Proceed". If the Contractor fails to complete the work within the above-specified time limit, the Contractor shall pay liquidated damages to the City, computed at the rate of **Five Hundred Dollars (\$500)** for each calendar day beyond the specified time limit until the project is completed.
4. Bid Security: Pursuant to California Public Contract Code Section 20170, each proposal shall be accompanied by a bid security in the form of cash, cashier's or certified check, or bidder's bond made payable to the "City of San Carlos" for an amount equal to at least ten percent (10%) of the Bid Amount and no bid shall be considered unless such security is enclosed therewith.
5. Bid Guarantee: No bid shall be withdrawn except as provided for pursuant to Public Contract Code Section 5103, and the bidder shall guarantee the Total Bid Price for a period of ninety (90) calendar days from the date of the bid opening.
6. Contractor's License: Bidders are to be licensed in accordance with the provisions of the "Contractor's License Law," Chapter 9 of Division 3 of the State Business and Professions Code. In addition, at the time of submitting the bid, bidder must have the following classification of contractor's license: **Class A, Contractor's License**.
7. Additional Registration and Licensing Requirements: In accordance with Labor Code Section 1725.5, Contractor and all Subcontractors shall be registered with the California Department of Industrial Relations (DIR) as a condition of being listed on the proposal form. All 2<sup>nd</sup> and lower tier subcontractors working on the project shall be registered with

the Department of Industrial Relations prior to the work being performed. Contractor and all Subcontractors shall also obtain a City business license prior to the work being performed.

8. Prevailing Wage: The work contemplated by this contract is a “public work” subject to prevailing wages under California Labor Code Section 1770 *et. seq.* The successful bidder will be required to pay not less than the prevailing rate of per diem wages as determined by the California Department of Industrial Relations or Federal Minimum Wage Rates as determined by the United States Secretary of Labor in effect on the date the work is performed.
9. Bonds and Insurance: All contractors are required to furnish to the City faithful performance, labor and materials, and 2-year warranty bonds and insurance, as required in the specifications.
10. Security Substitution: Pursuant to California Public Contract Code Section 22300, and at the request and expense of the Contractor to whom the Contract is awarded, securities of a value equivalent to the retention amount, in a form approved by the City, shall be permitted in substitution for money withheld by the City to ensure performance under the Contract.
11. Pre-Bid Conference: No pre-bid conference has been scheduled for this project.
12. Requests for Clarification and Project Communication: In the event the bidder has any questions as to the meaning of any part of the plans and specifications, or if the bidder finds any error, inconsistency, or ambiguity in the Contract Documents, the bidder shall make a written request for clarification prior to submitting its bid. All questions and comments regarding the plans and specifications should be directed to the Project Manager indicated below and will only be responded to if received in writing at least five (5) working days before the bid opening. Questions received after this time and date may not be addressed.

City of San Carlos – Public Works Department  
600 Elm Street, San Carlos, CA 94070  
Attention: Hanieh Houshmandi, Sr. Traffic Engineer  
hhoushmandi@cityofsancarlos.org  
Telephone: (650) 802-4349  
Fax: (650) 595-6704

13. These “Instructions to Bidders” are hereby made a part of the Contract Documents.

## **SCHEDULE OF REQUIRED BID DOCUMENTS AND AGREEMENT FORMS**

**Submit with Bid Proposal** - The following documents must be completed, signed and submitted as part of the Bid Proposal, prior to the bid opening:

Completed Bid Proposal consisting of:

- A. Bid Schedule
- B. Designation of Subcontractors
- C. Certifications and Affidavits:
  - 1. Non-Collusion Affidavit
  - 2. Bidder's Qualifications
  - 3. Bidder's References
  - 4. Bidder's Personnel
- D. Signature Pages
- E. Bid Guarantee (Bid Bond attached)
- F. Addendum, if any (not attached) – signature page to be signed and submitted by bidder.

**Submit Prior to Notice to Proceed** -The following documents must be completed, signed and submitted after approval and award of the Contract, prior to the Notice to Proceed:

- A. Agreement
- B. Payment Bond
- C. Performance Bond
- D. Insurance Endorsements
  - 1. General Liability
  - 2. Automobile Liability
  - 3. Worker's Compensation
- E. Certifications
  - 1. Workers Compensation
  - 2. Safety Requirements for Contractors and Vendors
  - 3. Drug-Free Workplace

**Submit Prior to Final Acceptance** - The following documents must be completed, signed and submitted prior to final acceptance:

- A. Guarantee
- B. Stop Notice Releases, if any (form not included)
- C. Record Drawings

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# CITY OF SAN CARLOS

PUBLIC WORKS DEPARTMENT

600 Elm Street  
San Carlos, CA 94070

## **BID PROPOSAL**

FOR:

### **Neighborhood Slow Streets Project**

**City Project No.**

IN

**CITY OF SAN CARLOS, COUNTY OF SAN MATEO  
STATE OF CALIFORNIA**

**NOTE:** All portions of all pages included within this section, and acknowledgement of receipt of any issued addenda must be properly completed, signed, and submitted with the bid. Failure to do so may result in the bid being deemed non-responsive by the City.

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## **BID PROPOSAL**

### **Neighborhood Slow Streets Project**

**CITY PROJECT NO.**

Bid To: Honorable Mayor and City Council  
City of San Carlos, City Hall  
San Carlos, CA 94070

Bid From:

Bidder's Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Business Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone No.: (      ) \_\_\_\_\_

E-mail: \_\_\_\_\_

Contractor License No.: \_\_\_\_\_

Contractor License Expiration Date: \_\_\_\_\_

Dear Mayor and Members of the City Council:

I, as bidder, declare that I have satisfied myself as to the actual conditions and requirements of the work by careful examination of the location of the proposed work, by examination of the plans and specifications including the Instructions to Bidders, and by other measures, and that after submission of the bid, I will not dispute, complain or assert that there was any misunderstanding in regards to the nature or amount of work to be done.

I hereby certify that only those parties interested in this proposal as principals are named in this proposal and that this bid is genuine, and not sham, collusion, or made in the interest or in behalf of any person not named. I have not directly or indirectly induced or solicited any other bidder, person, firm or corporation to put in a sham bid, or refrain from bidding, and have not in any manner sought by collusion to secure for myself an advantage over any other bidder.

I agree that if this proposal is accepted, I will contract with the City of San Carlos in the form of agreement proposed, will provide all bonds and insurance certificates as required by the agreement and will furnish all equipment and materials and perform all the labor required to complete the work in accordance with the plans, specifications and other contract documents, for the unit or lump sum prices set forth in the Bid Schedule.

I have carefully checked all of the figures in the Bid Schedule and understand that the City shall not be responsible for any errors or omissions on my part in making up this bid. I agree that this bid may not be withdrawn for a period of ninety (90) calendar days from the date of the bid opening and that the City reserves the right to reject any or all bids, waive any informality in bids received, and may at its option make the award that in the judgment of the City is to the best interest of the City.

### **BIDDING REQUIREMENTS**

The work to be done and referred to here is in the City of San Carlos, County of San Mateo, State of California, and shall be constructed in accordance with all provisions of the project specifications and project plans including: any addenda; the Instructions to Bidders, the Agreement; the Standard Specifications and Standard Plans of the California Department of Transportation, current edition; the Labor Surcharge and Equipment Rental Rates; and payment of not less than the higher of the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations or Federal minimum wage rate as predetermined by the United States Secretary of Labor in effect on the date the work is performed.

For each of the various contract items of work designated on the Bid Schedule, the bidder shall set forth a unit or lump sum price which the bidder shall then use to calculate and designate a total cost for each item of work based upon the designated estimate of the quantities of work to be done, all in clearly legible figures in the respective spaces of the Bid Schedule provided for this purpose.

The bidder shall include in the unit or lump sum prices paid for the various contract items of work full compensation for conforming to the requirements of the Contract Documents and for completing all of the work required. No additional compensation shall be granted for any additional items unless categorized and approved as extra work under the terms of the agreement.

The estimate of construction quantities set forth in the Bid Schedule is approximate only, being given only as a basis for the comparison of bids, and the City does not expressly or by implication agree that the actual amount of work will correspond with those estimated quantities. The City reserves the right to increase the amount of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer. There shall be no claim for damage or loss of anticipated profit for any bid item omitted in its entirety, and payment will only be made on the basis of actual quantities of work performed.

If the City accepts this proposal and the bidder fails to enter into the contract and/or fails to furnish bonds as required by the specifications with sureties satisfactory to the City within ten (10) calendar days after the bidder has received notice from the City that the contract has been awarded, the City may, at its option, determine that the bidder has breached and abandoned the contract, and thereupon, the bid security accompanying this proposal shall be forfeited and become the property of the City.

The Notice to Proceed will not be issued until after the contract has been fully executed. The contractor shall commence the work under the contract within ten (10) days following the date of the Notice to Proceed, or as otherwise specified in the project specifications or negotiated with the City, and shall diligently prosecute the project to completion within the time specified. The contract completion period is inclusive of the time needed for material delivery.

Bidder shall comply with the requirements of the California Labor Code, including sections 1770 *et seq.*, and 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 are on file at the office of the City Engineer, which copies shall be made available to any interested party upon request. The Contractor shall post a copy of such determination at the job site.

As required by Section 6705 of the California Labor Code and in addition thereto, for any excavation of any trench or trenches five feet (5') or more in depth, the Contractor shall submit to the Engineer for acceptance, 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. Structural calculations prepared, stamped and signed by a Registered Engineer licensed to practice in the State of California shall accompany the plan to verify the structural safety and adequacy of the sheeting, shoring and bracing to be used on the project. No such plan shall allow any shoring, sloping or a protection system less effective than that required by the Construction Safety Orders of the State Division of Occupational Safety and Health.

In accordance with the provisions of Section 1860 of the Labor Code, prior to performing work on the Contract, each Contractor to whom a public works contract is awarded shall sign and file with the City the Worker's Compensation Certification included in the "Agreement and Agreement Forms" section of these specifications.

Bidder's attention is directed to Section 2 of the General Provisions for additional information and requirements pertaining to the submission of a bid, and which is incorporated here by reference.

Bidder's attention is directed to Section 2.13, "Required Contractor and Subcontractor Registration," of the General Provision. All contractors shall register with the Department of Industrial Relations according to Labor Code Section 1725.5.

Any protest of the proposed contract award must be submitted in writing to the City no later than 5:00 p.m. on the fifth business day following the date of the bid opening. Bidder is directed to the "Bid Protest Procedure" Section of the General Provisions for additional information.

## **BID SCHEDULE**

Bids are to be submitted for the entire work. All applicable sales taxes, state and/or federal, and any other special taxes, patent rights or royalties are included in the prices quoted in the bid.

In the case of a discrepancy between the product of the "Estimated Quantity" and the "Unit Price" with the "Item Total", the product of the "Estimated Quantity" and the "Unit Price" shall prevail and the figure shown as the "Item Total" shall be adjusted accordingly, except as provided in cases involving (a) or (b) below:

(a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount entered in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;

(b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc. from the item total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage-wise the unit price or item total in the Engineer's Estimate.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

In the case of a discrepancy between the sum of the figures in the item total column (adjusted per the previous paragraphs, if necessary) and the amount set forth as the total base bid amount, the sum of the figures in the item total column shall prevail and the amount shown as the total base bid amount shall be adjusted accordingly.

**BASE BID ITEMS ARE AS FOLLOWS:**

**Neighborhood Slow Streets Project**

**CITY PROJECT NO.**

<b>Item No.</b>	<b>Item Description</b>	<b>Estimated Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Item Total</b>
1	Mobilization & Demobilization	1	LS	\$	\$
2	Traffic Control System	1	LS	\$	\$
3	Furnish and Install Thermoplastic Pavement Marking	51	SF	\$	\$
4	Furnish and Install 12" White Thermoplastic Striping	675	LF	\$	\$
5	Furnish and Install 24" White Thermoplastic High-Visibility Ladder Marking	216	LF	\$	\$
6	Furnish and Install Red Curb Paint	165	LF	\$	\$
7	Furnish and Install Custom Traffic Sign	7	EA	\$	\$
8	Furnish and Install Flex-Post Delineator	28	EA	\$	\$

Total Base Bid Amount: \$\_\_\_\_\_

**Notes:**

1. The Contract will be compared and awarded on the basis of the Total Base Bid Amount.
2. All items on the Base Bid Schedule must be bid. Partial bids will not be accepted.
3. The City reserves the right to reject all bids for any reason whatsoever.
4. Issuance of the "Notice to Proceed" will constitute the beginning of the Contract.

### **DESIGNATION OF SUBCONTRACTORS**

The Contractor shall perform work equaling at least 30 percent of the value of the original total bid with the Contractor's own employees and equipment, owned or rented, with or without operators.

In accordance with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100 *et seq.* (the "Subcontracting Act"), the Bidder hereby certifies and submits, as required by law, the following concerning subcontractors:

1. The portion of the work, which will be done by each such subcontractor; and
2. The name and location of the place of business of each subcontractor who will perform work or labor, fabricate a portion of the work or improvement according to detailed drawings in the project plans, or render service to the Contractor in or about the construction of the work in an amount in excess of one-half of one percent (0.5%) of the Contractor's total bid.

<u>Portion of Work to be Performed by Subcontractor</u>		<u>Subcontractor Name, Address and License Number</u> (License No. Required under AB 44)	<u>Registered with DIR?</u> ✓ check if yes
1.			
2.			
3.			
4.			
5.			
6.			
7.			

(For additional Subcontractors, attach copies of this sheet as necessary)

**NOTE: THIS CERTIFICATE MUST BE COMPLETED AND RETURNED ALONG WITH THE CONTRACTOR'S BID PROPOSAL.**

#### **✓ DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION REQUIREMENT**

In accordance with Labor Code Section 1725.5, all contractors and subcontractors listed on a public works bid proposal must be registered with the DIR.



**NON-COLLUSION AFFIDAVIT**

Title 23 United States Code Section 112 and  
Public Contract Code Section 7106

State of California                    )  
  ) ss.  
County of \_\_\_\_\_ )

\_\_\_\_\_ (name of person signing affidavit), being first duly sworn, deposes and says under penalty of perjury under the laws of the State of California, that he/she/they have the right, power, legal capacity, and authority to execute this Affidavit as \_\_\_\_\_ (sole owner, partner, president, secretary, etc) of \_\_\_\_\_ (legal name of Bidder), the Bidder, 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 any 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 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.

IN WITNESS WHEREOF, the undersigned, as bidder, represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this document on behalf of the Bidder, and have executed this document by setting hereto their names, titles and signature.

\_\_\_\_\_  
(Signature of Representative of Bidder)

Subscribed and sworn to before me, a Notary Public in and for the State of California,  
County of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature of Notary Public: \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_\_ (Seal)

**NOTE: THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED AS PART OF THE CONTRACTOR'S BID PROPOSAL.**

## **BIDDER'S QUALIFICATIONS**

The following statements as to the financial qualifications and experience of the Bidder are submitted as a part of this Bid and the Bidder guarantees the truthfulness and accuracy of the information. Pursuant to Public Contract Code 10165, financial statements and experience questionnaires are not public records and are not open to public inspection.

### **Financial Data**

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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### **Experience Data**

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

The Bidder as a Contractor has never failed to satisfactorily complete an awarded contract from a governmental entity, except as follows: (Name all exceptions and reasons therefore):

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### **Bidder's Personnel**

The following is a list of key personnel including an listing of the person's knowledge, ability or trade along with a brief description of their experience. If Bidder is awarded the Contract, it is understood that the work will be directed and actively supervised by one of these persons.

List of Personnel

Knowledge/Skills

Experience

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### **BIDDER'S REFERENCE**

List three (3) major projects which the Bidder has performed comparable work within the last three (3) years. Provide a contact person and description of the project, or other such information that will demonstrate the ability to vigorously prosecute the work.

1.

PROJECT NAME	LOCATION	YEAR COMPLETED
AGENCY CONTACT PERSON	TELEPHONE NO.	FINAL CONSTRUCTION COST
BRIEF DESCRIPTION OF THE WORK AND/OR MANNER OF EXECUTION		

2.

PROJECT NAME	LOCATION	YEAR COMPLETED
AGENCY CONTACT PERSON	TELEPHONE NO.	FINAL CONSTRUCTION COST
BRIEF DESCRIPTION OF THE WORK AND/OR MANNER OF EXECUTION		

3.

PROJECT NAME	LOCATION	YEAR COMPLETED
AGENCY CONTACT PERSON	TELEPHONE NO.	FINAL CONSTRUCTION COST
BRIEF DESCRIPTION OF THE WORK AND/OR MANNER OF EXECUTION		

## **SIGNATURE PAGES**

The terms and conditions of the final contract when executed shall control and supersede anything herein to the contrary or inconsistent with such contract.

The bidder has inspected the site of the propose work in order to satisfy the bidder, by personal examination, or by such other means as the bidder prefers, of the location of the proposed work and as to the actual conditions of and at the work site. The bidder hereby offers to furnish all labor, materials, equipment, transportation, and services necessary to complete the work on this project in accordance with the Contract Documents and to complete all requirements of the Contract Documents for the sums quoted in this Bid.

### **Addenda:**

(if any) bidder has received and examined all addenda issued during the bid period and agrees that all addenda shall be made a part of the Contract Documents. The bidder acknowledges receipt and incorporation of all impacts resulting from all addenda issued by inserting the number of each addendum below OR by signing and submitting with the bid proposal the signature page from each addendum.

Addendum Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

### **Bidder's Guarantee:**

In accordance with Public Contract Code Section 20170, accompanying this Bid is \_\_\_\_\_ (insert the word "Cash", "Cashier's Check", "Certified Check" or "Bidder's Bond" as the case may be) made payable to the City of San Carlos in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) equal to at least ten percent (10%) of the total amount of this bid. This amount is given as a guarantee that, in case the undersigned defaults in executing a contract and/or furnishing the necessary bonds after contract award, the said guarantee and the money payable thereon shall become and remain the property of the City as liquidated damages.

### **Company Profile:**

The names of all persons interested in the foregoing bid as principals are as follows:  
(Note: If bidder or other interested person is a corporation, state the legal name of corporation, also names of the president, secretary, treasurer and manager thereof; if partnership, state true name of firm, also names of all individual partners composing firm; if bidder or other interested person is an individual, state first and last name in full).

Firm Name: \_\_\_\_\_

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

Names and Titles of Company Officers:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Proposal Execution:

IN WITNESS WHEREOF, the undersigned, as bidder, represent and warrant that they have the right, power, legal capacity and authority to enter into and execute this document on behalf of the Bidder, and have executed this document by setting hereto their names, titles, and signatures. The representations made herein, including but not limited to the above contractor's license, expiration date and name of bidder, are true and correct, shall be complied with and are made under penalty of perjury.

**IF SOLE OWNER**, sign here:

I sign as sole owner of the business named above. \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Employer Identification Number: \_\_\_\_\_

**IF PARTNERSHIP**, sign here:

The undersigned certify that we are partners in the business named above and that we sign this contract proposal with full authority to do so. (one or more partners sign)

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

Federal Tax Identification No. (EIN): \_\_\_\_\_

State Tax Identification No.: \_\_\_\_\_

**IF CORPORATION**, execute here:

The undersigned certify that they sign this contract proposal with full and proper authorization to do so.

Corporate name \_\_\_\_\_

By \_\_\_\_\_ (Title) \_\_\_\_\_

By \_\_\_\_\_ (Title) \_\_\_\_\_

Incorporated under the laws of the State of \_\_\_\_\_

Federal Tax Identification No. (EIN): \_\_\_\_\_

State Tax Identification No.: \_\_\_\_\_

Subscribed and sworn to before me, a Notary Public in and for the State of California,

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

Signature of Notary Public: \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_

(Seal)

## BIDDER'S BOND

To Accompany Contract Proposal

KNOW ALL PERSONS BY THESE PRESENTS:

That we, the undersigned \_\_\_\_\_, as principal and

\_\_\_\_\_, as surety, are held and firmly bound unto the City of San Carlos as OWNER in the penal sum of TEN PERCENT (10%) of the total amount of the bid of the principal, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to OWNER a certain BID attached hereto and hereby made a part hereof to enter into a contract in writing, for the **Neighborhood Slow Streets Project, City Project No.** .

NOW, THEREFORE

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BIDS including all required bonds for faithful performance and labor and material, as well as all required evidence of insurance) then this obligation shall be void, otherwise the same shall remain in force and effect.

In the event the City brings suit upon this Bond, surety shall pay reasonable attorney's fees and costs incurred by the City in such suit.

The Surety, for value received, stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the City of San Carlos may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, this day and year first set forth.

By: \_\_\_\_\_ (L.S.)  
(Principal)

(Seal)

By: \_\_\_\_\_  
(Surety)

(Seal)

Subscribed and sworn to before me, a Notary Public in and for the State of California, County of

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

Signature of Notary Public: \_\_\_\_\_ (Seal)

My Commission expires \_\_\_\_\_, 20\_\_\_\_

**IMPORTANT:** Surety companies executing BONDS must be authorized to transact Surety insurance in the State of California. If Contractor is Partnership, all partners should execute BOND.

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**AGREEMENT AND AGREEMENT FORMS  
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## AGREEMENT FOR PUBLIC PROJECTS

This Agreement is made and entered into as of \_\_\_\_\_ by and between the City of San Carlos hereinafter called "CITY" and \_\_\_\_\_ hereinafter called "CONTRACTOR."

### RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That CITY desires to engage CONTRACTOR to provide a product and/or services to the CITY;
- B. That CONTRACTOR is qualified to provide the product and/or services to the CITY and;

THEREFORE, the CITY has elected to engage CONTRACTOR upon the terms and conditions as hereinafter set forth.

- 1. Services. The services to be performed by CONTRACTOR under this Agreement are described in Exhibit A, the CONTRACTOR'S bid proposal which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the services specified in said Exhibit is hereby made an obligation of CONTRACTOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- 2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon the date enumerated in Exhibit A, delivery of the product or completion of performance of services hereunder by CONTRACTOR, whichever date shall first occur. (b) Notwithstanding the provisions of (a) above, CITY may terminate this Agreement without cause by giving written notice not less than thirty (30) days prior to the effective date of termination, which date shall be included in said notice. CITY shall compensate CONTRACTOR for any product delivered and/or for services rendered, and reimburse CONTRACTOR for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein

contained shall be deemed a limitation upon the right of CITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to CITY hereunder.

3. Compensation; Expenses; Payment. CITY shall compensate CONTRACTOR for all products supplied or services performed by CONTRACTOR hereunder as shown in Exhibit A attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum of \$ \_\_\_\_\_, as provided in the approved bid documents or in this Agreement unless additional amounts have been authorized in the acceptance of the bid and approved in advance of supplying the product, performing the services or incurring the costs and expenses by CITY's City Manager (for contracts less than \$175,000 or authorized by City Council action for contracts \$175,000 or more by motion duly made and carried).

Compensation and reimbursement of costs and expenses hereunder shall be payable upon CONTRACTOR meeting contract milestones as defined in Exhibit A. Billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Contractor affirms that its employees and contractors comply with California Prevailing Wage Law.
5. Additional Services. In the event the public project requires the delivery of additional products or performance of additional services not otherwise included within Exhibit A, such products or services must be authorized in advance by CITY's City Manager (for contracts less than \$175,000 or authorized by City Council action for contracts \$175,000 or more. Such amendment to this Agreement shall include a description of the project or services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the parties deem appropriate. Any additional services causing the total contract price to exceed \$175,000, shall require approval by the City Council. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
6. Records. CONTRACTOR shall keep and maintain accurate records of products delivered or of all time expended in performing services and costs and expenses incurred relating thereto. Said records shall be available to CITY for review and copying during regular business hours at

CONTRACTOR's place of business or as otherwise agreed upon by the parties.

7. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
8. Reliance on Specialized Professional Skill of CONTRACTOR. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such specialized skills of the CONTRACTOR to do and perform the work. In performing services hereunder CONTRACTOR shall adhere to the standards generally prevailing for the performance of services similar to those to be performed by CONTRACTOR hereunder.
9. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY
10. Relationship of Parties. It is understood that the relationship of CONTRACTOR to the CITY is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the CITY.
11. Schedule. CONTRACTOR shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the delivery of products or performance of services occasioned by governmental reviews of CONTRACTOR's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONTRACTOR's officers or employees.

CONTRACTOR acknowledges the importance to CITY of timely delivery of products or services and agrees to put forth its best professional efforts to perform in a manner consistent with that schedule.

12. Indemnity. CONTRACTOR shall indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's negligence, recklessness, or willful misconduct in the performance of work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and

inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Nothing herein contained shall be construed to require CONTRACTOR to indemnify CITY, its officers, employees, agents and volunteers against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

13. Insurance. CONTRACTOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability insurance coverage relating to CONTRACTOR's services to be performed hereunder covering CITY's risks in form subject to the approval of the City Attorney and/or CITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease. Contractor shall submit to City a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
Commercial General Liability	\$2,000,000 per occurrence for Liability bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Coverage must be at least as broad as Insurance Services Office form CG 00 01.

#### Automobile Liability

\$2,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONTRACTOR's vehicle usage in performing services hereunder)

Concurrently with the execution of this Agreement, CONTRACTOR shall furnish CITY with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or reduction in per occurrence limits before the expiration of thirty (30) days (10 days for nonpayment) after CITY shall have received written notification of cancellation in coverage or reduction in per occurrence limits by first class mail;
- (b) Contractor's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. An endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37, is also required.

#### Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

#### Verification of Coverage

CONTRACTOR shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

#### Waiver of Subrogation

CONTRACTOR hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the CITY has requested or received a waiver of subrogation endorsement from the insurer.

#### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

#### Special Risks or Circumstances

CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

#### Coverage

It is a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.

CONTRACTOR shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of **five years** following completion of the project. In the event contractor fails to obtain or maintain completed operations coverage as required by this agreement, the city at its sole discretion may purchase the coverage required and the cost shall be paid by CONTRACTOR.

#### Primary and Non-Contributory Coverage

The Additional Insured coverage under the CONTRACTOR's policy shall be "primary and non-contributory" as will not seek contribution from the CITY insurance or self-insurance and shall be at least as broad as CG 20 01 04 12.

#### Excess Insurance

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of CITY before the CITY insurance or self-insurance shall be called upon to protect it as a named insured.

14. SUBCONTRACTORS. CONTRACTOR agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subcontractors' work. Subcontractors hired by CONTRACTOR agree to be bound to CONTRACTOR and CITY in the same manner and to the same extent as CONTRACTOR is bound to CITY under the Contract documents. Subcontractor shall agree to include these same provisions in any agreement with a sub-subcontractor. CONTRACTOR shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and will provide proof of compliance to the CITY.

Subcontractor shall agree to be bound to CONTRACTOR and CITY in the same manner and to the same extent as CONTRACTOR is bound to CITY under the Contract Documents. Subcontractor shall further agree to include the same requirements and provisions of this agreement, including the indemnity and Insurance requirements, with a Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractors' work. A copy of the CITY Contract Document Indemnity and Insurance provisions shall be furnished to the subcontractor upon request.

15. WORKERS' COMPENSATION. CONTRACTOR acknowledges and certifies awareness of the provisions of the Labor Code of the State of California 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 CONTRACTOR certifies and agrees to compliance with such provisions before commencing the performance of the work of this agreement.
16. NON-DISCRIMINATION. The CONTRACTOR hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Section 2000 (e)(17), to the end that CONTRACTOR will not exclude any person from participation in, be denied the benefits of, or be otherwise subject to discrimination from any project, program, or activity supported by this Agreement, based on the grounds of race, color, national origin, sex, disability, age, or religion,. CONTRACTOR shall comply with its EEO Certification (Form PW-7). In addition, CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The



CONTRACTOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

17. Notice. All notices required by this Agreement shall be given to the CITY and CONTRACTOR in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of San Carlos  
600 Elm Street  
San Carlos, CA 94070  
Attention: City Manager

CONTRACTOR:

Address

Phone

Attention:

18. Non-Assignment. This Agreement is not assignable either in whole or in part.
19. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
20. Business Registration. CONTRACTOR agrees to comply with Chapter 5.04 of the Municipal Code and pay all fees required to be paid.
21. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
22. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
23. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party



shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs. If a party refuses or fails to participate in mediation in good faith prior to filing a lawsuit, then that party shall be barred from recovery of attorneys fees and costs of suit.

24. Conflict of Interest. CONTRACTOR may serve other clients, but none who are active within the City of San Carlos or who conduct business that would place CONTRACTOR in a "conflict of interest" as that term is defined in State law.
25. Entire Agreement. Each party acknowledges that this agreement, the exhibits hereto, and the documents incorporated by reference herein constitute the complete agreement and exclusive statement of the terms and conditions between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, verbal and written, between the parties relating to the subject matter of this agreement. This agreement may not be modified or altered except by written instrument duly executed by both parties.

**[SIGNATURE PAGE TO FOLLOW]**

## SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF SAN CARLOS:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jeff Maltbie, City Manager

ATTEST:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Crystal Mui, City Clerk

APPROVED AS TO FORM:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Gregory J. Rubens, City Attorney

CONSULTANT/CONTRACTOR/VENDOR:

I acknowledge that I have full authority to execute this agreement on behalf of the Consultant/Contractor/Vendor, and have read, understand, and agree to comply with the provisions of this Agreement, including the Insurance and indemnity requirements set forth herein.

Dated: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**

**CONTRACTOR'S BID PROPOSAL**

**[To be attached]**

## EXHIBIT B

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

**Named Insured:** \_\_\_\_\_ **Effective Work Date(s):** \_\_\_\_\_

**Description of Work/Locations/Vehicles:** \_\_\_\_\_

**ADDITIONAL INSURED:** City of San Carlos  
600 Elm Street, San Carlos, CA 94070  
Attention: \_\_\_\_\_  
Contract Administrator

Endorsement and Certificates of Insurance Required		Insurer	Policy No.
<b>The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)</b>			
<input type="checkbox"/>	<b>General Liability:</b> (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/>	<b>Auto Liability:</b> the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/>	<b>Other:</b>		
<b>Certificates of Insurance Required (no endorsement needed) (Check all that apply)</b>		<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/>	<b>Workers Compensation:</b> work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/>	<b>Professional Liability:</b>		

**PRIMARY/NON-CONTRIBUTORY:** This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

**SEVERABILITY OF INTEREST:** The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

**PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS:** Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

**CANCELLATION NOTICE:** The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

**WAIVER OF SUBROGATION:** The insurer(s) named above agree to waive all rights of subrogation against the CITY/Public Works Department, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY/Public Works Department.

**Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.**

**SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER**

I, \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

DATE ISSUED

**ORGANIZATION:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_ **TELEPHONE:** ( ) \_\_\_\_\_

## **RESOLUTION OF CONSTRUCTION CLAIMS**

Any public works claims arising under this contract which the Contractor wishes to assert against the Governing Agency shall be governed by California Public Contract Code Section 9204. Claims which do not exceed three hundred seventy-five thousand dollars (**\$375,000**) are also subject to the provisions of Article 1.5 of the California Public Contract Code (commencing with Section 20104). Pursuant to California Public Contracts Code Section 9204, claims shall be resolved as follows:

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

## PAYMENT BOND

**KNOW ALL MEN BY THESE PRESENTS, that**

**WHEREAS,** The City of San Carlos (hereinafter referred to as "Owner") and \_\_\_\_\_  
\_\_\_\_\_ (hereinafter referred to as "Principal") have entered into a contract for the  
construction of **Neighborhood Slow Streets Project, City Project No. \_\_\_\_\_** and

**WHEREAS,** under the terms of said contract Principal is required to furnish a bond securing  
payment of the claims to which reference is made in Section 3248 of the Civil Code;

**NOW, THEREFORE,** we, the Principal, and \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto the "Owner" in the penal  
sum of \_\_\_\_\_ /100 Dollars (\$ \_\_\_\_\_)

lawful money of the United States, being not less than one hundred percent (100%) of the amount  
payable by the terms of the contract, for the payment of which sum well and truly to be made we bind  
ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these  
presents.

The condition of this obligation is such that if said Principal or any of its subcontractors fails to pay  
any of the persons named in Section 3181 of the Civil Code, or amounts due under the Unemployment  
Insurance Code with respect to work or labor performed under the contract, or for any amounts required  
to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the  
Principal or its subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect  
to such work and labor that the Surety will pay for the same, in an amount not exceeding the amount  
hereinabove set forth and also will pay, in case suit is brought upon this bond, a reasonable attorney's  
fee, to be fixed by the court. We hereby state and confirm that we are a "California admitted insurer" as  
defined by the California Department of Insurance.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the Civil Code  
so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

This bond is given to comply with Sections 3247 and 3248 of the Civil Code. The liability of the  
Principal and Surety hereunder is governed by the provisions of said Code, all acts amendatory thereof,  
and all other statutes referred to therein, including Section 3225 of the Civil Code.

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

**IN WITNESS WHEREOF,** the above bounded parties have executed this instrument under  
their seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of

each corporate body being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

NOTE:

To be signed by  
Principal and Surety  
and acknowledgment  
and nortarial seal

\_\_\_\_\_  
(Principal)

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
(Surety)

By \_\_\_\_\_

By \_\_\_\_\_



## **PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS, that**

**WHEREAS**, The City of San Carlos (hereinafter referred to as "Owner") has entered into a contract with \_\_\_\_\_ (hereinafter referred to as "Principal") for the construction of **Neighborhood Slow Streets Project, City Project No. \_\_\_\_\_**, and

**WHEREAS**, said Principal is required under the terms of said contract to furnish a bond of faithful performance of said Contract;

**NOW, THEREFORE**, we, the Principal, and \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto the  
"Owner" in the penal sum of \_\_\_\_\_/100 Dollars(\$ \_\_\_\_\_)  
lawful money of the United States, being a sum equal to the total amount payable under the contract, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH** that if the above bounded Principal shall in all things stand to and abide by and well and truly keep and perform the covenants, conditions and agreements in the said contract and any alteration thereof made as therein provided, on the Contractor's part to be kept and performed at the time and in the manner therein specified, and in all respects according to the Contractor's true intent and meaning, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

As a condition precedent to satisfactory completion of the said contract, the above obligations to the amount of \_\_\_\_\_and-00/100 Dollars (\$ \_\_\_\_\_) being not less than ten percent (10%) of the total amount payable under the contract, shall hold good for a period of two (2) years after the completion and acceptance of said work, during which time if the above Principal shall fail to make full, complete and satisfactory repair and replacement or totally protect the "Owner" from loss or damage made evident during said period of two (2) years from the date of acceptance of said work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligations in the said sum of \_\_\_\_\_and-00/100 Dollars (\$ \_\_\_\_\_) shall remain in full force and virtue; otherwise the above obligation shall be void.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed there under of the Specifications accompanying the same shall in any ways affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the Specifications. We hereby state and confirm that we are a "California admitted insurer" as defined by the California Department of Insurance.

In the event that the "Owner" or its successors or assigns, shall be the prevailing party in an action brought upon this bond, then, in addition to the penal sum hereinabove specified, we agree to pay to the "Owner" for its successors or assigns, a reasonable sum on account of attorney's fees in such action, which sum shall be fixed by the court.

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

NOTE:

To be signed by  
Principal and Surety  
and acknowledgment  
and nortarial seal

\_\_\_\_\_  
(Principal)

By\_\_\_\_\_

By\_\_\_\_\_

\_\_\_\_\_  
(Surety)

By\_\_\_\_\_

By\_\_\_\_\_

**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 1861

The Bidder hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code, which requires 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 and furnish proof of said insurance before commencing the performance of the work of this contract."

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature of Contractor Representative

Dated: \_\_\_\_\_

**NOTE: THIS CERTIFICATION MUST BE COMPLETED AND RETURNED BY THE SUCCESSFUL BIDDER PRIOR TO THE START OF CONSTRUCTION.**

**CERTIFICATION OF SAFETY REQUIREMENTS FOR  
CONTRACTORS AND VENDORS**

California Code of Regulations, Title 8, Section 1509

To work as a contractor or vendor with the City of San Carlos, your organization is required to certify that it has an active on-the-job written Injury and Illness Prevention Program. This program is essential to make the job as accident-free as possible and to comply with Federal and State Safety Standards.

The undersigned hereby certifies that the Contractor's organization has an active written Injury and Illness Prevention Program, as required by Cal-OSHA under California Code of Regulations, Title 8, General Industry Safety Orders, Section 3203 and/or Construction Safety Orders, Section 1509, that ensures compliance with, and enforcement of, current minimum Cal-OSHA Safety Standards, and that the Contractor's organization has knowledge of these standards that are applicable to the job operations. This includes a program for ensuring employees have been trained to recognize hazards of their job.

The undersigned also hereby certifies that the Contractor's organization has an active written Hazard Communication Program with evidence that all employees have been trained in safe use and handling of chemicals on the job site, and a file will be made available for review by the City of San Carlos of each Material Safety Data Sheet (MSDS) on those chemicals kept on the site.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature of Contractor Representative

Dated: \_\_\_\_\_

**NOTE: THIS CERTIFICATION MUST BE COMPLETED AND RETURNED BY THE SUCCESSFUL BIDDER  
PRIOR TO THE START OF CONSTRUCTION.**

## **DRUG-FREE WORKPLACE CERTIFICATION**

The bidder \_\_\_\_\_, hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
  - (a) The dangers of drug abuse in the workplace,
  - (b) The person's or organization's policy of maintaining a drug-free workplace,
  - (c) Any available counseling, rehabilitation and employee assistance programs, and
  - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract or loan:
  - (a) Will receive a copy of the company's drug-free policy statement, and
  - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or loan.

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor to the above described certification. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

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

\_\_\_\_\_  
Contractor's Signature

**NOTE: THIS CERTIFICATION MUST BE COMPLETED AND RETURNED BY THE SUCCESSFUL BIDDER PRIOR TO THE START OF CONSTRUCTION.**

**ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION (Optional)**

Public Contract Code Section 22300

This Escrow Agreement is made and entered into by and between \_\_\_\_\_

whose address is \_\_\_\_\_ hereinafter called

"Owner," \_\_\_\_\_ whose address is

\_\_\_\_\_

\_\_\_\_\_ hereinafter called "Contractor" and \_\_\_\_\_

whose address is \_\_\_\_\_ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for \_\_\_\_\_ in the amount of \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of \_\_\_\_\_, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven (7) days written notice to the Escrow Agent from the owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

On behalf of Contractor:

On behalf of Escrow Agent:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by **their** proper officers on the date first set forth above.

Owner:

Contractor:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

**GUARANTEE**

(To Be Submitted Prior to Project Acceptance)

FOR THE  
City of San Carlos  
San Carlos, CA 94070

**Neighborhood Slow Streets Project**  
**City Project No.**

We hereby guarantee that the work we have installed for the above named project has been done in accordance with the Plans and Specifications and that the work installed will fulfill the requirements of the guarantee.

We agree to repair or replace any or all of our work, together with any other adjacent work which may be displayed in so doing that may prove to be defective in its workmanship or material within a period of two (2) years from the date of acceptance of the above-named work by the City of San Carlos, without any expense whatsoever to the City of San Carlos, ordinary wear and tear and unusual abuse or neglect excepted.

Within fifteen (15) days after being notified in writing by the City of San Carlos of any defects in the work, we agree to commence and prosecute with due diligence all work necessary to fulfill the terms of this guarantee, and to complete the work within a reasonable period of time, and in the event of our failure to so comply, we collectively and separately, do hereby authorize said City of San Carlos to proceed to have such work done at our expense and we will honor and pay the cost and changes therefore upon demand.

Dated: \_\_\_\_\_

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

**NOTE: THIS CERTIFICATION MUST BE COMPLETED AND RETURNED BY THE SUCCESSFUL BIDDER PRIOR TO PROJECT ACCEPTANCE.**



## **GENERAL PROVISIONS**

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## GENERAL PROVISIONS

### SECTION 1 – TERMS AND DEFINITIONS

1.01 Terms – Unless otherwise stated, the words “directed, required, permitted, ordered, instructed, designated, considered necessary, prescribed, approved, acceptable, satisfactory,” or words of like meaning, refer to actions, expressions, and prerogatives of the Engineer.

1.02 Definitions – Except as amended or supplemented, whenever in the Contract Documents the following terms are used, the intent and meaning shall be interpreted as follows:

Agreement - The written contract documents between the City and the Contractor covering the performance of the work.

As Shown, As Indicated, As Detailed - Where these words or words of similar import, are used, it shall be understood that reference to the drawings accompanying these specifications is made unless stated otherwise. Where "As Directed", "As Permitted", "Approved", or words of similar import, are used, it shall be understood that the direction, requirements, permission, approval, or acceptance of the Engineer is intended unless stated otherwise. As used herein, "Provide" shall be understood to mean "Provide Complete in Place" that is, "Furnish and Install", and "Install" shall mean the installation complete in place of an item of equipment furnished by the City.

ASTM - American Society for Testing and Materials specifications.

AWWA - American Water Works Association and its Standard Specifications.

Addenda - Written or graphic instruments issued prior to the opening of bids which clarify, correct or change the bidding documents or the Contract Documents.

Bid - The offer or proposal of the bidder submitted on the prescribed forms setting forth the prices for the work to be performed.

Bid Forms - Includes the Bid Schedule, Designation of Subcontractors, Bidders Statement of Responsibility, Bidder's Non-Collusion Affidavit, Bid Security, and all other information requested by the Bid Proposal Documents.

Bidder – Any individual, firm, partnership, corporation, or combination thereof submitting a bid for the work, acting directly or through a duly authorized representative. After the City awards the Contract, the term “Bidder” shall be equivalent to the term “Contractor” for the purpose of identifying the Contractor's rights and obligations under the Contract Documents.

Bidding Documents - The Notice Inviting Sealed Proposals, Instruction to Bidders, Bid Proposal forms and Bidders Bond.

Bonds - Bid, performance, labor and material, and warranty bonds and other instruments of security.

Change Orders – A written order by the Engineer to the contractor making changes in the plans or specifications which is signed by the Contractor and City authorizing an addition, deletion or revision in the work, with possible adjustment in the contract price or the contract time, issued on or after the effective date of the Agreement. If the change involves items for which there is no contract unit price, the order shall so state and stipulate that the changes shall be performed as extra work or work omitted.

City - The City of San Carlos acting through the City Council or any other board, body, official(s) to which or to whom the power belonging to the City Council has been properly delegated.

City Regulations - All written laws, rules, and policies established by the City, including those set forth in the General Plan, San Carlos Municipal Code, ordinances, resolutions, policies, procedures, and City design documents (including the Standard Specifications, design standards, and relevant Public Facility Master Plans).

Code – The terms Government Code, Labor Code, etc., refer to codes of the State of California.

Contract – See definition for “Agreement”.

Contract Documents - See Agreement, Section 2.1, “List of Contract Documents and Precedence”.

Contract Drawings or Plans - All drawings which may have been prepared by or in behalf of the City, as a basis for proposals, when duly signed and made a part of this contract by incorporation or reference, all drawings submitted in pursuance of the terms of this contract by the successful bidder with their proposal and by the contractor to the City and reviewed by the Engineer; and all drawings submitted by the Engineer to the contractor during the progress of the work as provided for herein.

Contract Price - The total amount of money for which contract is awarded and as amended.

Contract Time - The number of days or the date stated in the contract as the duration for completing work.

Contract Unit Price - The Contractor's original bid for a single unit of an item of work in the proposal.

Contractor - An individual, partnership, corporation, developer, joint venture, subdivider or other legal entity entering into a contract or agreement with the City to perform the work covered by this contract, and their authorized agents or legal representatives. After the City awards the Contract, the term “Contractor” shall be equivalent to the term “Bidder” for the purpose of identifying the Contractor's rights and obligations under the Contract Documents.

Day or Days - Unless herein otherwise expressly defined, shall mean a calendar day of twenty-four hours each.

Defective Work - Work that is unsatisfactory, faulty, omitted, incomplete, deficient, or does not conform to the requirements of the Contract Documents, directives of the Engineer, or requirements of any inspection, reference standard, test, or approval specified in the Contract Documents, or has been damaged prior to the Engineer's recommendation of final acceptance. See General Provisions Section 6.01, “Materials and Workmanship”.

Directive – Any document, signed by the City, with instruction to the Contractor pertaining to the completion of a project objective; including, but not limited to responses to requests for information, clarifications, letters of instruction, the notice of award and the notice to proceed.

Engineer - The Engineer duly and officially appointed by the City to represent the City and to observe the work of construction under this contract, acting personally or through agents or assistants duly authorized by the Engineer, such agents or assistants acting within the scope of the particular duties entrusted to them.

Extra Work - Performance or furnishing of work or material found necessary for the proper completion of the improvements, the payment of which is not covered by any item of the bid schedule and for which no means of payment, direct or indirect, has been provided in the contract.

Final Completion - The point at which work has been completed in accordance with the contract documents, plans and specifications to the satisfaction of the Engineer and there are no items of work remaining to be completed. See General Provisions, Section 8.22, "Final Completion".

Force Account Work – Force account work is a method of compensation utilized to pay for extra work typically needed to overcome unanticipated work, resulting from the project work scope, necessary to complete the project work scope that cannot be well defined prior to the start of extra work. General Provision, Section 5.08 "Change Orders" establishes the specific methods of compensation for labor, materials and equipment used to perform the force account work.

Greenbook - The Standard Specifications and Plans written and promulgated by Public Works Standards, Inc., entitled "Standard Specifications for Public Works Construction", and "Standard Plans for Public Works Construction", current editions.

Hold Harmless - Agreement by one party to bring no claim for negligence, breach of contract, indemnity or otherwise against another party. See Agreement Section 17, "Indemnification".

Inspector - The engineering or technical inspector(s) duly authorized or appointed by the Engineer or City, limited to the particular duties entrusted to them.

Liquidated Damages - The amount of dollars assessed for each and every calendar day required to complete the contract in excess of the contract time. See General Provisions, Section 8.18, "Liquidated Damages".

Losses - Any and all losses, costs, liabilities, claims, damages, and expenses, including, without limitation, reasonable attorneys' fees and expenses.

Manual of Uniform Traffic Control Devices (MUTCD) or California Manual of Uniform Traffic Control Devices (CAMUTCD) – The latest edition of the California Manual of Uniform Traffic Control Devices.

Modification – Modifications to the Agreement are executed by change orders, and may only be issued after the effective date of the contract.

Notice - Any notice allowed or required to be given by the City may be given by the Engineer.

Notice of Award – The written notice by the City to the successful Bidder stating that upon completion of required conditions the City will execute the contract.

Notice to Proceed – A written notice by the City to the Contractor authorizing the Contractor to proceed with the work and fixing the date on which the contract time will start.

Plans - The contract plans and/or supplemental drawings approved by the Engineer which show the location, character, dimensions and details of the work.

Project - The total construction of which the work performed under the Contract Documents may be the whole or a part and which may include construction by the City or by separate Contractors.

Proposal - The offer of a bidder when submitted on the proposal form, properly signed and guaranteed.

Reference Specifications - Those standards, rules, method of tests or analysis, codes, and specifications of other agencies, engineering societies, or industrial associations referred to in the Contract Documents. These refer to the current edition or amendments in effect at the time of advertising the project unless specifically referred to by edition, volume or date. Unless otherwise stated in the plans or specifications, the reference specification in effect shall be that edition which was in effect on the date of the Notice Inviting Bids.



Shop Drawings - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate some portion of the work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a supplier and submitted by the Contractor to illustrate material or equipment for some portion of the work. See General Provisions, Section 4.19, "Submittals".

Special Provisions - Any provisions which supplement or modify these standard specifications.

Specifications – The information, directions, provisions and requirements pertaining to the work, and contained herein including Special Provisions, Technical Specification, General Provisions, those administrative subsections of Caltrans' Standard Specification that are specifically referenced in this Contract and the non-administrative sections (Section 10 through 95) of the Caltrans' Standard Specification dated 2010.

Standard Plans - The Standard Details of the City of San Carlos, current edition, including the Parks and Streetscape Standard Plans, current edition, identifying construction standards for the various items of work indicated and/or referred to on the plans, specifications or special provisions.

Standard Specifications - The Standard Specifications of the City of San Carlos.

Standard Specifications for Public Works Construction - The Standard Specifications for Public Works Construction, "Greenbook", current edition.

State - State of California.

State Standard Plans - The Standard Plans of the Department of Transportation of the State of California, (Caltrans') Standard Plans dated 2010.

State Standard Specifications - The Standard Specifications of the Department of Transportation of the State of California Caltrans' Standard Specification dated 2010.

Subcontractor - Any individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the work at the site. Unless otherwise specifically provided, the term Subcontractor includes Subcontractor of any tier, suppliers, manufacturers and distributors. See Section 3.07 of the General Provisions.

Substantial Completion – When the work (or a specified part thereof) has progressed to the point where it is sufficiently complete and in accordance with the Contract Documents. See General Provisions, Section 8.20, "Substantial Completion".

Superintendent – The executive representative of the contractor responsible for the site supervision of the work at all times during progress, authorized to receive and fulfill instructions from the Engineer and to accept orders for changed and extra work.

Surety - Any individual, firm or corporation, bound with and for the Contractor for the acceptable performance and completion of the work, and the satisfaction of all obligations incurred.

Surveyor - A land surveyor licensed in the State of California.

Unbalanced Bid - See Materially Unbalanced Bid and Mathematically Unbalanced Bid.

Work - The construction and services required by the Contract Documents as amended by contract modifications, whether completed or partially completed, including all labor, materials, equipment, tools, and services provided or to be provided, by the Contractor to fulfill the Contractor's obligations. The work may constitute the whole or a part of the project

Working Day – Any day except Saturday, Sunday, Holidays observed by the City, or days in which the Contractor is entitled to an excusable delay. Holidays observed by the City are: Thanksgiving, day after Thanksgiving, Christmas Day, New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, and Veteran's Day. See General Provisions, Section 8.19, "Delays and Extension of Time". In addition, at the option of the Engineer, the contractor may be required to suspend all work and activities during the City's annual Holiday Closure in late December and early January of each year. No work shall be done during this suspension except such work as is necessary for the proper care and protection of work already performed, or except in case of an emergency, and in any case, only with prior written permission of the Engineer. This suspension of work will be at no cost to the City. Working days will not be assessed during this suspension of work.

## SECTION 2 – PROPOSAL REQUIREMENTS AND CONDITIONS

2.01 General - Bidders may obtain complete sets of the Contract Documents, including the proposal forms to be used for bidding, at the location designated in the Notice to Bidders. Bidders shall use complete sets of Contract Documents in the preparation of bids. The City makes copies of the Contract Documents available, on the above terms, for the sole purpose of obtaining Bids for the work and does not confer a license or grant permission for any other use of the Contract Documents.

2.02 Proposal Forms – The portion of the Contract Documents entitled “Bid Proposal” focuses the Bidders attention on the requirements for submitting a proposal, including the Notice to Bidders, and the Bid Proposal Forms.

Bids are required for the entire work described herein and shall be submitted on the blank forms prepared by the City and provided herein. The Bid Proposal submitted to the City shall consist of the completed Bid Schedule, Designation of Subcontractors, Bidders Statement of Responsibility, Bidder's Non-Collusion Affidavit, Bidder's Qualifications, Bidders References, Signature of Bidder, Bid Guaranty, and all other information requested by the Bid Proposal documents.

All proposals shall type or print legibly in ink the proposed prices both in writing and in figures and shall be signed, with address included, by the bidder or the bidder's authorized representative. Corrections must all be individually initialed by the Bidder. Bidder shall not modify or qualify the Bid Forms in any manner.

The Bid Forms shall be signed by a person or persons legally authorized to bind the Bidder to the Contract. The individuals signing each document shall warrant that they are authorized to bind the legal entity of the Bidder. Proposals made by individuals must show the individual's signature and post office address; if made by a firm or partnership and the signature of one or all of the partners must be shown. Proposals submitted by corporations must show the name and post office address of the corporation, the name of the state, under whose laws the corporation is chartered, and the signature and title of the person signing on behalf of the corporation.

2.03 Qualifications of Bidders - Each bidder shall be licensed as specified in the Notice to Bidders and in accordance with the provisions of Chapter 9, Division 3, of the Business and Professions Code, State of California, and shall be skilled and regularly engaged in the general class or type of work called for under this contract.

It is the intention of the City to award a contract only to a bidder who is able to furnish satisfactory evidence that they have the requisite experience and ability and that the bidder has sufficient capital, facilities and plant to enable them to prosecute the work successfully and promptly, and to complete it within the time set forth in the contract.

In determining the degree of responsibility to be credited to a bidder, the City will weigh any evidence indicating the bidder, or personnel guaranteed to be employed in responsible charge of the work, has satisfactorily performed other contracts of like nature and magnitude.

2.04 Rejection of Proposals Containing Alterations, Erasures, or Irregularities - Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, irregularities of any kind, or corrections and erasures without initials by the Bidder.

2.05 Submission of Bids - All Bid Forms, including all documents required to be submitted with the Bid, shall be enclosed in a sealed opaque envelope. The envelope shall be clearly marked on its face with the Bidder's name and address, and the notation “SEALED BID ENCLOSED, CITY OF SAN CARLOS”, with an identification of the project name and number as identified in the Notice to Bidders. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope. Oral, telephonic, facsimile, telegraphic, or electronically transmitted Bids are invalid and will not be accepted.

Bids may be mailed or delivered by messenger. It is the Bidder's responsibility alone to ensure that the Bid is received prior to the bid opening deadline at the place specified in the Notice to Bidders. Whether or not bids are opened exactly at the time fixed in the public notice inviting bids, any bid received after that time shall be returned unopened.

2.06 Approximate Estimate - The quantities listed in the bid schedule are approximate only, supplied as a general indication of the scope of work and to be used as a basis for comparing bids. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to increase or decrease the amount of any class or portion of the work, or to delete any portions of the work in their entirety, from the quantities listed on the bid schedule, as may be deemed necessary or advisable by the Engineer.

2.07 Examination of Plans, Specifications and Work Site - Bidder shall examine carefully the plans, specifications, proposal and contract forms, and the physical site of the work contemplated, regardless of if a site walk or pre-bid meeting has been scheduled by the City or not. It will be assumed that the bidder has investigated and is aware of the conditions to be encountered in carrying out the proposed work, and is fully satisfied as to the scope, character, quality, quantity and requirements of the proposed work, and the submission of a bid will be an acknowledgement of that assumption.

The bidder shall receive no additional compensation for obstacles or difficulties due to surface or subsurface conditions actually encountered. Where investigations of surface or subsurface conditions have been made by the City in respect to foundation or other structural design, and that information is shown in the plans, said information is included only for the convenience of bidders. The City assumes no responsibility whatsoever as to the sufficiency or accuracy of borings, or of the log of test borings or other investigations or tests, or of the interpretation thereof; there is no guaranty, warranty or representation, express or implied, that the conditions indicated thereby in fact exist or are representative of those existing throughout the work. Such information shall be used as a basis for bids at the bidder's own and sole risk; making such information available to bidders is not to be construed in any way as a waiver of the other provisions of this paragraph, and bidders must satisfy themselves through their own investigation as to the surface and subsurface conditions to be encountered at the site. By submitting a Proposal, the Bidder has certified that they have examined all items indicated in Section 2.07, "Examination of Plans, Specifications, and Site of the Work."

Each proposal shall be enclosed in a sealed envelope and endorsed as specified in the Notice Invited Sealed Proposals. Bidders are warned the proposals containing irregularities of any kind, including erasures, omissions, conditions, alterations, or additional proposals may be rejected.

2.08 Withdrawals of Proposals - Any proposal may be withdrawn at any time prior to the time fixed in the Notice Inviting Sealed Proposals for the opening of bids, provided that a request in writing, executed by the bidder or their duly authorized representative, for the withdrawal of such bid, is filed with the City. The withdrawal will not prejudice the right of a bidder to file a new proposal.

2.09 Proposal Guaranty - Each proposal shall be accompanied by either a certified check, cashier's check, or bidder's bond of a surety company acceptable to the City in an amount not less than ten percent (10%) of the bid amount, and shall be made payable to the City.

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

2.11 Bid Protest Procedures - Any protest of the proposed contract award shall be submitted in writing to the City Clerk no later than 5:00 p.m. on the fifth (5<sup>th</sup>) business day following the date of the

bid opening. If the fifth day falls on a weekend or holiday, the last day of the protest period shall be the first working day following the fifth day.

The protest must include the name, address, and telephone number of the person representing the protesting party. In addition,

- (a) The party filing the protest must have submitted a bid for the Project. A Subcontractor of a party filing a bid for the project may not submit a bid protest.
- (b) The protest must contain a complete statement of the basis for the protest, and refer to the specific portion of the Contract Documents or the specific statute that forms the basis for the protest.
- (c) The party filing the protest must concurrently transmit a copy of the protest to the proposed awardee.

Any bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue a bid protest, including filing of a challenge of the award pursuant to the California Public Contract Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.

The City shall review all timely protests prior to the award of contract. The City shall not be required to hold an administrative hearing to consider any protests, but may do so at its option. The City Council or the City Manager as designee if the authority to award the contract has already been granted by the City Council, may either reject the protest and award the project to the lowest responsible bidder or accept the protest and award the project to the next lowest responsible bidder. Nothing in this section shall be construed as a waiver of the City Council's right to reject all bids.

2.12 List of Subcontractors - In accordance with the provisions of Section 4104 of the Public Contract Code, each proposal shall list the name, address and license number of each subcontractor to whom the bidder proposes to sublet portions of the work. A subcontractor is defined as one who contracts with the contractor to furnish materials and labor, or labor only, for performance of work. Subcontractors shall be listed on the form provided in the Bid Proposal.

2.13 Required Contractor and Subcontractor Registration - In accordance with Labor Code Section 1725.5 and 1771.1, the contractor and all subcontractors shall be registered with the California Department of Industrial Relations (DIR) prior to the bid opening. All 2nd and lower tier subcontractors working on the project shall be registered with the Department of Industrial Relations prior to the work being performed. An inadvertent error in listing a subcontractor who is not registered may not be grounds for considering the bid non-responsive providing that any of the provision in Labor Code Section 1771.1(c) are satisfied.

## SECTION 3: REVIEW OF BIDS, CONTRACT AWARD AND EXECUTION

3.01 Public Bid Opening and Initial Review - Bids which have been submitted in accordance with the requirements of the Bidding Documents, and which are received on or before the bid deadline will be opened publicly, and the dollar amounts of each bid shall be read aloud.

The City shall have the right to reject all bids. The City shall have the right to reject any bid not accompanied by the required bid security or any other item required by the Bidding Documents, or a bid which is in any other way incomplete or irregular. The City shall have the right to waive irregularities in a bid, and to award the Contract to the Lowest Responsible Bidder (as determined by the City), only if the irregularities are non-material and inconsequential.

3.02 Determination of Lowest Responsible Bidder - Criteria for determining low bid in all contracts with the City involving an expenditure of \$5,000.00 or more shall be determined as the "Lowest Monetary Bidder" on the basis of the Engineer's approximate estimate of the quantities of work to be done as set forth in the Bid Schedule, in accordance with the calculation criteria set forth on the bid.

After the Lowest Monetary Bidder has been determined, the Engineer shall review that Bidder's bid in order to determine whether or not that Bidder is the "Lowest Responsible Bidder." The term Lowest Responsible Bidder shall mean the Lowest Monetary Bidder whose bid is responsive, and who is responsible to perform the work, as required by the Contract Documents.

The term "responsive" is defined by California law, but generally means that the bid has been prepared and submitted in accordance with the Bidding Requirements. The term "responsible" is defined by California law, but generally means that the Bidder is able to demonstrate that it possesses: (1) the capacity to perform the work required by the Contract Documents with respect to financial strength, resources available, and experience; and (2) the integrity and trustworthiness to complete performance of the work in accordance with the Contract Documents.

The City will make its determination of responsibility based upon information submitted by Bidders contained in the Bidders Qualifications and Bidders References included in the Bid Forms and, if necessary, through interviews with previous cities, clients, design professionals, or subcontractors with whom the Bidder has worked. In determining whether or not a Bidder is responsible, the City may consider the following factors in relation to the work to be performed for this Project:

- (a) Demonstrated financial strength including, but not limited to, resources available, bonding capacity, and available insurance.
- (b) Demonstrated safety record including, but not limited to, Experience Modification Rate.
- (c) Successful completion of projects of similar scope and size. In reviewing this factor, the City may consider elements including, but not limited to, contract amount of completed projects, experience on public works projects, experience implementing prevailing wage certified payroll requirements, timeliness of performance and, if necessary, evaluation of the Bidder's work by previous cities, clients, design professionals, or subcontractors.
- (d) Sufficiency of contract administration and construction management systems including, but not limited to, proposed scheduling tools, proposed subcontract forms, proposed progress payment applications, and proposed certification of payroll documents.
- (e) History of claims, litigation, termination or disqualification from projects.

If the Engineer finds that the Lowest Monetary Bidder submitted a responsive Bid and that the Bidder is responsible, then that Bidder shall be deemed the apparent "Lowest Responsible Bidder," and the Engineer shall report the findings to the City Council.

If the Engineer finds that the Lowest Monetary Bidder's bid is not responsive, or that the Lowest Monetary Bidder is not responsible, then the Engineer may review the responsiveness and responsibility of the next Lowest Monetary Bidder. If the Engineer finds that the next Lowest Monetary Bidder is responsive and responsible, then that next lowest Bidder shall be deemed the apparent "Lowest Responsible Bidder," and Engineer shall report its findings as recommendations to the City Council. This process may continue until the Engineer finds the Lowest Monetary Bidder which is also responsive and responsible.

In the event that one or more Low Monetary Bidders are found by the Engineer to be non-responsive or non-responsible, those Bidders will be given notice and a reasonable opportunity to present additional relevant evidence to the Engineer for consideration, within five (5) working days after the Bidder receives the notice.

All findings by the Engineer shall be reported as recommendations to the City Council. The City Council reserves the right to reject any or all Bids, and to waive any irregularity. No Bid shall be binding upon the City until after the Agreement is signed by both the Contractor and the City. If the City Council determines that it is in the City's best interest to award the Agreement, a Notice of Award shall be sent to the Lowest Responsible Bidder as determined by the City Council. The City Council's decision shall be final.

The City may investigate the responsibility and qualifications of all Bidders to whom the award is contemplated for a period not to exceed ninety (90) calendar days after the Bid opening, during which time no bid shall be withdrawn by the Bidders. The ninety (90) day review period may be extended upon the written request by the Engineer and written approval by the affected Bidder.

**3.03 Notice of Award** – Should the City decide to proceed with the award of contract the City shall issue a Notice of Award to the lowest responsible bidder.

**3.04 Contract Execution** - Within fifteen (15) calendar days after receipt of the Notice of Award, the bidder shall submit to the City two (2) originals of the signed agreement, the required contract bonds and certificates of insurance. If the bidder fails or refuses to enter into a contract to do the work, then the proposal guaranty accompanying the bid shall be forfeited to the City. After the Bidder has properly submitted these documents, the City will execute the Agreement and issue a Notice to Proceed.

**3.05 Status of Contractor** - The right of general supervision by the City shall not make the contractor an agent of the City, and the liability of the contractor for all damages to persons or to public or private property arising from the contractor's execution of the work shall not be lessened because of such general supervision.

**3.06 Assignment** - No agreement or portion thereof maybe assigned without consent of the Council, except that the Contractor may assign money due which will accrue to them under the Agreement. If given written notice, such assignment will be recognized by the City to the extent permitted by law, but any assignment of money shall be subject to all proper setoffs and withholdings in favor of the City and to all deductions provided for in the Agreement. All money withheld, whether assigned or not, shall be subject to being used by the City for completion of the work, should the Contractor be in default.

Any attempt to assign or delegate the Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.

**3.07 Recognition of Subcontractors** - No subcontractors will be recognized as such, and all persons engaged in the work of construction will be considered as employees of the contractor and their work shall be subject to the provisions of the contract, including specifically these general stipulations, the specifications and the contract drawings.



3.08 Return of Bid Security - Within ten (10) working days after the execution of the Agreement, the City will return the proposal guarantees accompanying the proposals that are not to be considered in making the award. All other proposal guarantees will be held until the Agreement has been fully executed, after which, they will be returned to the respective bidders whose proposals they accompanied.

3.09 Forfeiture of Proposal Guaranty - If Bidder does not properly execute the contract and submit the acceptable bonds, insurance and certifications within the specified time; this shall be just cause for the annulment of the award and the forfeiture of the proposal guaranty to the City. The City may then award the contract to next Lowest Responsible Bidder. The forfeited proposal guaranty may be utilized by the City in accordance with Public Contract Code, Sections 20170 through 20174.

3.10 Contract Bonds - Before execution of the contract by the City, the Contractor shall file with the City surety bonds satisfactory to the City in the amounts, and for the purposes, noted below. Said bond shall be on the form furnished by the City herein.

- (a) *Performance Bond* - The contractor shall furnish and bear the cost of a bond of a surety company acceptable to the City, which bond is conditioned upon the faithful performance of all covenants and stipulations under this contract within the time prescribed, in a manner satisfactory to the City, and that all materials and workmanship will be free from original or developed defects. The amount of the bond shall be one hundred percent (100%) of the total contract price; as such sum is set forth in the agreement.

Said bond shall be on the form furnished by the City herein.

As a condition precedent to satisfactory completion of this contract, an amount equal to ten percent (10%) of the estimated contract cost shall hold good for the period specified in said bond after completion and acceptance of the work by the City.

- (b) *Labor and Material Bond* – The contractor shall furnish and bear the cost of a bond of a surety company acceptable to the City in the sum not less than one hundred percent (100%) of the total contract price, as such sum is set forth in the agreement, for the payment in full of all persons, companies, or corporations who perform labor upon or furnish materials to be used in the work under this contract, in accordance with the provisions of Section 4200 to 4208, inclusive (Chapter 3, Division 5), of the Government Code of the State of California, and any acts amendatory thereof. The bond shall be maintained by the Contractor in full force and effect until the work is accepted by the City and until all claims for materials and labor are paid.

Said bond shall be on the form furnished by the City herein.

- (c) *Warranty Bond* - The Contractor shall furnish a warranty bond in the amount of ten percent (10%) of the final contract price (total cost including change orders) to guaranty his work for two (2) years after acceptance of the work by the City Council.

Bonds shall be duly executed by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California. Each bond shall be signed by both the Contractor and Surety and the signature of the authorized agent of the Surety shall be notarized.

The Contractor shall pay all bond premiums, costs and incidentals. Should any bond become insufficient due to an increase in the contract amount, the Contractor shall obtain supplemental bonding within ten (10) days.



Should any Surety at any time be unsatisfactory to the City, notice will be given the Contractor to that effect. No further payments shall be deemed due or will be made under the Agreement until a new Surety shall qualify and be accepted by the City.

Changes in the work, or extensions of time, made pursuant to the Agreement, shall in no way release the Contractor or Surety from their obligations. The requirement for notifying the Surety of such changes or extensions shall be waived by the Surety.

3.11 Notification of Surety Companies - The surety companies shall familiarize themselves with all conditions and provisions of this contract and they waive the right of special notification of any change or modification of this contract or of extension of time, or of decreased or increased work, or of the cancellation of the contract, or of any other act(s) by the City or City's authorized agents, under the terms of this contract, and failure to so notify the aforesaid surety companies of changes shall in no wise relieve the surety companies of their obligation under this contract.

3.12 Power of Attorney - Attorneys-in-fact who sign bid bonds or contract bonds must file a certified and effectively dated copy of their Power of Attorney with each bond.

3.13 Insurance Requirements - Contractor shall provide at their own cost and expense from contract award date to acceptance of the work covered by the contract:

- (a) Workmen's Compensation and Employer's Liability Insurance of not less than the amount shown in the Special Provisions for all of their employees to be engaged in the work under this contract. Should any such work be sublet, the contractor shall require each of their subcontractors at any tier similarly to provide Workmen's Compensation and Employer's Liability Insurance, all in strict compliance with Federal and State laws.
- (b) Personal Injury, Bodily Injury and Property Damage Liability Insurance (including automobiles, products and/or completed operations coverage) and Aircraft and Watercraft Bodily Injury Liability and Property Damage Liability Insurance if contractor uses owned or non-owned water aircraft in their operation, with Personal Injury and Bodily Injury (including death resulting therefrom) of not less than a combined Personal Injury and Property Damage Liability limit of not less than the amount shown in the Special Provisions. Should any work covered by the contract be sublet contractor shall require each of their subcontractors of any tier similarly to provide the aforesaid coverages.
- (c) All Risk (excluding Earthquake and Flood) Builder's Risk Insurance in an amount not less than the value of any work under this contract, except for buried pipelines and appurtenances which need not be included in the insurance value. Under the policies of insurance described above, each policy shall contain the provision for thirty (30) days written notice submitted by registered mail from the insurance carrier(s) to the City prior to cancellation or reduction in coverage.

3.14 Special Requirements - Under the policy of insurance described in Section 13.13-b, the policy shall contain the following provisions:

- (a) The City and the City's officers, representatives, agents and employees shall be named as additional insureds.
- (b) Endorsement providing that such insurance is primary insurance and no insurance of the additional insureds shall be called on to contribute to a loss.
- (c) Endorsement providing that such insurance shall not contain any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU" hazards.

- (d) Standard cross-liability clause covering personal injury, bodily injury (including death resulting therefrom), and property damage.

3.15 Builders Risk Insurance - Under the policy of insurance, the policy shall contain the following provisions:

- (a) The City shall be included as insured.
- (b) Losses shall be payable to the contractor and City as their interest may appear.
- (c) Deductible amounts of all losses covered by insurance shall be borne by the contractor.

3.16 Certificates - Prior to beginning work, contractor shall furnish certificates satisfactory to the City as to contents and carriers of such insurance.

3.17 Legal Address of Contractor - Contractor's address as shown in the proposal, as well as such office or headquarters the contractor establishes at the site of work, hereby are designated as addresses to which drawings, samples, notices, letters, articles, or other communications to the contractor may be mailed or delivered. The delivery at either of these places of any item or communication from the City or agents thereof to the contractor shall be deemed sufficient service of such delivery. Contractor's address as shown in the proposal may be changed at any time by notice in writing from the contractor to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any drawing, sample, notice, letter, or other article of communication to or upon the contractor personally.

3.18 Office of Contractor at Site - During the performance of the contract, Contractor shall maintain a suitable office at the site of work which shall be the headquarters of a representative authorized to receive drawings, instructions or other communications or articles from the City or City's agents; any such thing given to said representative or delivered at the contractor's office at the site of work in when absent shall be deemed to have been given to the contractor. Contractor shall maintain a complete set of plans and specifications at the site office whenever work is in progress.

## SECTION 4 - SCOPE AND CONTROL OF WORK

4.01 Work to be Done – The work to be done consists of furnishing all labor, materials, tools, equipment and services necessary to complete the project, as further described in the Notice to Bidders of these Specifications, and as necessary to leave the site in a neat and finished condition with all equipment properly installed and working to the satisfaction of the Engineer.

While the City has endeavored to accurately represent in the plans and specifications the physical conditions which may affect the cost of the proposed work, the City does not warrant the completeness or accuracy of such information. It is the Contractor's responsibility to ascertain the existence of any such conditions affecting the cost of the work, which would have been disclosed by reasonable examination of the site.

Conclusions pertaining to any test, investigation, statement or estimate of fact incorporated in the plans and specifications shall be considered by the Contractor to be a recommendation only. The Contractor may request equal access to the underlying or background information to arrive at an independent opinion thereon, including the determination of how reliable might be any conclusion appearing in (or inferred from) the information. The Contractor may not rely upon "record drawings" or similar final or accepted drawings or maps constructed on public or private property. Such information may be used for reference only. Actual locations and depths shall be determined by field investigations by the Contractor.

No oral or telephonic agreement or conversation with any officer, agent, or employee of the City or the Engineer, either before or after execution of the contract, shall affect or modify any of the terms or obligations contained in any of the contract documents.

4.02 Plans and Specifications - It is the intent of the Plans and Specifications to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. For convenience, the Specifications are arranged in several sections, but such separation shall not be considered as the limits of the work required by any separate trade. The terms and conditions of such limitations are wholly between the Contractor and the project subcontractors. In general, the Special Provisions, General Provisions, and other sections of the specifications indicate the responsibilities of the Contractor and the quality of material and methods of workmanship. The plans indicate dimensions, quantities, positions, and various other details of construction.

Any work, materials or equipment that may be reasonably inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words, which have a well-known technical or trade meaning, are used to describe the work, materials or equipment, such words shall be interpreted in accordance with that meaning. See General Provisions, Section 6.03, "Trade Names or Equals".

Subheadings and titles printed on the drawings in these General Provisions, in the specifications, and elsewhere in the contract documents, are inserted for the convenience of reference only, and shall not be taken or considered as having any bearing on the interpretation thereof.

4.03 References to Standards and Codes - 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 specification, manual, code or Laws or Regulations in effect at the time of the opening of bids (or, on the Effective Date of the Agreement if there were no bids), except as may be otherwise specifically stated. However, no provisions of any referenced standard specifications, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of City, Contractor or Engineer, or any of their consultants, agents or employees, from those set forth in the Contract Documents, nor shall it be effective to assign to the Engineer, or any of the Engineer's 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 for the Contractor.

4.04 Authority of the Engineer – The City has the final authority in all matters affecting the work. Within the scope of the Agreement, the Engineer has the authority to enforce compliance with the Plans and Specifications and the Contractor shall promptly comply with instructions from the Engineer. The decision of the Engineer is final and binding on all questions relating to: quantities; acceptability of materials furnished and work performed; equipment; work execution, rate of progress or sequence of work; and interpretation of the Plans, Specifications, or other drawings. This shall be precedent to any payment under the Agreement, unless otherwise ordered by the City.

4.05 Contract Documents and Precedence - The Contract Documents consist of the documents listed below, in order of precedence. If there is a conflict between component parts of the Contract Documents, the document highest in precedence controls.

- (a) Change Orders.
- (b) Project Directives.
- (c) Permits issued by other agencies.
- (d) Permits issued by the City.
- (e) Agreement and required agreement forms – Bid Bond, Faithful Performance and Labor and Materials Bonds, Warranty Bond, Insurance Endorsements, Worker's Compensation Certification.
- (f) Project Specifications, in the following order - Addenda, Bid Proposal including all Bid Proposal Forms, Notice Inviting Sealed Proposals, Special Provisions, Technical Provisions, Exhibits to the Proposal, and General Provisions.
- (g) Project Plans and Drawings.
- (h) City Standard Specifications.
- (i) City Standard Plans.
- (j) Reference Specifications, in the following order – State of California Department of Transportation (Caltrans) State Standard Specifications (current edition), Standard Specifications for Public Works Construction "Greenbook".
- (k) Reference Plans, in the following order – State of California Department of Transportation (Caltrans) State Standard Plans (2010 edition), Standard Plans for Public Works Construction (2010 edition).

All of the individual components of the Contract Documents are intended to be complementary and what is required by one shall be binding as if required by all. Interpretation of a disputed meaning or intent of the plans and specifications shall be made initially by the Engineer in accordance with the application of the order of precedence. Any final decision required regarding precedence and the clarification of discrepancies in the Contract Documents shall be made by the Engineer.

4.06 Interpretation of Specifications and Drawings - The specifications and the contract drawings are intended to be explanatory of each other. Any work indicated in the contract drawings and not in the specifications, or vice versa, is to be executed as if indicated in both. Should it appear that the work to be done, or any of the matters relative thereto are not sufficiently detailed or explained in these contract documents, including the contract drawings, the contractor shall apply in writing to the Engineer for such further explanations as may be necessary and shall conform thereto as part of this contract so far as may be consist with the terms of the contract. Should any doubt or question arise respecting the true meaning of the specification, the Engineer shall make the final decision.

4.07 Figured Dimensions - Figured dimensions on the contract drawings shall in all cases be given precedence over scaled dimensions. If figured dimensions do not correspond to scaled

dimensions, contractor shall request Engineer to verify the accuracy of the figured dimensions. It shall be the responsibility of the contractor to ascertain the correct scale of all contract drawings that are in possession, including those which may have been reduced for reproduction.

4.08 Errors or Discrepancies - If the contractor, in the course of the work, discovers any discrepancies between the drawings and the conditions of the ground, or any errors or omissions in the drawings or in the layout given by stakes, points or instructions, shall have the duty to inform the Engineer immediately in writing, and the Engineer shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the contractor's risk.

4.09 Drawings to be Furnished by Contractor - As soon as practical after the execution of this contract, the contractor shall supply drawings of devices to be furnished hereunder as are called for herein or as are required by the Engineer to make clear the details of construction and to demonstrate fully that all materials and equipment comply with the intent and provisions of this contract. Unless otherwise herein specified, such drawings shall be submitted to the Engineer for review. Should the Engineer take exception with any drawings furnished by the contractor, the contractor shall make the revisions required, and resubmit them to the Engineer for review. After a satisfactory review by the Engineer, these drawings shall become a part of this contract and the work shall be done in conformity therewith. No such work shall be begun or devices purchased until the review of the drawings detailing such items have been completed. The review of the drawings shall not relieve the contractor of responsibility, or waive or modify any of the provisions or requirements of this contract.

The Engineer's review of drawings submitted by the contractor will be for, and will cover, only generally conformity to the plans and specifications and will not constitute a blanket approval of all dimensions, quantities and details of the material or equipment shown by (nor shall review relieve the contractor of responsibility for errors contained in) such drawings.

All shop drawings submitted by the various subcontractors which require review of the City's representative shall first be sent to the contractor who shall keep a record of the drawing numbers and the date of their receipt.. Contractor shall submit the drawings to City's representative for review in time to prevent delays in delivery of materials.

Contractor shall thoroughly check all such shop drawings for measurements, size of member, materials and details to make sure they conform to the intent of the plans and specifications. Drawings found to be inaccurate or otherwise in error shall be returned by the contractor to the subcontractor for correction before they are submitted by the contractor to the City's representative for review.

4.10 Additional Drawings by City - Contract drawings are intended to be comprehensive and to indicate in detail the scope of the work. However, the Engineer may furnish the contractor additional drawings during the progress of the work in order to clarify and define in greater detail the intent of the contract drawings or specifications. Contractor may request such detailed drawings by submitting a request in writing to the Engineer at least two (2) weeks in advance of the time they are required.

4.11 Lines and Grades - All work under this contract shall be constructed to the lines, grades and elevations shown on the contract drawings. Contractor shall establish the lines, grades and elevations unless it is otherwise specified in the Special Provisions.

4.12 Record Documents - The Contractor shall keep at the worksite a record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Directives, Field Orders and written interpretations and clarifications. These record documents together with all approved submittals, samples and shop drawings will be available to the Engineer as a reference at all times. Upon completion of the work, these record documents will be delivered to Engineer.

4.13 Record Drawings -The Contractor shall prepare and update a master "as-built" set of red ink-lined plans, to be reviewed and approved by the Engineer at the end of every month. Drawings shall contain information showing where actual installation differs from that shown on the original drawings, where

underground or concealed features are found noting alignment (to 0.25') and elevation (to 0.1' ), field changes or deletions of work, and any additional work by change order. Upon the project's completion, and prior to the project's acceptance, the Contractor shall submit to the City the completed as-built record Drawings on one (1) set of full size prints prepared on 22" x 34" paper.

Record Drawings are full size drawings (Plans) which marked up during construction to delineate the actual in-place constructed conditions. Record Drawings shall be provided by the Contractor for this Project. Requirements for Record Drawings as specified elsewhere shall supplement the requirements specified herein.

4.14 Reuse of Documents - Neither the Contractor nor any Subcontractor or supplier or other person or organization performing or furnishing any of the work under a direct or indirect agreement with the City shall have any title or rights to any of the Drawings, Specifications or other documents (or copies thereof) which bear the seal of the design engineer. Such documents shall not be reused on extensions of the project or for any other project without written consent of the City and the design engineer.

4.15 Subsurface Data – If completed, all soil and soil test data, water table elevations, and soil analyses included or referred to in the Contract Documents apply only at the location of the test holes and to the depths indicated. If completed, soil test reports for test holes which have been drilled are available for inspection at the office of the Engineer. Any additional subsurface exploration shall be done by Bidders or the Contractor at their own expense.

The elevation of the water table indicated by soil test reports is that which existed on the date the test hole was drilled. It is the Contractor's responsibility to determine and allow for the possibility of differing ground water elevations on the date of the project's construction. A difference in elevation between ground water shown in soil boring logs and ground water actually encountered during construction will not be considered as a basis for extra work.

4.16 Right-of-Way – Acquisition of right-of-way or permanent easements necessary for the improvements as shown on the plans will be provided by the City. Unless otherwise provided, the Contractor shall make any required arrangements, pay for, and assume all responsibility for acquiring, using, and disposing of additional work areas, easements, and temporary facilities required. Contractor shall identify and hold the City harmless from all claims for damages resulting from such actions.

4.17 Removal of Defective and Unauthorized Work - Should the Contractor deliberately proceed with any portion or phase of construction which is obviously incorrectly indicated in the contract plans or documents, he shall be responsible for any corrective measures required to make adequate repairs or adjustment. This shall include any work done beyond the lines and grades shown on the plans or established by the Engineer, or any extra work done without written authority.

All work that has been rejected shall be remedied or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed for such removal or replacement. If the Contractor fails to remedy rejected work within ten (10) working days after written demand, the City may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. The Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which the Contractor is liable to the City, including reasonable attorneys' fees and expenses and compensation for the City's services and expenses.

4.18 Acceptance of Defective Work - The City shall have the option, at its sole discretion and by written notice to the Contractor, to accept defective work instead of requiring its removal or correction, in which case the contract sum shall be reduced by an amount equal to the difference between the value to the City such work would have were it complete, correct, and in conformity with the Contract Documents and the value to the City of such defective work. Such option shall be exercised solely by written notice to the Contractor and shall not be implied from any act or omission by the City or the Engineer. If the remaining payments and retention are insufficient to cover the amount of the reduction of the contract sum, the Contractor shall promptly pay to the City the amount of any such deficiency.



4.19 Submittals - Within ten (10) working days following the Notice to Proceed, the Contractor shall provide a detailed list for review and approval of all individual submittals required to be submitted under the contract. The list shall reference the specification section and paragraph that requires the submittal along with the date the Contractor plans to transmit the submittal to the City for review.

Unless otherwise requested by the Engineer, submittals shall be provided electronically in .pdf format at least twenty-eight (28) calendar days prior to the approval being necessary for the work. Submittals shall be transmitted with a Submittal Cover Letter form as approved by the Engineer. Large submittals consisting of reports, oversized or colored pages, full sized shop drawings, manuals contained in binders, or submittals in other forms not easily reproduced shall be provided in hard copy format with six (6) copies.

For items requiring shop drawings, no materials shall be furnished, and no work shall be performed, until the drawings have been favorably reviewed. Shop drawings shall be of a size and scale to clearly show all necessary details.

After review by the City of each of the Contractor's submittals, the material will be returned to the Contractor marked with actions defined as follows:

- (a) NO EXCEPTIONS TAKEN - Accepted subject to its compatibility with future submissions and additional partial submissions for portions of the work not covered in this submission. Does not constitute acceptance of deletion of specified or required items not shown in a partial submission.
- (b) MAKE CORRECTIONS NOTED - The same as item (a), except that minor corrections as noted by the City shall be made by the Contractor. No resubmission is required.
- (c) REVISE AND RESUBMIT - Rejected because of major inconsistencies or errors which shall be resolved or corrected by the Contractor prior to subsequent review by the City.
- (d) REJECTED - Submitted material does not conform to plans and Specifications in major respects. This material is not expected to be resubmitted.
- (e) SUBMIT SPECIFIED ITEM - Submittals not reviewed by the City but received for record purposes.

Favorable review of the shop drawings by the Engineer is interpreted to mean that there is substantial and acceptable conformance with the contract plans, but details of design may not necessarily be checked for adequacy or accuracy. Such acceptance shall not relieve the Contractor from the responsibility for errors or omissions in the shop drawings or from deviations from the contract documents unless such errors, omissions, or deviations were specifically called to the attention of the Engineer in writing. The Contractor shall be responsible for the correctness of the shop drawings, for shop fits and field corrections, and for the results obtained by the use of such plans.

4.20 Substitutions – Proposed requests by the Contractor for changes in products, materials, equipment, and methods of construction required under the Contract Documents after the award of contract are considered "requests for substitutions." For proposed "or equal" substitutions, attention is directed to General Provision Section 6.03, "Trade Names or Equals."

Each request for substitution shall be prepared and presented to the City in accordance with the procedures for submittals, except that the following additional information shall be provided.

- (a) An explanation of the advantages to the City for accepting the substitution.
- (b) A comparison of significant qualities of the proposed substitution with those specified.
- (c) A list of changes or modifications needed to other parts of the work and to construction performed by the City and separate Contractors, that will be necessary to accommodate the proposed substitution.

- (d) A statement indicating the substitution's effect on the Construction Schedule compared to the Baseline Construction Schedule without acceptance of the substitution. Indicate the effect of the proposed substitution on overall contract time.
- (e) Cost information, including a proposal of the net change, if any, in the Contract Sum.
- (f) Certification that the substitution is equal to or better in every respect to that required by Contract Documents, and that it will perform adequately in application indicated. Include Contractor's waiver of rights to additional payment or time extensions, that may be necessary because of the substitution's failure to perform adequately.

No extension of time will be allowed through failure of the Contractor to either transmit requests for substitution sufficiently in advance of the work, or on account of processing time outside the time limits noted.

4.21 Construction Staking Lines and Grades - Unless otherwise stated in the Special Provisions, the Contractor shall provide, preserve, and replace if necessary, all of the necessary construction stakes required for the construction of the project. Grades for underground conduits will be set on the ground surface and shall then be transferred to the bottom of the trench by the Contractor.

Stakes or marks will be set by a California Licensed Surveyor or a California Registered Civil Engineer to establish the lines and grades required for the completion of the work as specified in the Contract Documents. It shall be the Contractor's responsibility to notify the Engineer of any discrepancies found between field grades and notes shown within the Contract Documents.

Contractor shall furnish horizontal control and cut sheets to the Engineer immediately upon the setting of construction or boundary markers. Upon completion, all work shall conform to the lines, elevations, and grades shown on the plans.

4.22 Inspection of the Work - All work is subject to inspection and approval of the Engineer. Unless otherwise stated in the specifications, the City shall perform all required inspections. The Contractor shall notify the Engineer before noon of the working day before inspection is required. Unless otherwise authorized, work shall be done only in the presence of the Engineer. Any work done without proper inspection will be subject to rejection. The Engineer shall at all times have access to the work during its construction at shops and yards as well as the project site. The Contractor shall provide every reasonable facility for ascertaining that the materials and workmanship are in accordance with the Contract Documents. Inspection of the work shall not relieve the Contractor of the obligation to fulfill all conditions of the contract.

If a portion of the work is covered contrary to the Engineer's request or direction, or contrary to the requirements of the Contract Documents, it must, if required in writing by the Engineer, be uncovered for the Engineer's observation and be replaced at Contractor's expense without adjustment of the contract time or the contract sum.

If a portion of the work has been covered, which is not required by the Contract Documents to be observed or inspected prior to it's being covered and which the Engineer has not specifically requested to observe prior to it's being covered, the Engineer may request to see such work and it shall be uncovered and replaced by Contractor. If such work is in accordance with the Contract Documents, the costs of uncovering and replacing the work shall be added to the contract sum by change order; and if the uncovering and replacing of the work extends the contract time, an appropriate adjustment of the contract time shall be made by change order. If such work is not in accordance with the Contract Documents, the Contractor shall pay such costs and shall not be entitled to an adjustment of the contract time or the contract sum.

Regular working hours for City Construction Inspectors are between 7:30 a.m. and 4:00 p.m., Monday through Friday, excluding City holidays. If the Contractor works outside these times, the Contractor may be charged for additional inspection. Inspection by the Engineer or by a City inspector, or



any order measurement, approved modifications, certificate or payment of money, or acceptance of any part of whole of the work, or any extension of time, or any possession by the City or its agents, shall not operate as a waiver for any provision of this contract or of any power reserved therein to the City, or any right to damage thereunder; no breach of this contract shall be held to a waiver of any or subsequent breach. All remedies shall be taken and construed as cumulative.

4.23 Testing - Unless otherwise stated in the Contract Documents, all required testing will either be performed directly by an independent laboratory coordinated and paid for by the Contractor. The Contractor shall submit the resulting certified test results and Certificates of Compliance for all materials requiring such as specified in the Technical Provision. Contractor shall cooperate with the City in coordinating the necessary testing. The coordination of testing, including the number and location of tests, shall be under the direction of the Engineer. All compaction test sites deeper than five (5') feet below grade shall be properly shored by the Contractor to protect testing personnel.

The cost for performing re-tests due to failures, or additional call-outs if work is not ready to test, will be charged to the Contractor. The City shall require retesting until all required tests are successfully passed.

## SECTION 5 – CHANGES IN WORK

5.01 Limited City Authority to Approve Change Orders - The Contractor recognizes that the City is a public agency and that it can only act through its duly authorized agents. In this regard, the Contractor agrees that only written change orders, executed by the governing body of the City, shall be valid. The Engineer shall have no authority to issue a change order unless so specifically authorized, and no person shall have authority to issue any oral change order.

5.02 Contractor Liability for Unapproved Change Orders - Unless a valid change order is issued, all changes in the work performed by the Contractor shall be at the Contractor's own risk, and shall not be entitled to any additional compensation. Furthermore, the Contractor may be required to make the work conform to the plans and specifications. No act or series of acts by the City during the course of the contract shall be deemed to constitute a waiver of the City's right to rely upon the provisions of this Section 5, "Changes in Work".

5.03 Non-Material Change Requests by the Contractor - Changes in the plans and specifications requested in writing by the Contractor, which do not materially affect the work and which are not detrimental to the work or to the interests of the City, may be granted to facilitate the work, when approved in writing by the Engineer. If such changes are granted, they shall be made at a reduction in cost or at no additional cost to the City. Nothing herein shall be construed as granting a right to the Contractor to demand acceptance of such changes or to increase the contract sum or contract time as a result of the proposed change.

5.04 Effect of Extension of Time - The granting of any extension of time due to delays which, in the judgment of the City, are unavoidable delays shall in no way operate as a waiver on the part of the City of its rights under this contract.

5.05 Letters of Instruction - The Engineer may issue letters of instruction in the form of Field Orders, Clarifications, responses to Requests for Information, or any other document which makes interpretations or clarifications to the Contract Documents that do not modify the scope of work or involve an adjustment in the contract sum or contract time. Letters of Instruction shall be binding upon the Contractor, and the Contractor shall promptly carry out the requirements of such Letters of Instruction.

5.06 Requests for Information, Inconsistencies and Changed Conditions - Before undertaking each part of the work, the Contractor shall carefully study all pertinent figures shown in the Contract Documents and verify that all applicable field measurements are free of conflicts, errors, discrepancies, inconsistencies and omissions. If such conditions are discovered, the Contractor shall notify the Engineer by writing a Request for Information, and await direction from the Engineer before proceeding.

If the Contractor encounters a changed condition, as defined by one or more of the conditions below, the Contractor shall notify the Engineer by writing a Request for Information before disturbing the condition further.

- (a) Material differing from that represented in the Contract which the Contractor believes may be hazardous waste, as defined by Health and Safety Code, Section 25117 that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provision of existing law; and
- (b) Subsurface or latent physical conditions at the site differing materially from those represented in the Contract Documents; and
- (c) Unknown physical conditions at the site of any unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in the work and of the character provided for in the Contract Documents.

No extension of Contract time shall be made by the City due to the Contractor's failure to provide a timely written notice of any inconsistency or changed condition requiring direction. The Engineer will respond to the Contractor's Request for Information within three working days, providing an interpretation, clarification or change order for an appropriate adjustment in contract time and cost pursuant to General Provisions, Section 5.07, and "Change Orders". Contractor shall wait for the Engineer's written response to a Request for Information before proceeding with any work.

The Contractor shall not be liable to the City for failure to report any conflict, error, or discrepancy in the Contract Documents, unless the Contractor had actual knowledge or could foresee such conditions as may be discovered by a reasonable examination of the work site or materials. If the Contractor performs any construction activity in which he knows or should know involves an error, inconsistency, ambiguity, or omission referred to in this Section, without notifying and obtaining the written consent of the Engineer, Contractor shall be responsible for the resultant costs, including, without limitation, the costs of correcting defective work. However, in an emergency affecting the safety of persons or property, the Contractor shall take all reasonably necessary precautions to prevent or minimize damage, injury, or loss.

**5.07 Extra and Omitted Work** - Whenever corrections, alterations or modifications of the work under this contract are ordered and approved by the Engineer and increase the amount of work to be done, such added work shall be known as Extra Work. When such corrections, alterations or modifications decrease the amount of work to be done, such deleted work shall be known as Omitted Work. The General and Special Provisions shall apply with equal force to all extra and omitted work.

When the Contractor considers that any changes ordered involve extra or omitted work, Contractor shall immediately notify the Engineer in writing and subsequently keep them informed as to when and where the alleged extra work is to be performed.

When extra work reports are agreed upon and signed by both parties, they shall become the basis of payment. When extra work is still under negotiation or has not been agreed upon, the Contractor shall keep daily detailed and accurate records itemizing each element of cost and shall provide certified payroll, invoices, and other substantiating records and documentation with records and/or claims for compensation to be provided no later than 30 days following the time in which the work claiming to be extra was performed.

Unless notification of extra work is documented, and unless a complete statement of materials used and expenses incurred is furnished by the Contractor, the Contractor shall not be entitled to payment of such alleged extra work, and any future claims for compensation will be invalid.

Payment for extra work shall be in accordance with General Provisions, Section 5.08 - "Change Orders". Omitted work shall not constitute a claim for damages on account of anticipated profits on the work that may be omitted.

**5.08 Change Orders** – At any time during the progress of the work, and without in any way rendering void the Agreement, the City may order alterations, additions or deductions from the work by change order, without notice to sureties. When so ordered in writing, the Contractor shall proceed with work as directed by the change order.

The change order shall describe the change in the work, the adjustment of the contract sum (if any), and the adjustment of the contract time (if any). The Contractor shall not be entitled to any extension of time for the completion of the work by virtue of any change order unless the change order specifically provides for this. If, after receiving a change order, the Contractor requests an extension of time, within five (5) working days the Contractor must file a written claim to that effect for consideration by the Engineer.

The process of submitting a proposed change, a cost proposal, or negotiating an agreed upon change order, or any failure to reach an agreement as to an adjustment in the contract sum or the

contract time, shall not relieve the Contractor of the obligation to perform in accordance with the Contract Documents.

A change order may be in the form of a City directed change order or an agreed upon change order. Upon the receipt of either form of change order, the Contractor shall proceed promptly and diligently with the extra work.

- (a) *City Directed Change Orders* - A City directed change order may be issued by the City without the Contractor's signature where the City determines that it is in the City's best interest to proceed with the work, and the change does not materially alter the character of the work. The Contractor shall be deemed to have accepted the terms of any City directed change order unless the Contractor asserts a claim with respect to the change order, no later than ten (10) working days following the Contractor's receipt of the change order. See General Provisions, Section 5.09, "Disputed Work".
- (b) *Agreed Upon Change Orders* - Within five (5) working days after receiving a request from the City for a written proposal for an agreed upon Change Order, the Contractor shall provide the Engineer with a cost proposal in a form satisfactory to the Engineer, setting forth the Contractor's proposed adjustments to the contract sum and contract time for performing the extra work.

Compensation for agreed upon change orders shall be calculated based upon the unit prices stated in the Bid Schedule and no additional markup for overhead or profit will be provided unless stated otherwise as follows. If there are no unit prices for the extra work, the Contractor and the City may agree upon unit prices or lump sum costs, which shall be used to increase or decrease the contract sum. In the absence of any such agreement, the contract sum shall be adjusted by Force Account.

1. *Quantity Adjustments* - Unit prices shall govern not only for alterations to work covered by written specifications and drawings, but also for other work incidental or necessary to completing the work for which written specifications and drawings may be later prepared. Whenever an item of work or materials is specified in the contract by unit price and is increased or decreased by more than 25 percent (25%), Section 9-1.06 of the Standard Specifications shall govern payment. This Section allows for a renegotiation of the unit price based upon consideration of the total pay item cost. If, however, a renegotiated price cannot be reached by the Contractor and the City, then the payment for this item shall be adjusted by Force Account.
2. *Agreed Upon Price* - If there are no unit prices for proposed extra work, the Contractor and the City may agree upon unit prices or lump sum costs, by written change order, prior to commencing work. In the absence of any such agreement, the contract sum shall be adjusted by Force Account.
3. *Force Account* - When extra work is to be paid on a force account basis, the labor, materials and equipment used in the performance of that work shall be paid in accordance with the 2010 State Standard Specification, Section 9-1.04 "Force Account." To the total of the direct costs computed, there can be an added markup of up to thirty-five percent (35%) to the cost of labor, up to fifteen-percent (15%) to the cost of materials and up to fifteen-percent (15%) to the cost of equipment. These markups shall constitute full compensation for any and all overhead costs, profit, or other costs not specifically designated as a cost of labor, material or equipment. When subcontractors perform force account work, an additional ten-percent (10%) markup shall be added to the total cost of the extra work to reimburse the Contractor for additional administrative costs. No markup for any Subcontractor beyond the first tier shall be paid.

During the performance of extra work by Force Account, and as a condition to the Contractor's right to an adjustment of the contract sum, the Contractor shall prepare daily reports itemizing all costs for labor, materials, and equipment rental

and provide certified payrolls. For labor costs, the reports shall include names, job classifications, hours worked and rates of pay. For equipment costs, the reports shall include size, type, identification number and hours of operation. All records and reports shall be submitted to the Engineer for approval on a daily basis. Reports shall be made on the State of California, Daily Extra Work Report Form or on a similar form approved by the Engineer.

- i. *Labor* - Labor costs shall be based on the prevailing wage scale for each craft or type of workman, and no compensation shall be allowed for payment in excess of the prevailing wage. Employer payments for payroll taxes and insurance, health and welfare, pension, vacation, and other direct labor costs shall be included and will be calculated as the Labor Surcharge stipulated in the *State of California, Labor Surcharge and Equipment Rental Rates* book.
- ii. *Materials* - Materials cost shall be the cost of all materials purchased by the Contractor and used in the extra work and shall be the actual cost of such materials, including sales taxes, freight and delivery charges. The City reserves the right to reject materials to be furnished by the Contractor, sources of supply or, if necessary, to furnish the materials to the Contractor. No compensation will be paid to the Contractor for any material furnished by the City or for materials not used.
- iii. *Equipment Rental* - The Contractor will be allowed the actual rental rate of equipment, prorated over the time the machinery or equipment is required. For Contractor owned equipment, this rate shall be as stipulated in the *State of California, Labor Surcharge and Equipment Rental Rates* book. In addition, the Contractor will be allowed reasonable move-in and move-out charges, if applicable. All equipment shall, in the opinion of the Engineer, be in good working order, good condition, and suitable for its purpose. Equipment or tools having a replacement value of \$200.00 or less, whether or not consumed by use, shall be considered small tools and no payment will be made therefore.
- iv. *Other Services or Expenditures* - The City may authorize and approve payment for work performed by special forces or necessary services and expenditures other than labor, materials, and equipment rental.

5.09 Disputed Work - When the Engineer and Contractor fail to agree as to whether an alteration ordered by the Engineer constitutes a material change or difference in the character of the work, or fail to agree upon the compensation to be allowed for such altered work, the Contractor shall proceed with the altered work and file with the Engineer, within ten (10) working days after receiving direction from the Engineer, a written protest detailing the particulars of the dispute and the amount of additional compensation or time required for the alteration. Failure of the Engineer to recognize a change in the character of work when ordering alterations shall in no way be construed as relieving the Contractor of the Contractor's duty and responsibility for filing a protest as prescribed above. The City will not consider additional compensation for altered work unless the Contractor files a written protest within ten (10) working days after receiving direction from the Engineer.

If the Contractor has complied with the notification requirements of this sub-section, consideration of payment due shall be made as later determined through claim resolution procedures as set forth in General Provisions, Section 10, "Measurement and Payment".

Although not to be considered as approval for proceeding under extra work provisions, the Contractor shall keep and furnish records of disputed work in accordance with General Provisions, Section 5.07, "Extra Work".

## SECTION 6 - CONTROL OF MATERIALS

6.01 Materials and Workmanship - All materials, parts and equipment furnished by the Contractor in the work shall be new, high grade, and free from defects. Workmanship shall be in accordance with generally accepted standards. Materials and workmanship shall be subject to the Engineer's approval.

Materials and workmanship not conforming to the requirements of these specifications shall be considered defective and will be subject to rejection. Defective work or material, whether in place or not, shall be removed immediately from the site at the Contractor's expense, when so directed by the Engineer.

If the Contractor fails to replace any defective or damaged work or material after notice from the Engineer, the Engineer may cause such work or materials to be replaced. The replacement expense shall be deducted from the amount to be paid to the Contractor.

Used or secondhand materials, parts and equipment are permissible only if permitted by the Special Provisions.

Specialized material or equipment to be used in the work that is not readily available from material suppliers (such as electroliers, luminaries, signal poles, heads, cable, controllers, pumps, etc.) shall be ordered within five (5) days after award of the contract. Time extensions will not be granted for project delays due to the unavailability of such specialized material and equipment unless the Contractor furnishes the Engineer with documentation of purchase order dates, acceptable reason for delay of delivery, or proof of diligent efforts to obtain said items from alternate sources.

The Contractor shall provide the Engineer with periodic reports to inform the Engineer of any changes in the projected material or equipment delivery dates.

6.02 Protection of Work and Materials - The Contractor shall provide and maintain storage facilities and employ such measures as will preserve the specified quality and fitness of materials to be used in the work. Stored materials shall be reasonably accessible for inspection. The Contractor shall also adequately protect new and existing work and equipment for the duration of the contract.

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

6.03 Trade Names or Equals - In accordance with Public Contract Code Section 3400, whenever any particular material, process, or equipment is indicated by patent, proprietary or brand name, or by the name of a manufacturer or supplier, such wording is used for the purpose of facilitating its description and shall be deemed to be followed by the words "or equal".

Because products specified may have a uniqueness that can't be matched, the Contractor must "bid" the work based upon the products specified. If, during the submittal process, an equivalent product is proposed by the contractor, the contractor shall provide data to show that the product is considered equal. Contractor shall also identify any price differences, which shall be considered as part of the substitution and if accepted, shall result in an appropriate credit or cost to the City by change order should the substitution be made.

Unless otherwise authorized by the Engineer, the proposed substitution must be submitted in sufficient time, before the normal use or installation of the material, process or equipment, for the Engineer to determine the equivalency and for the Contractor to make any required purchases (including delivery).



The Engineer shall be responsible for solely determining whether the material proposed for substitution is equivalent to that specified, and the Engineer's findings shall be final. If a substitute offered by the Contractor is found to be not equal to the specified material, the Contractor shall furnish and install the specified material.

The specified contract completion time shall not be affected by any circumstances developing from the provisions of this Section.

**6.04 Inspection of Materials by City** - Unless otherwise specified, inspection may be required at the source for such typical materials and fabricated items as bituminous paving mixtures, structural concrete, metal fabrication, metal casting, welding, concrete pipe manufacture, protective coating application, and similar shop or plant operations.

Standard items of equipment such as electric motors, conveyers, elevators, plumbing fixtures, etc., are subject to inspection at the job site. Special items of equipment such as designed electrical panel boards, large pumps, sewage plant equipment, etc., are subject to inspection at the source, normally only for performance testing. The Special Provisions may specify additional inspection requirements.

**6.05 Inspection of Materials by Others** - When the City does not elect to make its own inspection at the source, the City may, at its expense, engage an inspector or accredited testing laboratory to inspect the materials, equipment or process. The inspector or representative of the testing laboratory shall judge the materials by the requirements of the plans and specifications. No materials or equipment shall be shipped nor any processing, fabrication or treatment of such materials shall be done without a favorable inspection by the engaged agent. These materials shall be subject to re-inspection at the job-site.

**6.06 Tests of Materials** - Before incorporation into the work, the Contractor shall submit samples of materials, as the Engineer may require, at no cost to the City. The materials for testing shall be delivered to the place by Contractor, and at the time designated, by the Engineer. Unless otherwise provided by the Special Provisions, all testing shall be performed under the direction of the Engineer, and at no expense to the Contractor.

The Contractor shall notify the City in writing at least fifteen (15) days in advance of any intention to use materials for which tests are specified, to allow sufficient time for the City to perform the tests. The notice shall name the proposed supplier and source of material.

**6.07 Certification** – The Engineer may waive material testing requirements of the Specifications and accept the manufacturer's written Certificate of Compliance or test data demonstrating that the materials to be supplied meet the requirements of the specifications. A Certificate of Compliance is acceptable for authorizing the use of steel pipe in sizes less than eighteen (18) inches and vitrified clay, cast iron or ductile iron pipe in all sizes. All materials used on the basis of a Certificate of Compliance may be sampled or tested by the City at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of the responsibility for incorporating materials in the work which conforms to the requirements of the Contract Documents.

**6.08 Weighing and Metering Equipment** – All scales and metering equipment used for proportioning materials shall be inspected for accuracy and certified within the past twelve (12) months by the State of California Bureau of Weights and Measures, by the County Director or Sealer of Weights and Measures, or by a scale mechanic registered with or licensed by the County,

The accuracy of the work by a scale service agency, except as stated herein, shall meet the standards of the California Business and Professions Code and the California Code of Regulations pertaining to weighing devices. A certificate of compliance shall be presented to the Engineer for approval prior to operation, and shall be renewed whenever required by the Engineer at no cost to the City.

All scales shall be arranged so they may be read easily from the operator's platform or area. They shall indicate the true net weight without the application of any factor. The figures of the scales shall be clearly legible. Scales shall be accurate to within one-percent (1%) when tested with the plant shut down. Weighing equipment shall be so insulated against vibration or moving of other operating equipment in the plant area such that the error in weighing with the entire plant running will not exceed two-percent (2%) for any setting nor one and one half percent (1.5%) for any batch.

6.09 Calibration of Testing Equipment – Testing equipment, such as but not limited to, pressure gages, metering devices, hydraulic systems, force (load) measuring instruments, and strain-measuring devices shall be calibrated by a testing agency acceptable to the Engineer at intervals not to exceed twelve (12) months, and following repairs, modification, or relocation of the equipment. Calibration certificates shall be provided when requested by the Engineer.



## SECTION 7 – UTILITIES

7.01 City's Statutory Obligation - Pursuant to Government Code, Section 4215: "in any contract to which a public agency as defined in Section 4401 is a party, the public agency shall assume the responsibility, between the parties to the contract, for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the site of any construction project that is the subject of the contract, if such utilities are not identified by the public agency in the plans and specifications made a part of the invitation for bids. The contract documents shall include provisions to compensate the Contractor for the costs of location, 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. The Contract documents shall include provisions that 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."

7.02 Contractor's Obligation to Identify and Protect Subsurface Infrastructure - The Contractor shall locate and protect service laterals, conduits, and appurtenances of any underground facility, the presence of which could be reasonably inferred from the Contract Documents or from the presence of visible facilities such as buildings, meters, and junction boxes, prior to doing any work that may damage any such facilities, or interfere with their service. Where underground main distribution conduits, such as water, gas, sewer, electric power, telephone, or cable television are shown on the plans, the Contractor shall assume that every parcel will be served by a service connection for each type of utility. The Contractor shall comply with all requirements for the protection of underground infrastructure as set forth in Government Code, Sections 4215 through 4216.9.

It shall be the Contractor's responsibility to complete all work in a manner that satisfies utility company standards, providing if requested, detailed plans prepared by a California Registered Civil Engineer showing necessary temporary support of utilities during coordinated construction work. The Contractor is directed to contact these agencies before submitting bids and to be familiar with their requirements and shall include all costs of this coordination within the proposals bid prices.

The Contractor agrees to assume liability and to hold the City of San Carlos, its officers, and employees harmless from any damages resulting from the existence of underground utilities and structures not reported to the Engineer, not indicated on the public records examined, or located at variance with that reported or shown on records examined.

7.03 Location - The City will search known records and indicate on the plans those utilities, except service connections, which may affect the work. All available information regarding removal, relocation, or disconnection of utilities, or installation of new utilities, will be furnished to prospective bidders before the receipt of bids. The Contractor shall immediately report to the Engineer those utilities omitted from the plans or found substantially at variance with the location shown.

Existing and proposed utilities and improvements are shown in their approximate locations. Locations may not have been field verified and no guarantee is made as to the accuracy and completeness of the information shown. The fact that any facility is not shown on the plans shall not relieve the Contractor of any responsibility under this Section. It shall be the Contractor's responsibility to determine the existence and location of utilities shown on the plans, indicated by field locating services, or evidenced by facilities visible in the field. No additional compensation will be allowed for delays incurred as a result of the Contractor's failure to field verify and/or pothole existing utilities prior to beginning construction. Potholing shall be considered as part of the various contract bid items and no additional compensation will be allowed.

At least three (3) working days prior to commencing work, the Contractor shall request that utility and agencies mark or otherwise indicate the location of their substructures. Contractor shall contact Underground Service Alert (USA) at (800) 642-2444 and the Engineer at least forty-eight (48) hours prior to excavation. The location of utilities as shown on the plans are approximate and are not to be

construed as certainty. It shall be the Contractor's responsibility to determine the true location and depth of all utilities and service connections affecting or conflicting with the work, prior to the performance of the work. As necessary, the Contractor shall pothole these utilities prior to working in the area to avoid damage to them. Potholing shall be considered as part of the contract bid items, and no separate payment will be made. Contractor shall be familiar with the type, material, age and condition of any utility which may be affected by the work.

7.04 Protection - As necessary or as directed by the Engineer, the Contractor shall field adjust proposed improvements to avoid conflicts with existing improvements. The Contractor shall not interrupt the service function or disturb the supporting base of any utility, without authority from the utility Owner or order from the City.

Where protection is required to ensure support of existing underground, overhead and at-grade utilities (including their associated structures and service connections) as shown on the plans, at the Contractor's expense such protective measures shall be furnished and placed.. In case of damage, the Contractor, without additional compensation, shall restore utilities to as good of a condition as they were found.

Upon learning of the existence and location of any utility omitted from or shown incorrectly on the plans, the Contractor shall notify the City and be fully responsible for protecting such utility. When authorized by the Engineer, additional protection may be paid by change order, for utilities other than a service connection.

The Contractor shall immediately notify the Engineer and the utility owner when Contractor disturbs, disconnects or damages any utility. If the utility is located substantially as indicated on the plans, the Contractor shall bear the costs of repair or replacement.

When placing concrete around or contiguous to any utility, at the Contractor's expense, a cushion of expansion joint material, clear opening, sleeve, or other suitable material approved by the Engineer so as to prevent embedment or bonding of the utility with the concrete shall be furnished and installed.

7.05 Shut Down Notification – The City is in-charge of the sewer and storm water collection systems, traffic signals and street lighting system and as such the Contractor shall coordinate shut downs of these utilities and facilities with the City's Engineer and Public Works Maintenance Department. The Contractor shall also coordinate the shutdown of all other utilities, including, but not limited to water, electricity, gas, communications, or CATV with the corresponding utility owner.

Shut downs of any utility or other facility, when allowed, shall be done only after:

- A. The Contractor has coordinated with and notify the Engineer/Utility Owners in writing, at least seventy-two (72) hours in advance of the shut down, and,
- B. Has properly notified customers (residents, businesses/agencies) emergency response staff, and,
- C. Has all materials required for the work at the job site prior to requesting a shut off.

Except for scheduled shutdowns and in cases of emergency, the Contractor shall notify all customers and effected parties of a shutdown at least forty-eight (48) hours in advance by writing and four (4) hours in advance by person to allow adequate draw time. Once shut down, the Contractor shall proceed with the work in an expedient manner until the water lines or sewer lines are back in service.

7.06 Removal - Unless otherwise specified, the Contractor shall remove all portions of interfering utilities shown on the plans as 'abandoned' or "to be abandoned in place". Before starting removal operations, the Contractor shall ascertain from the utility Owner whether abandonment is complete. The costs involved in the removal and disposal of utilities to be abandoned shall be considered as part of the contract bid items, and no separate payment will be made.

7.07 Relocation - When feasible, the utilities within the area affected by the work will complete their necessary installations, relocations, repairs, or replacements before commencement of work by the Contractor. When the Contract Documents or plans indicate that a utility is to be relocated, altered or

constructed by others, the City will conduct all negotiations with the utilities and the work will be done at no cost to the Contractor.

Utilities interfering with the permanent project work, discovered after the award of the contract, shall either be relocated, altered, or reconstructed by the utility, or the Engineer may order changes in the work to avoid interference. Such changes will be paid for in accordance with General Provisions, Section 5, "Changes in Work".

When the plans or specifications provide for the Contractor to alter, relocate, or reconstruct a utility, all costs for such work shall be absorbed in the contract bid items. Temporary or permanent relocation or alteration of utilities by the Contractor for convenience shall be the responsibility of Contractor. Contractor shall make all arrangements, obtain all approvals, and bear all costs. The Contractor may, for convenience or to expedite the work, agree with the owner of any utility to disconnect and reconnect interfering service connections. The City shall not be involved in any such agreement.

**7.08 Delays** - The Contractor is responsible for notifying utility companies in time to prevent delays attributable to utility relocations or alterations as called for in the Contract Documents. The Contractor shall not be entitled to damages or additional payment if such delay does occur. The Engineer will determine the extent of the delay based on the Baseline Construction Schedule (Section 8.05) and on the project as a whole, and any commensurate extension of time.

**7.09 Cooperation** - When necessary, the Contractor shall conduct operations so as to permit access to the worksite and provide time for utility work to be accomplished during the progress of the contract work.

## SECTION 8 – PROSECUTION AND PROGRESS

8.01 Notice to Proceed - Within twenty-one (21) calendar days following receipt of the signed agreement, bonds and insurance, the City shall issue the Contractor a Notice to Proceed provided that the documents are acceptable to the City. Unless stated otherwise, the contract time shall commence upon the receipt date on the Notice to Proceed.

8.02 Commencement of Work - Work shall commence within fifteen (15) calendar days following the receipt date on the Notice to Proceed, and shall be diligently prosecuted to completion within the time provided in the Notice to Bidders.

8.03 Subcontracting - Unless otherwise indicated by the Special Provisions, the Contractor shall perform the majority of the project work.

8.04 Administrative Duties - The Contractor shall coordinate the scheduling and timing of administrative duties with other activities to avoid conflicts and to ensure orderly project progress. Such activities include, but shall not be limited to, the preparation of construction schedules, preparation and processing of submittals, requests for information and responding to requests for quotations, attending and preparing for progress meetings and coordinating project closeout activities.

8.05 Baseline Construction Schedule – Within ten (10) calendar days of the Notice to Proceed, the Contractor shall submit to the Engineer an acceptable Critical Path Method (CPM) progress schedule showing the critical path for completing the various items of work within the number of contract days specified. The schedule shall show the order in which the Contractor proposes to carry out the major items of work and the dates on which he will start and finish the various items (including procurement of materials and equipment). If requested, the schedule shall be resource loaded to reflect person/crew hours and equipment loading for various construction activities in order for the City to better evaluate the proposed schedule.

- (a) *City Review of Schedule* – The City may review and note exceptions to the Contractor's schedule, if it is not sufficiently detailed to clearly show the work to be completed during each month to assure the completion of the work within the project duration. The Contractor will be solely and exclusively responsible for resolving any exceptions, and the City's review will not create any scheduling obligations of the City. Any noted corrections to the schedule shall be addressed within five (5) working days.
- (b) *Update of Schedule* – After submission of a schedule to which the City has taken no exceptions, the Contractor shall submit an updated schedule on a monthly basis or as otherwise specified by the City until completion of the work. The updated schedule must show the "As Constructed" progress up to the date for which the schedule has been prepared and reflect any proposed changes in the method of operations, to achieve the project milestones within the required project duration.
- (c) *Float* – The schedule must show early and late completion dates for each task. The number of days between these dates will be designated as "float". The float will be assigned to the project and available for the City, at the Engineer's discretion, to allocate the "float" to the Contractor as needed to complete the work in accordance with the agreement.
- (d) *Failure to Submit Schedule* – If the Contractor fails to submit a schedule within the time periods specified in this sub-section, or submits a schedule to which the City has taken uncorrected exceptions, the City may withhold payments to the Contractor until such schedule is submitted and/or corrected in accordance with the Contract Documents.

8.06 Three-Week Look Ahead Schedule - The Contractor is required to furnish to the Engineer, on a weekly basis at the project's progress meetings, a three-week look ahead schedule. The

schedule must show planned activities in sufficient detail to allow proper monitoring of the planned construction activities.

8.07 Construction Sequence - The Contractor shall prepare and submit at the pre-construction meeting a staging or phasing plan identifying the sequence of construction work and traffic control needed to complete the project. The staging plan shall be subject to review and approval by the Engineer, prior to the start of construction. The goal of the phasing plan will be to minimize impacts to surrounding businesses and residents in the project areas. When required by the Special Provisions or plans, the Contractor shall follow the sequence of operations as set forth therein.

8.08 Recording Existing Conditions - Existing conditions throughout the project site shall be photographed and/or videotaped by the Contractor before starting construction. Recording shall include and show every detail of existing improvements, including the current condition of the curb, gutter, sidewalk, signs, landscaping, streetlights, structures near the project including face of buildings, canopies, shades, fences and any other features within the limits of work. Photos and/or videotape shall be delivered to the Engineer at the pre-construction meeting.

8.09 Preconstruction Conference - The City shall designate a date and time for the pre-construction conference once the contract has been fully executed. At the pre-construction conference, the City shall discuss various administrative procedures and project coordination issues. At a minimum, the Contractor should be prepared to furnish and discuss the following:

- (a) Letter designating the Superintendent.
- (b) A list of key personnel and emergency contact information including telephone numbers to be used in case of emergency
- (c) Sequence or phasing plans identifying the phasing of construction work and any alternative sequences for consideration.
- (d) Traffic control plans associated with the staging plans (to be signed and stamped by a Licensed Traffic Engineer).
- (e) A draft of the master Baseline Construction Schedule, in Critical Path Method (CPM) format (to be finalized no later than ten (10) days after the Notice to Proceed).
- (f) A breakdown of lump sum bid items to be used as a basis for determining the value of work completed on future progress payments.
- (g) A submittal schedule listing all project submittals that will need to be reviewed and a listing of proposed material suppliers.
- (h) Utility company coordination and/or permit issues.
- (i) Videotape and/or photography of the project's existing condition (to be completed prior to starting construction).
- (j) Anticipated cash flow projections, if requested by the engineer.

8.10 Progress Meeting - The Contractor, Job Superintendent and Subcontractors, if requested by the City, shall attend weekly progress meetings to be scheduled by the Engineer at a time agreeable to both the Engineer and the Contractor. Contractor shall also attend special meetings in addition to regular progress meetings if necessary and directed by the Engineer.

8.11 Hours of Construction - Construction activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m., unless otherwise noted or further restricted in the Contract Documents, or as directed by the Engineer. No work shall be done on weekends, holidays or outside these specified hours, unless otherwise approved by the Engineer. The Contractor shall take into consideration and coordinate time constraints for special events or activities organized by the City or other agencies. No mechanical equipment, including hauling or deliveries by trucks, shall start before 8:00 a.m. and all equipment must shut down before 6:00 p.m. unless approved by the Engineer.

8.12 Prosecution of Work - To minimize public inconvenience and possible hazards and to restore the streets and other work areas to their original condition and former state of usefulness as soon as practicable, the Contractor shall diligently prosecute the work to completion. If, in the Engineer's opinion the Contractor fails to prosecute the work to the extent that the above purposes are not being accomplished, the Contractor shall, upon orders from the Engineer, immediately take the steps necessary to fully accomplish said purposes. All costs for prosecuting the work as described herein shall be absorbed in the Contractor's bid. Should the Contractor fail to take the necessary steps to fully accomplish said purposes, after orders of the Engineer to do so, the Engineer may suspend the work in whole or in part, until the Contractor takes said steps. With or without such suspension, the Engineer may cause such steps to be taken by force account or by other means at the Contractor's expense.

8.13 Suspension of Work - Work may be stopped or suspended in whole or in part for up to ninety (90) days when, in the Engineer's opinion, the suspension is necessary and in the interest of the City. The Contractor shall immediately comply with any written order of the Engineer suspending work. Such City directed suspension shall be without liability to the Contractor on the part of the City. Suspended work shall be resumed upon written order of the Engineer. An extension of contract time equal to the period of suspension shall be issued to the Contractor by change order. Any claim by the Contractor for an adjustment of the contract sum or the contract time shall be made within ten (10) working days after the end of the work suspension.

If work is suspended through any fault of the Contractor, all expenses and losses incurred by the Contractor during such suspensions shall be borne by the Contractor. If the Contractor fails to properly provide for public safety, traffic, and protection of the work during periods of suspension, the City may elect to do so, and shall deduct the cost thereof from monies due the Contractor. Such action will not relieve the Contractor from any liability.

8.14 Default by the Contractor and Termination of Control - As a result of any of the following events, the Contractor shall be deemed to be in default:

- (a) If the Contractor is in bankruptcy or makes a general assignment for the benefit of creditors, or
- (b) If the Contractor fails to make prompt payment to subcontractors for labor or materials, or
- (c) If a receiver is appointed on account of the Contractor's insolvency, or
- (d) If the Contractor fails to provide enough properly skilled workmen or enough materials to insure compliance with the construction time schedule, or
- (e) If the Contractor fails to perform any portion of the work within the timing requirements of the Contract Documents, or abandons the project site, or
- (f) If the Contractor disregards instructions from the Engineer or violates any provision of the contract, or
- (g) If the Contractor fails to replace or repair any damage caused by the Contractor or its agents, representatives, contractors, subcontractors, or employees in connection with the performance of the work, or
- (h) If the Contractor violates any legal requirement related to the work.

In case of default, the City may give written notice to the Contractor and the Contractor's bonding agent that if the default is not remedied within ten (10) calendar days or the Contractor does not provide adequate written assurance to the satisfaction of the Engineer that the cure will be forthcoming, the Contractor's control over the work may be terminated as of the date specified in the written notice.

Upon such termination of control the City may enter upon and take possession of the entire work and may also take possession, for the purpose of completing the work, of all of the Contractor's tools, equipment and appliances upon the work, and all materials on the site or stored off-site for incorporation into the work. The City may, at its sole option and without further notice to anyone, complete the work by



day labor, by contract entered into by negotiations, by competitive bidding, by calling upon the performance of the performance bond surety, or by other means as the City, in its discretion, shall elect.

After termination of the Contractor's control over the work as herein provided, the Contractor shall not be entitled to any further payments under the contract until the entire work thereunder has been fully completed and finally accepted by the City. After such completion and acceptance, if the "unpaid balance of the contract price" (as defined in the next paragraph) exceeds the sum of the amounts expended by the City in taking over and completing the work, including all managerial and administrative expense incurred by the City on account thereof and the amount of all damages incurred by the City by reason of the Contractor's default, such excess shall be paid to the Contractor. If the said amount expended exceeds the unpaid balance, the Contractor and the surety shall be liable to the City for the difference. At the Contractor's request, the expense incurred by the City in taking over and completing the work, and the amount of any damage incurred by the City by reason of the Contractor's default shall be audited and certified by an independent third party, whose certificate thereof shall be binding and conclusive upon the parties.

For the purposes of the computations required by the paragraph above, the "unpaid balance of the contract price" shall be the original contract price as adjusted by any change orders issued prior to termination of the Contractor's control, less all payments made on account thereof prior to such termination, and less any and all amounts withheld or paid pursuant to stop notices filed with the City upon claims of subcontractors or others from equipment, labor or materials furnished to the work on behalf of the Contractor.

Upon completion and acceptance of the work, the Contractor shall be entitled to the return of all materials not used in the work, but without claim against the City for loss or damage with respect thereto, and shall be entitled to the return of all the equipment, tools and appliances taken possession of by the City, but without claim against the City for any charge for the use thereof or for usual and ordinary depreciation and wear and tear.

The exercise of remedies provided for in this sub-section, for default by the Contractor, shall be in addition to, and shall not be deemed a waiver by the City of any other rights or remedies due the City under the contract provisions, for default by the Contractor.

8.15 Contractor's Right to Stop Work or Terminate Contract – The Contractor may give written notice to the Engineer of intention to stop work or terminate the Agreement, or both if the work should be stopped by order of any court or other public authority, through no act, omission or fault of the Contractor or any Subcontractor, agent or employee of the Contractor, and such work stoppage under such order shall continue for thirty (30) consecutive days from the effective date of such order

If, after the Contractor provides notice to the City of any of the above defaults, the City does not remedy the default within ten (10) calendar days, the Contractor may stop work and may give the City written notice of contract termination. The Contractor may then recover from the City payment for all work executed to date and any loss sustained upon any equipment or materials procured for the work prior to the work stoppage. No compensation for loss of anticipated profits will be provided, however, on work not completed. The Contractor's right to recovery shall be subject, however, to the duty of the Contractor to mitigate all loss or damage so far as reasonably possible.

8.16 City's Right to Terminate Contract – The City may, at its option, terminate the Agreement, in whole or from time to time in part, at any time by giving notice to the Contractor. Upon such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of the Contractor, the City shall pay the Contractor in accordance with this sub-section. Upon termination, the obligations of the Contractor for portions of the work already performed shall continue.

- (a) Upon receipt of a Notice of Termination, the Contractor shall, unless the notice directs otherwise, do the following:

1. Immediately discontinue the work to the extent specified in the notice.
  2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion of the work that are not to be discontinued.
  3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the work.
  4. Thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect materials, plants, and equipment on the project site or in transit thereto.
- (b) Upon such termination, the City shall pay to the Contractor as a sole and exclusive remedy for the termination, the sum of the following, and the Contractor will be entitled to no other compensation or damages, and expressly waives same:
1. The amount of the contract amount allocated to the portion of the work properly performed by the Contractor as of the date of termination, less sums previously paid to the Contractor, plus
  2. Previously unpaid costs of any items delivered to the project site which were fabricated for subsequent incorporation in the work, plus
  3. Any proven losses with respect to materials and equipment directly resulting from such termination, plus
  4. Reasonable demobilization costs in excess of what would have been incurred if work were not terminated, plus
  5. Reasonable costs for preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.

The City may terminate the Agreement at its own discretion or when conditions encountered during the work make it impossible or impracticable to proceed, or when the City is prevented from proceeding with the Agreement by act of God, by law, or by official action of a public authority.

**8.17 Time of Completion and Days Charged** - The Contractor shall diligently prosecute and fully complete the work within the number of calendar or working days set forth in the Notice inviting Sealed Proposals or shall be subject to liquidated damages. Time is of the essence in the performance of all obligations under the Contract Documents, and all timing requirements shall be strictly adhered to unless otherwise modified by the City. See General Provisions, Sections 8.12, "Prosecution of Work", and 8.18, "Liquidated Damages".

Under a calendar day contract, City observed holidays and inclement weather delays are to be anticipated and unless there is a deviation from what is customary for the time of year the project is under construction, no additional days will be granted. Every day, including holidays, Saturdays and Sundays shall be counted as a day charged under a calendar day contract.

Under a working day contract, the Contractor will be given credit for City observed holidays and inclement weather delays, in accordance with the State Standard Specifications. Should the Contractor prepare to begin work at the regular starting time in the morning of any day on which inclement weather, or the conditions resulting from the weather 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 seventy-five percent (75%) of the normal labor and equipment force engaged in the current controlling operations for at least sixty percent (60%) of the total daily time being currently spent on the controlling operations, the Contractor will not be charged for a working day whether or not conditions should change thereafter.

**8.18 Liquidated Damages** - The City and the Contractor, by execution of the agreement, each agree that time is of the essence in the performance of the work, and that actual damages for



inconvenience and loss from any delay in completion of the contract beyond the date provided in the Notice to Bidders is extremely difficult or impossible to determine.

The City and the Contractor further agree, as specified in the Notice to Bidders, that liquidated damages shall be assessed for each and every calendar day required to complete the contract in excess of the contract time established for the project, and that the amount stated therein is a reasonable estimate of the amount of such damages. The Engineer may deduct any liquidated damages owed to the City, as determined by the Engineer from any payments otherwise payable to the Contractor under this agreement.

In addition, the City shall have the right to charge to the Contractor and to deduct from the final payment for the work the actual cost to the City of engineering, inspection, administration and other overhead expenses which are directly chargeable to the contract and which accrue during the period of such delay, except that the cost of final surveys and preparation of the final estimate shall not be included in such charges.

Separate from the above-mentioned liquidated damages, the Contractor shall be responsible for paying all damages incurred by private businesses (residential, commercial or industrial), schools and hospitals due to non-completion of the project by the date specified.

Nothing contained herein shall limit the City's rights or remedies against Contractor for any default other than failure to complete the work within the contract time. This provision for liquidated damages shall not be applicable nor act as a limitation upon the City if the Contractor abandons the work. In such event, the Contractor shall be liable to the City for all losses incurred.

The date of the Engineer's Certificate of Substantial Completion shall be the termination date, if applicable, of liquidated damages.

#### 8.19 Delays and Extensions of Time

(a) *Excusable Delays* - shall mean delays in the prosecution or completion of the work which result from causes beyond the control of the Contractor and City and which could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor, suppliers, or any tier of the Contractor's subcontractors. Excusable Delays fall into the following categories:

1. Abnormal Delays – Excusable Delays caused by acts of god, fire, unusual storms, floods, tidal waves, earthquakes, strikes, labor disputes, freight embargoes, and shortages of materials insofar as they prevent the Contractor from proceeding with at least seventy-five percent (75%) of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical path activity.
2. Weather Delays – Excusable Delays due to inclement weather conditions or the conditions resulting from weather prevent the Contractor from proceeding with seventy-five percent (75%) of the normal labor and equipment force engaged in the current critical activity item for a period of at least five (5) hours per day toward completion of the current critical path activity.
3. Material Shortage Delays – Excusable Delays due to shortages of material, provided that the Contractor submits satisfactory proof to the Engineer. For the proof to be satisfactory, the Contractor must demonstrate that every effort to obtain the materials from all known sources within reasonable reach of the proposed work has been made. Only the physical shortage of material, caused by unusual circumstances, will be considered under these provisions as an excusable delay, and no consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical price, unless it is shown to the satisfaction of the Engineer that such material was only available at exorbitant prices. A material shortage delay will not be considered for material

ordered or delivered late or for material whose availability is affected by virtue of mishandled procurement. The above provisions shall apply equally to equipment to be installed in the work.

- (b) *Compensable Delays* - shall include delays that occur in the prosecution or completion of the work, through no fault of the Contractor which prevent the Contractor from proceeding with at least seventy-five percent (75%) of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical activity item(s) on the latest favorably reviewed progress schedule due to the following causes:
  - 1. Delays due solely to the actions and/or inactions of the City.
  - 2. Delays due to changed conditions as defined in General Provisions, Section 5.05, "Requests for Information, Inconsistencies and Changed Conditions".
  - 3. Delays due to other Contractors employed by the City who interfere with the Contractor's prosecution of the work as defined above.
- (c) *Inexcusable Delay* - means any delay in the completion of the work beyond the expiration of the contract time resulting from causes other than Excusable Delays or Compensable Delays. An Inexcusable Delay shall not entitle the Contractor to an extension of the contract time or an adjustment of the contract sum. In addition to liquidated damages for inexcusable delays, the Contractor agrees to pay the City's actual costs, including charges for engineering, inspection and administration incurred during the delay.
- (d) *Concurrent Delays* - those periods of delay when the prosecution of the work is delayed during the same period of time due to causes from a combination of the delays defined as Excusable, Compensable or Inexcusable.

If the Contractor desires an extension of time, he shall file a written request based upon the delays reported. The Engineer will ascertain the facts, the extent of the delays, and the effect upon the entire project, and the City will grant an extension of time equivalent to verified time lost. The request for an extension of time must be made no later than ten (10) working days after the start of the condition that purportedly caused the delay, and no later than fifteen (15) working days after the date on which performance on the condition purportedly causing the delay has ended.

Contractor may make a delay claim for an extension of the contract time for an Excusable Delay or a Compensable Delay. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the contract time shall be the number of calendar days from the commencement of the first delay to the cessation of the delay which ends last. If an Inexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the contract time shall be the number of calendar days, if any, by which the Excusable Delay or the Compensable Delay exceeds the Inexcusable Delay.

For a Compensable Delay, the Contractor may make a delay claim for an adjustment in the contract sum in an amount equal to the sum of the actual and unavoidable additional costs of labor, material, and equipment furnished at the site by the Contractor or subcontractors, including wages, salaries, fringe benefits and payroll taxes.

Extensions of time, when granted, will be based upon the effect of delays to the project as a whole and will not be granted for non-controlling delays to minor portions of the work unless it can be shown that such delays did, in fact, delay the progress of the project as a whole. For purposes of determining delays, all float associated with the project schedule shall belong to the project. See General Provisions, Section 8.05, "Baseline Construction Schedule".

If delays are caused by unforeseen events beyond the control of either the Contractor or the City, such delays will entitle the Contractor to an extension of time as provided herein, but the Contractor shall not be entitled to damages or additional payment due to these delays. War, governmental regulations, labor disputes, strikes, fires, floods, adverse weather necessitating cessation of work, other similar action of the elements, inability to obtain materials, equipment, or labor because of Federal Government

restrictions arising out of National Defense, required extra work, action or inaction by the City, or other specific reasons as may be further described in the specifications may constitute such a delay. If delays beyond the Contractor's control are caused by reasons other than those mentioned above, but are substantially equal in gravity to those enumerated, an extension of time may be granted, if deemed by the Engineer to be in the best interests of the City.

The Contractor shall be entitled to an extension of time if delayed due to a failure of the City to furnish necessary right-of-way or materials which the City agreed to furnish, or by the City's failure to supply necessary plans or instructions concerning the work, after written request by the Contractor.

For Compensable Delay periods resulting in indirect overhead expenses, the Contractor shall be reimbursed as provided for in General Provisions, Section 5, "Changes in Work".

8.20 Substantial Completion – When work in accordance with the Contract Documents has progressed to a stage of one-hundred percent (100%) complete, as determined by the Engineer, except for the completion of minor punch list items of deficiencies or omissions in the work which require correction in order to satisfy the agreement, yet do not impair the City's ability to occupy and fully utilize the work for its intended purpose, the project shall be deemed "Substantially Complete". Portions of the work may also be designated by the City as substantially complete if the Contract Documents require separate delivery.

When the Engineer determines that the work or such designated portions of the work are substantially complete, the Engineer will prepare and sign a Certificate of Substantial Completion. The date of substantial completion shall establish the date at which days charged against the project duration shall terminate. The date of substantial completion shall also establish the date of occupancy by the City and the transfer of responsibility from the Contractor to the City for such items as security, maintenance, heat, utilities, insurance, and damage to the work from causes other than that of the Contractor. Unless otherwise indicated in the Certificate of Substantial Completion, the Contractor's guarantee for the work shall commence upon the date of substantial completion. See General Provisions, Section 11.01, "Contractor's Guarantee".

8.21 Project Closeout - After the Contractor has received the Certificate of Substantial Completion and has only minor work remaining, project closeout may begin. The following items and procedures are required as part of the project close out process.

- (a) Following the completion of punch list items, the Contractor shall make a written request to the city to conduct a final inspection. The written request shall be accompanied by a Certification that the work has been performed in accordance with the Contract Documents.
- (b) Within fourteen (14) days of receipt of the Contractor's Certificate of Completion, a final inspection will be scheduled and conducted by the City. As a result of the inspection, the City will advise the Contractor of any work that must be completed or corrected before Acceptance, in the form of a punch list.
- (c) The City will conduct a re-inspection of the punch list items within when requested by the Contractor, in writing, with assurances that the punch list requirements have been met. Any charges by a Consulting Engineer/Architect hired by the City to do repeat re-inspection of the punch list may be recovered from the Contractor.
- (d) The contractor shall provide a final payment request with lien releases (if applicable) in a format acceptable to the City.
- (e) The as-built drawings and all record documents and shall be provided to the City by the Contractor including but not limited to, equipment operation and maintenance manuals, copies of warranties, shop drawings, product data, etc. Record documents shall be properly identified and organized into binders.

8.22 Final Completion - After the Contractor has received the Certificate of Substantial Completion along with the punch list, and has completed the items identified as necessary for project closeout, the Engineer will make a determination as to if the work is fully completed and in accordance with the Contract Documents. If so, the Engineer will recommend final acceptance to the City Council.

Should it become necessary, due to developed conditions, for the City to occupy any portion of the work, or any part of any structure or equipment, before the contract is completed or accepted, such occupancy shall not constitute an acceptance of any part of the work, unless so stated in writing by the City.

8.23 Final Acceptance – Final acceptance by the Engineer will be considered after the work has been fully completed. A Notice of Completion will be filed with the County Recorder once Final Acceptance has been made.

8.24 Risk of Loss - The Contractor shall be responsible for the charge, care and protection of the project and shall bear all risks of injury or damage to the work, materials or equipment delivered to the site, by any means including fire, earthquake, wind, storm or other action of the elements, vandalism, or loss by theft, from the date of Notice to Proceed to the date of the filing of the Notice of Completion by the Engineer. The Contractor shall rebuild, repair, restore and make good all injuries or damage to any portion of the work, and shall bear the entire expense thereof, except such injuries or damages that are caused by riot, insurrection, acts of the Federal or State Government, or a public enemy in time of war.

8.25 Use of Improvements During Construction - The City reserves the right to take over and utilize all or part of any completed facility or appurtenance. Such action by the City will not relieve the Contractor of responsibility for injury or damage to said completed portions of the improvement resulting from use by public traffic, from the action of the elements or from any other cause attributable to the Contractor's operations or negligence. The Contractor will be required to restore such portions of the improvement before final acceptance. Nothing in this Section shall be construed as relieving the Contractor from full responsibility for correcting defective work or materials.

## SECTION 9 —RESPONSIBILITIES OF THE CONTRACTOR

9.01 Contractor's Responsibility for the Work - The Contractor shall supervise, coordinate, and direct the work using Contractor's best skill and attention. Contractor shall have control over and be solely responsible for construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the work in accordance with the terms of the Contract Documents until the completion and final acceptance of the work by the City. The Contractor shall furnish and maintain in good condition all equipment and facilities as required for the proper execution and inspection of the work. Such equipment and facilities shall meet all requirements of applicable ordinances and laws.

The Contractor shall rebuild, repair, restore and make good all injuries, damages, re-erections and repairs occasioned or rendered necessary by causes of any nature whatsoever, excepting only acts of God and none other, to all or any portions of the work, excepting as otherwise stipulated.

9.02 Contractor's Responsibility for Subcontracted Work - The City will deal directly with, and make all payments to the Contractor only. The Contractor shall be responsible for the coordination of all trades, subcontractors, and suppliers engaged upon the work. Neither the City nor the Engineer will undertake to settle any differences between the Contractor and the subcontractors.

All persons engaged in the work, including subcontractors, will be considered as employees of the Contractor. The Contractor will be held responsible for their work and shall be responsible to the City for acts and omissions including those by their respective agents and employees.

When subcontracted work is not prosecuted in a manner satisfactory to the Engineer, the Contractor shall be notified to take corrective action within a specified time. If timely correction is not made, then upon receipt by the Contractor of written instructions from the Engineer, the Subcontractor shall be removed immediately from the work and shall not be reemployed.

9.03 Superintendent - The Contractor shall employ, and provide a written letter designating a superintendent and/or representative and all their contact information. The superintendent and/or representative shall be present on the job site whenever work is in progress to coordinate all work with the City and neighboring property owners, and who shall be available by phone twenty-four (24) hours per day, seven (7) days a week up to the Final Acceptance of the work by the City. A backup representative may also be provided. A joint venture shall designate only one Superintendent.

City approval of the Superintendent is required prior to starting work. The City reserves the right to request an appropriately qualified replacement of the Superintendent any time during construction of the project. Contractor shall provide the Engineer with the Superintendent's telephone number, along with an after-hours emergency contact number of a responsible person who shall correct hazardous situations, should they occur, during times other than the normal working hours.

Directions and information given to the Superintendent shall be considered as having the same effect as if delivered to the Contractor and the Superintendent shall have full authority to execute the same and to supply materials, tools and labor without delay, and who shall be the legally appointed representative of the contractor. Contractor shall be liable for the faithful observation of any instructions delivered to Contractor's duly appointed representatives.

9.04 Character of Workers - Contractor shall provide competent, fully qualified personnel to perform the work and shall at all times maintain good discipline and order among its employees and Subcontractors. Any employed person or Subcontractor who is found to be incompetent, intemperate, troublesome, disorderly or otherwise objectionable or who fails or refuses to perform the work properly and acceptably, shall be immediately removed from the work by the Contractor and shall not be reemployed. Such discharge shall not be the basis of any claim for compensation or damages against the City of San Carlos or any of its officers, employees or agents.

9.05 Laws to be Observed - The Contractor shall be fully informed of, and at all times observe and comply with all Federal, State and County laws, including those of CAL-OSHA; all municipal ordinances and regulations of the City of San Carlos; and all orders and decrees of bodies having jurisdiction over the work. The Contractor shall also cause all agents and employees engaged on the project to observe and comply with all such laws, and shall protect and indemnify the City of San Carlos and all officers, employees, and agents thereof connected with the work against any claim or liability arising from or based on the violation of any such law

- (a) *Non-Discrimination* – Attention is directed to Labor Code, Section 1735 which reads as follows: “No discrimination shall be made in the employment of persons upon public work because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex of such persons, except as provided in Government Code, Section 12940 and every Contractor for public works violating this Section is subject to all the penalties imposed for a violation of this chapter.”
- (b) *Alien Labor* - The Contractor shall forfeit as penalty to the City of San Carlos fifty dollars (\$50.00) for each alien with no permit to work in the United States of America (USA) knowingly employed in the contract, by Contractor or by any hired Subcontractor upon any of the work herein mentioned, for each calendar day, or portion thereof, during which such alien is permitted or required to labor in violation of the provisions of the Labor Code and in particular Sections 1850 to 1854 thereof, inclusive.
- (a) *Hours of Labor* – Hours of labor shall be pursuant to Labor Code, Sections 1810. Pursuant to Labor Code, Sections 1813, Contractor shall forfeit to the City, as a penalty, twenty-five dollars (\$25.00) for each worker employed in the execution of this Agreement by Contractor, or any Subcontractor in violation of the terms of this Section or in violation of the provision of any law of the State of California. Such forfeiture amounts may be deducted from the contract sum. Contractor and each Subcontractor shall keep, or cause to be kept, an accurate record showing the actual hours worked each calendar day and each calendar week by each worker employed on the project, which record shall be kept open at all reasonable hours to the inspection of the City, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.
- (d) *Prevailing Wage* – As identified in the Notice to Bidders, the work contemplated by this agreement is a public work subject to prevailing wages under California Labor Code, Sections 1720 et. seq. The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the work is to be performed for each craft, classification, or type of worker required to perform the work. A schedule of the most recent general prevailing per diem wage rates made available to the City will be on file at the City’s principal facility office and will be made available to any interested party upon request. This prevailing wage rate schedule is provided by the City for Bidder’s information only and is not guaranteed by the City to be current. Contractor is obligated to verify all appropriate prevailing wage rates and pay those rates as required. By this reference the verified current schedule of prevailing wage rates is made part of the Contract Documents. Contractor shall pay not less than the prevailing per diem wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Contractor in the execution of the work. Contractor shall cause all subcontracts to include the provision that all Subcontractors shall pay not less than the specified prevailing per diem wage rates to all workers employed by such Subcontractors in the execution of the work.

Contractor shall forfeit to the City, as a penalty, no more than fifty-dollars (\$50.00) for each calendar day or portion thereof for each worker that is paid less than the specified prevailing per diem wage rates for the work or craft in which the worker is employed for any portion of the work done by Contractor or any Subcontractor in violation of the provisions of the Labor Code, and in particular Sections 1770 to 1781 thereof, inclusive. Such forfeiture amounts may be deducted from the contract sum. Contractor shall also pay to any worker who was paid less than the specified prevailing per diem wage rate for the work or craft for which the worker was employed for any portion of the work, for each



calendar day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

The City will not recognize any claim for additional compensation because of the payment by the Contractor for any wage rate in excess of prevailing wage rates set forth in the Agreement, including payment in excess of the prevailing wage for extra work paid by force account. The possibility of wage increases is one of the elements to be considered by the Contractor in determining the Contractor's bid and will not, under any circumstances be considered as the basis of a claim against the City under the Agreement.

- (e) *Payroll Records* - Pursuant to Labor Code, Sections 1776, Contractor and all Subcontractors shall keep an accurate payroll record, showing the name, address, social security number, job 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 in connection with the work. All payroll records shall be certified as being true and correct by Contractor or Subcontractors keeping such records; and the payroll records shall be provided to the City no later than three weeks after closing of payroll. The Contractor and all Subcontractors must also furnish electronic certified payroll records to the Labor Commissioner of the State of California, Department of Industrial Relations.
- (f) *Apprentice Program* - Attention is directed to State of California Labor Code, Sections 3095, 1777.5, 1777.6, and 1777.7 and Title 8, California Code of Regulations, Section 200, and the applicable Sections that follow. Responsibility for compliance with these requirements lies with the Contractor. To ensure compliance and complete understanding of the law requiring apprentices, and specifically the required ratio thereunder, Contractor or Subcontractors should, where some question exists, contact the Division of Apprenticeship Standards, 425 Golden Gate Avenue, 4<sup>th</sup> Floor, San Francisco, California, 94102 or one of its branch offices prior to commencement of the work. In the event Contractor willfully fails to comply with this Section, it will be considered in violation of the requirements of the Contract.

Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Contractor or Subcontractors of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

- (g) *Safety Program* – the Contractor shall conform to the rules and regulations pertaining to safety established by the California Division of Industrial Safety and to all requirements as set forth in the State of California Construction Safety Orders (CAL-OSHA), and in particular, Article 3 of these Safety Orders, regarding Accident Prevention and safety meetings. Within ten (10) working days following the Notice of Award the Contractor shall provide a copy of the Contractor's Safety Plan. The price paid for the plan is included in the various contract items of work and no additional compensation will be made therefore.

9.06 Permits and Fees – Unless otherwise stated in the Special Provisions, the Contractor shall procure all permits, registrations and licenses, including a City business registration, pay all charges and fees, and give all notices necessary for lawful prosecution of the work. All permits, registrations, licenses, and other authorizations shall be secured in sufficient time to prevent delays to the work. The Contractor shall comply with the provisions of said permits, licenses and other authorizations. The contractor shall submit satisfactory proof to the City, prior to issuance of the Notice to Proceed, that such permits, registrations or licenses are and will be in effect throughout the entire life of this contract. The contractor shall keep all permits, registrations and licenses posted on the job site.

For City Capital Improvement Construction Projects, the Contractor shall obtain a "No Fee" encroachment and/or building permit. Contractor shall coordinate through the Engineer to insure that all appropriate construction inspections occur.

9.07 Coordination and Cooperation - Construction work by utility companies or other Contractors may be needed or may be occurring simultaneously within or adjacent to the limits of work for this project. The Contractor shall coordinate and cooperate with all other Contractors and utility companies throughout the duration of this project to avoid delays and minimize interference and conflicts. Cooperation will be required in the arrangement for the storage of materials, and in the detailed execution of the work. It is the Contractor's responsibility to ascertain the nature of work by others, coordinate the work, and install, modify, and maintain traffic control as necessary to avoid interferences and delays on the construction activities. Failure of the Contractor to keep informed of the work progressing on the site and failure to give written notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with Contractor's work.

Where the work of one trade joins or is on the other's work, there shall be no lack of continuity or discrepancy when work is completed. In conforming one kind of work with another, marring or damaging other work will not be permitted. Should improper work of any trade be covered by another which results in damage or defects, the whole work affected shall be made good by the Contractor without expense to the City.

The City reserves the right to perform work or allow others to perform work, as necessary, within or adjacent to the limits of this project, at any time. If the Contractor or any of the Subcontractors or employees causes loss or damage to any separate Contractor on the work, the Contractor, by agreement or arbitration, if they deems it necessary, will settle any claim for such loss or damage. If such separate Contractor shall sue the City, on account of any loss so sustained, the City shall notify the Contractor, who shall indemnify and hold harmless the City against any loss or damage arising therefrom, including the cost and expense of defending any such suit.

If any portions of the work specified herein are to be installed in any right-of-way owned by the State, County, Municipality, or other public entities or public utilities, it shall be incumbent upon the contractor to familiarize described above will necessarily be subject to their inspection and approval before acceptance of these portions of the work by the Engineer. Any costs for inspection by agents other than those of the City shall be borne by the contractor. Where other agencies have jurisdiction over some portion of the work, and the requirements of the agencies are at variance with this specification, then that portion of the work shall be done in accordance with the requirements of the agency(ies).

The Contractor shall absorb in the bid all costs involved in coordinating the work with others. The Contractor will not be entitled to additional compensation from the City for damages resulting from such simultaneous, collateral and essential work.

9.08 Use of Premises - The Contractor shall confine construction activities to the project limits; which shall consist of right-of-way, easements and/or property owned by the City of San Carlos. With prior approval of the Engineer, adjacent street right-of-way may also be utilized for day-to-day operations. Unless approved by the Engineer, no storage of materials and equipment will be allowed to remain within the right-of-way during non-working hours, on the weekends, or during holidays.

Each day, after the completion of construction operations, unless otherwise approved by the Engineer, the project limits shall be secured and made accessible to the public. All excess materials and equipment not protected by approved traffic control devices (such as k-rails) shall be relocated to a staging area or demobilized. Trench spoils shall be off-hauled daily and open excavations shall be protected with steel plates.

Personnel of Contractor and Subcontractors shall not occupy, live upon, or otherwise make use of the project site during any time that work is not being performed at the project site, except as otherwise provided for in the Contract Documents for issues such as site security.



9.09 Construction Staging and Field Office - If additional space beyond the construction limits is necessary for staging, the Contractor shall, make special arrangements with neighboring property City(s) to secure a staging area for a field office and/or material and equipment storage, at Contractor's expense. The staging area must be fenced, with screening, and shall be operated in a manner that minimizes the inconvenience to neighbors.

The Contractor is encouraged to negotiate side agreements with the property owners of such sites prior to submitting bids. Prior to occupying the staging area, the Contractor will be required to provide to the Engineer a copy of the agreement or temporary construction easement granted by the property owner. A written release from the property owners or City, holding the City harmless from liability, will also need to be provided. In addition to approval from the property owners, the Contractor may also need to secure a Use Permit from the City's Planning Division.

9.10 Site Security - Contractor shall be responsible for the care and custody of work and the site, including all necessary security provisions, on a 24-hour per day basis throughout the entire term of the Agreement. The Contractor shall provide and maintain storage facilities and employ such measures as will preserve the specified quality and fitness of materials to be used in the work.

9.11 Construction Water – The Contractor is responsible for obtaining all water required for the project and shall work with, and obtain all permits from, the appropriate water purveyor prior to obtaining construction water. If hydrant water is to be used, the Contractor must first obtain a hydrant meter and pay all related expenses. Direct connections to hydrants without a meter are not allowed. If water trucks are used, they shall be installed with backflow prevention devices. The cost of water, including all associated fees, deposits or permits shall be incorporated into the various bid items and no separate payment shall be made. Water purveyors include:

California Water Service Company

Bayshore District - Customer Center  
341 North Delaware St.  
San Mateo, CA 94401-1727  
M-F: 8 a.m. to 4:30 p.m.  
Tel.: (650) 558-7800  
[infoBAY@calwater.com](mailto:infoBAY@calwater.com)

Mid-Peninsula Water District

3 Dairy Lane  
P.O. Box 129  
Belmont, CA 94002  
M-F: 8 a.m. to 4:30 p.m.  
Tel.: (650) 591-8941  
[midpeninsulawater.org](http://midpeninsulawater.org)

9.12 Project Site Maintenance – All work identified in this section shall be considered as part of the contract bid items, and no separate payment will be made thereof.

- (a) *Disposal of Material* - Unless otherwise shown on the plans or specified herein, all excess materials and materials removed from existing improvements shall become the property of, and be disposed by the Contractor. The Contractor shall be responsible for all costs associated with disposing all excess materials in a safe and legal manner. No material shall be placed on private or public property without prior approval from the City and the property owner. The Contractor shall not allow any refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed upon paved streets, into manholes or into the City's storm drain system.

Contractor shall establish a system for daily collection and disposal of waste materials from construction areas and elsewhere on the site. Contractor shall handle waste materials that are hazardous, dangerous, or unsanitary separately from inert waste by containerizing appropriately. Burning or burying of waste materials on site will not be permitted.

All materials removed from the existing improvements, which in the opinion of the Engineer have salvage value, shall be delivered to the City Corporation Yard at 1000 Bransten Road, San Carlos, or at any other site designated by the Engineer within the City and shall be considered as part of the contract bid items, with no separate payment will be made thereof.

- (b) *Cleanup and Dust Control* – at all times during construction, including weekends and holidays, and throughout all phases of construction, including work suspensions and until final acceptance of the project, the Contractor shall keep the work site clean and free from rubbish, debris, and prevent the formation of an airborne dust nuisance.

Materials and equipment shall be removed from the site as soon as they are no longer necessary. Upon completion of the work and before final inspection, the entire site shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance.

The Contractor shall abate dust nuisance by cleaning, sweeping, and sprinkling with water, those excavated areas of dirt or other materials which are prone to causing dust, within both the project site and the storage or staging area. If required or directed by the Engineer, the Contractor shall provide an approved water truck of large capacity with spraying capability and/or street sweeper.

The Contractor shall be required to apply water for dust control immediately during construction efforts and within one (1) hour after notification by the Engineer that an airborne nuisance exists. If dust control is not adequate, in the opinion of the Engineer, the Engineer will have this work performed by others and will deduct such cost from the total contract price.

All hauling trucks or other construction vehicles leaving the site shall be cleaned of mud or dirt clinging to exterior body surfaces or wheel rims before traveling on City streets outside the work limits. All trucks coming to or leaving the site with materials or loose debris shall be loaded in a manner, which will prevent the dropping of materials or debris on City streets. Spillage resulting from hauling operations along or across any public traveled way shall be removed immediately.

When construction operations cause dirt to be deposited on public streets, the Contractor shall immediately remove such material. Streets shall be cleaned by street sweeping, rather than flushing, so as to prevent mud from entering the storm drain system.

Excess excavated material shall be removed from the site immediately. Sufficient material may remain for use as backfill if permitted by the specifications. Forms and form lumber shall be removed from the site as soon as practicable after stripping.

Failure of the Contractor to comply with the Engineer's cleanup orders may result in an order to suspend work until the condition is corrected. No additional compensation will be allowed as a result of such suspension.

- (c) *Air Pollution Control* - The Contractor shall not discharge smoke, dust, or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.
- (d) *Noise Control* - The Contractor shall make every reasonable effort to control noise generated as a result of construction to the satisfaction of the Engineer. Use of an air compressor, jackhammer or other loud, vibrating sound generating device shall be limited to operations between the hours of 8:00 a.m. and 6:00 p.m. Monday thru Friday and between 9:00 a.m. to 5:00 p.m. on Saturday and Sunday, unless otherwise authorized by the Engineer.
- (e) *Vermin Control* - At the time of acceptance, structures entirely constructed under the contract shall be free of rodents, insects, vermin and pests. Necessary extermination work shall be arranged and paid for by the Contractor as part of the contract work within the contract time and shall be performed by a licensed exterminator in accordance with requirements of governing authorities. The Contractor shall be liable for injury to persons or property and responsible for the elimination of offensive odors resulting from extermination operations.
- (f) *Sanitation* - The Contractor shall provide and maintain enclosed toilets for the use of employees engaged in the work. These accommodations shall be maintained in a neat

and sanitary condition. They shall also comply with all applicable laws, ordinances and regulations pertaining to the public health and sanitation of dwellings and camps.

- (g) *Wastewater* - Wastewater systems shall not be interrupted. Should the Contractor disrupt existing sewer facilities, the Contractor shall immediately notify the Engineer, and the Contractor shall establish a plan, subject to the approval of the City, to convey the sewage in closed conduits and disposed of it back into the sanitary sewer system. Sewage shall not be permitted to flow in trenches or be covered by backfill.
- (h) *Temporary Light, Power and Water* - The Contractor shall furnish, install, maintain, and remove all temporary light, power, and water, including piping, wiring, lamps, and other equipment, necessary for the work at Contractor's expense. The Contractor shall not draw water from any water source, except to extinguish a fire, without first obtaining permission from the appropriate water utility company/agency.
- (i) *Storm Water Pollution Control* - All work shall conform to the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, NPDES No. CAS000002) ("General Permit"), and the NPDES Municipal Regional Stormwater Permit (MRP) (Order No. R2-2015-0049, NPDES No. CAS612008). The Contractor shall implement all applicable San Mateo Countywide Water Pollution Prevention Program (SMCWPPP) measures and Best Management Practices (BMPs). Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations and/or a stop work order.

The Contractor shall submit to the City a Stormwater Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP), prepared in compliance with all NPDES requirements. The SWPPP/WPCP prepared by the Contractor shall address how the Contractor will prevent materials from being rinsed or washed into the storm drain system and specify which BMPs will be implemented for preventing sediment and pollutant discharges into the storm water system. The Contractor shall provide for the construction of facilities which may be required to prevent, control, and abate water pollution.

All construction efforts shall be conducted in a manner which prevents the release of hazardous material or hazardous waste into the soil or groundwater, and minimizes the discharge of pollutants into the storm drain system. No pollutants will be allowed to enter the storm drainage system. The Contractor shall be responsible for containing and removing any waste from the Contractor's construction operations using the appropriate BMP. The Contractor shall be responsible for cleaning catch basins of solid or liquid waste materials originating from the Contractor's operation before this material migrates further into the storm drain system. Violation of this provision shall cause the City to issue a stop-work notice and take necessary action to require the Contractor to correct and comply with regulations. All costs related to the stop-work action and corrective work to come into compliance shall be fully borne by the Contractor.

**Existing Drainage Conditions** - If the work performed interferes with established drainage patterns, ample provisions shall be made by the Contractor to correct the interference. The City may also direct the Contractor to take additional measures to be performed at the Contractor's expense.

**Illicit Discharge** - No dumping or discharge of construction materials, debris, and hazardous materials will be permitted into the City's storm drainage system. In the event of any discharge, leakage, spill or emission of hazardous materials, Contractor shall promptly notify the City and shall clean all affected property. The Contractor shall indemnify, hold harmless and defend the City against all liability incurred as a result of any such discharge, leakage, spill or emission, regardless of whether such liability, cost or expense arises during or after the term of the permit.

9.13 Preservation of Property - The Contractor shall be responsible for the protection of public and private property adjacent to the work.

Due care shall be exercised to avoid damage to existing roadway improvements and facilities, adjacent property, roadside trees, lawn and shrubbery not designated for removal, pole lines, fences, signs, survey markers and monuments, buildings and structures, conduits, pipe lines under or above ground, sewer and water laterals, and any other improvements or facilities within or outside the limits of construction. As ordered and approved by the Engineer, the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, at the Contractor's expense, to a condition as good as when the Contractor entered upon the work, or as good as required by the Contract Documents.

Existing striping damaged during construction within and adjacent to the project site shall be replaced with thermoplastic. Partially damaged striping (such as what might occur trenching through a pavement legend), shall be replaced in their entirety.

Contractor shall preserve carefully bench marks, reference points, and stakes; in case of willful or careless destruction, will be charged with the resulting expense of replacement and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

Any survey monuments that are damaged or removed as part of the construction shall be replaced by the Contractor and a Record of Survey, as required by State law, shall be filed by a licensed Land Surveyor at the Contractor's expense.

The fact that any such improvement or facility is not shown upon the plans shall not relieve the Contractor of responsibility under this Section. It shall be the Contractor's responsibility to ascertain the existence of any underground improvements or facilities indicated on the plans, indicated by locating services, or as evidenced by facilities visible in the field.

Contractor shall protect the work, supplies and materials from damage due to the nature of the work, the action of the elements, trespassers, or any cause whatsoever which is under Contractor's control, until the completion and acceptance of the work. Neither the City nor any of the City's agents assume any responsibility for collecting indemnity from any person(s) causing damage to the work of the contractor.

9.14 Protection of Buried Utilities – When the Contractor's attention is directed to the existence of pipes, cables, culverts, and other underground structures and improvements which may or may not be shown on the plans, it is the responsibility of the contractor to ascertain the exact location of such underground utilities in advance of any digging operations so that they shall not be disturbed or damaged by the Contractor during the progress of the work. All expenses of whatever nature arising from such disturbance or replacement or repair thereof shall be borne by the contractor.

If the location of pipelines being installed by the contractor under this contract conflicts with the location of existing pipelines, contractor shall so notify the Engineer in writing. The Engineer will ascertain the location of the existing utility in question and may require relocation of the pipeline being installed for the convenience of the Contractor. It shall not be construed that the City or the Engineer is in any way required or obligated to locate or relocate pipelines to locations other than shown on the contract plans. If the Engineer relocates pipelines at the request of the contractor, the contractor shall bear all the expenses incurred in connection therewith.

9.15 Protection of Bridges - Contractor shall be responsible for any damage they may cause to bridges, culverts and road structures. The Contractor shall determine in advance the allowable safe load for each structure and, if necessary, provide special shoring and support at Contractor's expense.

9.16 Protection of Traffic Signal Facilities - The Contractor shall give at least seventy-two (72) hours advance notice to the Engineer before commencing any street work (such as pavement grinding or trenching) that may potentially damage any traffic signal detection loop wires or any other signal facility. This requirement is in addition to any Underground Services Alert notifications. The City will then mark the underground traffic signal facilities.

The Contractor shall not proceed with any grinding, trenching or other underground work until it has been verified with the Inspector that signal facilities have been marked.

In the event that the Contractor's construction activities cause any failure of a traffic facility, it shall be repaired and be made fully operable within 24-hours of the damage occurring. In the event that such repair is not undertaken within this time limit, the City may repair the facility at the Contractor's expense.

9.17 Restoration of Adjacent and Existing Improvements - Contractor shall do all cutting, fitting, or patching of the work required to make all parts of the work come together properly with existing and adjacent conditions.

Unless otherwise provided, the Contractor shall repair or replace all existing improvements (e.g., curbs, sidewalks, driveways, fences, signs, utilities, street surfaces, structures, etc.) damaged or removed as a result of the Contract operations. Repairs and replacements shall be at least equal to existing improvements, and shall match in terms of condition, finish and dimension to the satisfaction of the Engineer.

All Underground Services Alert (USA) markings, including the initial markings made by the Contractor and those markings placed by others in responses shall be removed at the Contractor's expense when they are no longer required. Acceptable means of removal include sand blasting, high pressure washing, or other means approved by the Engineer.

All traffic signs and street signs within the limit of work necessarily removed during the various phases of operations shall be temporarily reset by the Contractor at or near the original location upon completion of each phase of construction operations. Prior to removal of all traffic control signs, the Contractor shall submit photographs of the site which show the existing location of these signs so that upon completion the photographs will aid in resetting the signs at or near their original location. Traffic control signs and street signs will be replaced upon completion of the work and the cost of removal and replacement shall be considered as part of the contract bid items, and no separate payment will be made thereof.

Rural type mail boxes shall be maintained by the Contractor in a manner satisfactory to the property owner and postal service, and the Contractor shall relocate the same as soon as possible to a permanent location in accordance with postal regulations and in a location acceptable to the property owner.

Any object to be removed and reused at other locations shall be removed with due care and delivered or stored at the project's construction storage area, or if approved by the Engineer, at any other site designated by the Engineer within the City. Such objects may consist of street light poles, signal mast arms and other objects directed by the Engineer. Items not approved by the Engineer for reuse purposes, and without salvage value, shall become the property of the Contractor, to be disposed of at Contractor expense, in an acceptable manner.

9.18 Archeological Remains - If human and/or archeological remains are uncovered during excavation. All earthwork within one-hundred (100) feet of these materials will be stopped until a Coroner and/or professional archeologist (SCA) and/or the Society of Professional Archeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation measures.

9.19 Access to Private Property - The Contractor shall schedule and perform operations so as to minimize disruption of access to private property. Prior to blocking access to any private driveway or



parking lot entrance, the Contractor shall notify the residents, business owners or tenants of pending closure and allow residents to remove vehicles. During non-working hours no driveway, house or parking lot shall be denied access to a public roadway.

The Contractor shall coordinate with the adjacent property owners and businesses and maintain vehicle and pedestrian access to their properties at all times. Temporary access ramps, fencing, or other measures shall be provided as needed.

9.20 Traffic Control and Public Convenience – The Contractor shall provide for safe movement of all vehicular, bicycle and pedestrian traffic through and around the construction operations with as little inconvenience and delay as possible. The Contractor shall have no amount of work under construction other than what he can properly prosecute with due regard to the rights and convenience of the public.

Proper conveyance of vehicular traffic and pedestrians through the work area depends upon navigating under unexpected situations. The means of clarifying such conditions to the public include the Contractor's use of signs, flagmen, pavement markings, barricades, lights, cones and delineators. No one standard sequence of signs or control devices will suit all conditions which may result from construction operations. Even for the same work, the conditions may vary from hour to hour, requiring adjustment and revisions of the traffic control in effect. The traffic control requirements specified herein are therefore intended to establish general principles to be observed in the control and regulation of traffic through and around the construction operations anticipated for this project. The requirements set forth in this Section represent the minimum traffic control requirements imposed and the Contractor shall be solely responsible for providing the full extent of traffic control measures that are necessary. Only individuals trained in the principles of implementing traffic control and/or traffic control flagging shall be assigned that responsibility at the work site.

- (a) *Traffic Control Plan* – The Contractor shall submit a Traffic Control Plan to clearly describe proposed traffic control measures. The plan shall be generally in accordance with the illustrations included in the “California Manual of Uniform Traffic Control Devices” and the “Work Area Traffic Control Handbook”, (Building News Incorporated P.O. Box 3031, Terminal Annex, Los Angeles, CA 90051). The submittal shall consist of scaled drawings for each situation anticipated to be encountered, i.e., intersections, mid-block (each during working and non-working hours), etc. The drawings shall show signs, traffic control devices and flagmen as required.

The Traffic Control Plan shall be directed equally to the regulation and protection of non-vehicular traffic including pedestrians, bicyclists, joggers, skaters, skateboarders, etc. The Contractor shall provide for the protection and separation of non-vehicular traffic from construction operations at all times. No work involving the implementation of traffic control shall begin until the Engineer has reviewed and has no exception to the traffic control plans. The Contractor may implement a revised Traffic Control Plan only with subsequent review with no exceptions by the Engineer.

- (b) *Traffic Control Devices* - Traffic control devices shall be provided in sufficient quantities and types as required to provide safe and adequate traffic control. During hours of darkness, approved lights and/or flares shall be included, in proper working order, to illuminate signs and hazards and alert approaching traffic. Barricades shall be furnished and maintained along all open trenches in contact with traffic. No work may begin on any day or at any time before traffic control devices have been placed, test driven and, if required, adjusted and revised. All traffic control devices shall be placed in accordance with the Manual of Uniform Traffic Control Devices and the Contractor's favorably reviewed traffic control plans. Locations of devices shall be adjusted to suit the conditions and circumstances of each detour situation. In all cases, signs shall be placed to most effectively convey their messages to approaching traffic.

The Contractor shall maintain all traffic control devices, at proper locations and in proper working order, at all times during construction operations and whenever a hazard resulting from Contractor's operations exists. The Contractor shall adjust and revise traffic control devices, placement, etc., to suit changing conditions around construction

operations. Traffic control devices shall remain in place at all times, as required to alert approaching traffic of upcoming hazards. After hazards have been removed, all traffic control devices shall be removed. Temporary signs shall be removed or their messages covered.

Daily traffic control measures shall continue until cleanup activities have been satisfactorily completed and all of the Contractor's equipment has been removed from the traveled way.

(c) *Traffic Control Detours* - The Contractor shall direct, divert and detour traffic through, around and adjacent to construction operations in accordance with the traffic control plans specified in the Contract Documents or in accordance with the Contractor's favorably reviewed traffic control plans.

1. Field Review of Detours - Immediately after traffic control devices have been placed, the detour shall be test driven by the Engineer or Inspector and the Contractor's Superintendent. The test drive shall include approaches to the detour from each possible direction, and traverse the full length of each detour route. The Contractor shall adjust and revise all traffic control devices as determined to be required by the test drive and the test drive shall be repeated, if determined necessary by the Engineer or Inspector. The Contractor shall provide additional traffic control devices as required to maintain the flow of traffic throughout construction operation.
2. Diverting Bicycle and Pedestrian Traffic – Whenever construction operations obstruct the flow of bicycle and pedestrian traffic or present a hazard to bicycles and pedestrians, the Contractor shall take appropriate action to protect and separate bicycles and pedestrians from the work area. Such action may include placement of barricades between bicycles and pedestrians and the work areas, placement of warning signs, and provisions utilizing personnel as required to protect and maintain access for bicycles and pedestrians as conditions warrant.
3. Diverting Vehicular Traffic - Whenever construction operations obstruct the flow of vehicular traffic or present a hazard to vehicles operating in the vicinity of construction operations, the Contractor shall take appropriate action to warn, detour and otherwise protect approaching drivers and vehicles.
4. Flagmen - The Contractor shall employ flagmen as required for each specific detour and at all locations where barricades and warning signs cannot control the movement of traffic. A warning sign shall be placed ahead of the flagman reading: "Flagman Ahead." The distance between the sign and the flagman should be based on the average traffic speed, allowing approximately fifty (50) feet for each ten (10) miles per hour. During hours of darkness, flagman stations shall be illuminated such that the flagman will be clearly visible to approaching traffic. Lights for illuminating the flagman station shall receive favorable review by the Engineer. The flagman shall wear a red or orange warning garment when flagging. Flagmen shall be provided with approved red flags or STOP/SLOW hand paddles, and two-way radios for communication. When flagging during hours of darkness, the flagman shall signal with a red light or flare and shall have a belt and suspender harness outside any garments fitted with reflectors or made from reflectorized cloth, unless the garment is well reflectorized in one of these ways.
5. Notice to Agencies - The Contractor shall notify the Engineer and all agencies having jurisdiction over the work, in writing, at least ninety-six (96) hours, excluding holidays and weekends, prior to instituting any lane closure or detour. At the end of each workday, the Contractor shall inform the Engineer, Police Department and Fire Departments of the status of all detours, lane restrictions, or road closures. The Contractor shall cooperate and coordinate with the various parties involved in the collection and removal of trash and garbage, the transit

providers, the U.S. Postal Service, and others, as necessary, in order to maintain existing schedules and services.

6. Emergency Vehicle Access Through Detours - During all detours and/or street closures the Contractor shall provide for the movement of emergency vehicles through the work area. It is essential that the Contractor's work and equipment does not impede emergency access.
  7. Night Detours - The Contractor shall not be permitted to maintain any lane closure or road closure during non-working hours without first obtaining written approval from the Engineer. During non-working hours the Contractor shall restore travel lanes to their original alignment and configuration by means of placing temporary asphalt pavement or bridging with steel plates. The Contractor shall place "ROUGH ROAD" signs conforming to the Manual of Uniform Traffic Control Devices at uneven temporary pavement or bridging locations. See General Provisions, Section 9.18 (b), "Trench Safety Requirements".
  8. Temporary Traffic Lanes – Temporary traffic lanes shall be at least ten (10) feet wide, or eleven (11) feet wide around curves. Provide an additional two (2) feet of clearance from curbs. The length of temporary lanes should be limited to the area under construction and the distance necessary to divert traffic.
- (d) *Parking Restrictions* - The Contractor shall post approved "No Parking" signs at all locations necessary to establish work areas and detour traffic. Signs shall read: "NO PARKING - CONSTRUCTION TOW-AWAY ZONE," show the actual day and hours of parking restriction and indicate the telephone number of the City's Police Department or agency having jurisdiction. Signs shall be placed at least forty-eight (48) hours in advance of the restriction. The Engineer shall approve the location and duration of no parking limits and verify their placement. "No Parking" signs shall be removed when no work is under construction and must be reposted forty-eight (48) hours before the resumption of construction activities.

For any violation of "No Parking" signs by motorists, the Contractor shall contact and coordinate directly with the City's Police Department for removal of vehicles in accordance with the California Vehicle Code. The Contractor shall also coordinate with the Police Department directly for enforcement and towing of parked vehicles.

9.21 Safety - The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the work. The Contractor's responsibilities shall specifically provide for the safety of persons involved in the project, other persons who are affected by the performance of the work, the work in place, materials and equipment to be incorporated in the work, the project site, and adjoining property.

The services of the City in conducting inspection or construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's work methods, equipment, bracing, shoring or scaffolding, or safety measures, in, on, or near the construction site.

Safety vests and personal protection equipment shall be worn by the Contractor, all subcontractors and other personnel when working or present on the site. Hard hats shall be worn when working around earthmoving or any heavy construction equipment or during any overhead construction work.

Payment for performing all work necessary to provide safety measures shall be included in the bid items for which safety measures are required and no additional compensation will be made.

- (a) *Safety Orders* – The Contractor shall have at the work site, copies or suitable extracts of: Construction Safety Orders, Tunnel Safety Orders, and General Industry Safety Orders



issued by the State Division of Industrial Safety. The Contractor shall comply with provisions of these and all other applicable laws, ordinances, and regulations.

- (b) *Trench Safety Requirement* - As required by California Labor Code, Section 6705 and in addition thereto, for any excavation of any trench or trenches five (5') feet or more in depth, the Contractor shall submit to the Engineer for review, 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. Structural calculations prepared, stamped and signed by a Registered Engineer licensed to practice in the State of California shall accompany the plan to verify the structural safety and adequacy of the sheeting, shoring and bracing to be used on the project. No such plan shall allow any shoring, sloping or a protection system less effective than that required by the Construction Safety Orders of the State Division of Occupational Safety and Health.

The maximum length of open trench shall be three-hundred (300) feet or the distance that pipe can be installed in a single day as determined by the Engineer. Trenches shall be backfilled and covered with two (2) inches of cutback (in paved areas) or bridged with tack-welded steel plates at the end of each workday. Cutback shall be placed around plate edges to provide a smooth transition and to secure against displacement.

As soon as possible under the provisions of these specifications, the Contractor shall backfill all excavations and restore to usefulness all improvements that existed prior to the start of construction.

- (c) *Confined Space Entry Program (CSEP)* - Entry into permit-required confined spaces as defined in Section 5157, Title 8, California Code of Regulations (CCR) may be required as a part of the work. All manholes, tanks, vaults, pipelines, excavations, or other enclosed or partially enclosed spaces shall be considered permit-required confined spaces until the pre-entry procedures demonstrate otherwise. The Contractor shall be responsible for implementing, administering, and maintaining a confined space entry program (CSEP) in accordance with Sections 5156, 5157, 5158, Title 8, CCR and shall implement such a program prior to performing any work in a permit-required confined space. A copy of the permit shall be available at all times for review by the Contractor and City personnel at the work site.

Prior to starting work, the Contractor shall prepare and submit its comprehensive CSEP to the Engineer. The CSEP shall address all potential physical and environmental hazards and contain procedures for safe entry into confined spaces, including, but not limited to the following:

1. Training of personnel
2. Purging and cleaning the space of materials and residue
3. Potential isolation and control of energy and material inflow
4. Controlled access to the space
5. Atmospheric testing of the space
6. Ventilation of the space
7. Special hazards consideration
8. Personal protective equipment
9. Rescue plan provisions

The Contractor's CSEP submittal shall also include the names of the Contractor's and Subcontractor's personnel assigned to the project who will have CSEP responsibilities, their CSEP training, their specific assignment and their responsibilities in carrying out the CSEP.

Payment for implementing, administering, and providing all equipment and personnel associated with the CSEP shall be included in the bid items for which the CSEP is required and no additional compensation will be made.

- (d) *Hazardous Conditions: Contractor's Responsibility for Precautions* - Contractor agrees that if, during the progress of the work, a hazardous condition is identified which involves a risk of bodily harm to any person or a risk of damage to any property, the Contractor will take such special precautions as shall be necessary to make the progress of the work safe under such condition. Conditions may result from, but are not limited to, the use of specified materials or equipment, the location of the work, the condition of the site, the kind or method of construction, or the manner in which any of the work is required to be done. The Contractor agrees to assume the sole responsibility for determining whether any such hazardous condition exists or will be created during the course of the work.
- (e) *Use of Explosives* – Explosives may be used only when authorized in writing by the Engineer, or as otherwise stated in the Specifications. Explosives shall be handled, used, and stored in accordance with all applicable regulations. No explosive material shall be transported to, stored or utilized on the site without written permission of Engineer. All blasting work and handling of explosives on the site shall be done only by qualified persons who possess a valid permit. The Engineer's approval of the use of explosives shall not relieve the Contractor from liability for claims caused by blasting operations.
- (f) *Special Hazardous Substances and Process* – Materials that contain hazardous substances or mixtures may be required on the work. A Material Safety Data Sheet as described in California Code of Regulations, Section 5194 shall be requested by the Contractor from the manufacturer of any hazardous products used and submitted to the Engineer.

Hazardous material usage shall be accomplished with strict adherence to California Division of Industrial Safety requirements and all manufacturer warnings and application instructions listed on the Material Safety Data Sheet and on the product container label. The Contractor shall notify the Engineer if a specified product cannot be used under safe conditions.

9.22 Patent Fees or Royalties - All fees, royalties or claims for any patented invention, article or method that may be used upon or in any manner connected with the work under this contract shall be included in the price bid for the work and the contractor and the Contractor's sureties shall protect and hold the City, together with all the City's officers, agents, servants and employees, harmless against any and all demands made for such fees or claims brought or made by the holder of any invention or patent and, before the final payment is made on account of this contract, contractor shall, if requested by the Engineer, furnish acceptable proof of a proper release from all such fees or claims.

Should the contractor, his agents, servants or employees, or any of them, be enjoined from furnishing or using any invention, article, material or appliance supplied or required to be supplied or used under this contract, the contractor shall promptly substitute other articles, materials or appliances, in lieu thereof, of equal efficiency, quality, finish, suitability and market value and satisfactory in all respects to the Engineer. Or, in the event that the Engineers elects in lieu of such substitution to have supplies and to retain and use any such invention, article, material or appliance as may be required by the contract to be supplied – in that event, the contractor shall pay such royalties and secure such valid licenses as may be requisite and necessary for the City, the City's officers, agents, servants and employees, or any of them to use such invention, article, material or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. Should the contractor neglect or refuse to make the substitution promptly, or to pay such royalties and secure such licenses as may be necessary, then, in that event, the Engineer shall have the right to make such substitution or the City may pay such royalties and secure such licenses and charge the cost thereof against any monies due the contractor from the City or recover the amount thereof from the Contractor and any sureties notwithstanding final payment under this contract may have been made.

9.23 Advertising - The names of the Contractor or Subcontractors, with their addresses and the designation of their particular specialties, may be displayed at the job site on removable signs only if written approval is received from the Engineer. Commercial advertising material shall not be attached to, or painted on the surfaces of, any buildings, fences, canopies, or barricades.

9.24 Antitrust Claims – Attention is directed to Public Contract Code, Section 7103.5 which provides: “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. Sec 15) or 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 subcontract. The assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.”

9.25 Audit and Examination of Records – The City and entities and agencies designated by the City, shall have access to, and the right to audit and examine at no additional cost, all of the Contractor’s project related data including but not limited to, books, estimates, records, contracts, bid cost data, Subcontractor and supplier job cost data, change orders, correspondence, instructions, drawings, receipts, vouchers, purchase orders, notes, computations, daily logs, and memoranda relating to the work. Pursuant to Government Code, Section 8546.7, the Contractor shall preserve all such records and will be subject to examination and audit by the State Auditor, at the request of the City, for a period of three (3) years after final payment under the Agreement.

9.26 Notice of Entrance - Before entering any private property the contractor shall give the owner, tenant and inspector a minimum of forty-eight (48) hours written notice.

9.27 Additional and Emergency Protection - Wherever, in the opinion of the Engineer, the contractor has not taken sufficient precautions for the safety of the public or the protection of the works to be constructed under this contract, or of adjacent structures or property which may be injured by processes of construction on account of such neglect, and whenever, in the opinion of the Engineer, an emergency shall arise and immediate actions shall be considered necessary in order to protect personal and property interest, whether public or private, then and in that event, the Engineer, with or without notice to the contractor, may provide suitable protection to the said interests by causing such work to be done and such material to be furnished as shall provide such protection as the Engineer may consider necessary and adequate.

The cost and expense of such work and material so furnished shall be borne by the contractor and if the same shall not be paid on presentation of the bills therefore, then such costs shall be deducted from any amounts due or to become due the contractor. The performance of such emergency work under the direction of the Engineer shall in no way relieve the contractor from any damages which may occur during or after precaution has been taken by the Engineer.

9.28 Placing Portions of Work in Service - Portions of the work may be placed in service as completed if desired by the City. Contractor shall give proper access to the work for this purpose. Such use and operation shall not constitute an acceptance of the work and the work, and the contractor shall be liable for defects due to faulty construction until the entire work under the contract is finally accepted.

9.29 Rights-of-Way - The City will provide all rights-of-way and easements in or beneath which pipes and other structures will be constructed by the Contractor under this contract. If through the failure of the City to acquire or clear title to rights-of-way, the Contractor sustains loss which could not have been avoided by the judicious handling of forces and plant, there shall be paid to the contractor such amount as the Engineer may find to be a fair and reasonable compensation for such part of the Contractor's actual loss as the Engineer deems unavoidable. Actual loss shall be understood to include no items other than necessary payments, idle time of men, idle time of equipment, cost of extra moving of equipment, and cost of longer hauls, with no allowance in any case for overhead or profit. If performance

of the Contractor's work is delayed as a result of the failure of the City to acquire or clear title to rights-of-way, a commensurate extension of time will be granted.

## SECTION 10 - MEASUREMENT AND PAYMENT

10.01 Measurement of Quantities for Unit Price Work - Materials and items of work which are to be paid for on the basis of measurement shall be measured in accordance with the methods stipulated in the particular sections of the Contract Documents involved. Unless specifically stated otherwise in this contract, no extra measurement(s) according to local custom of any kind shall be allowed in measuring the work under this contract; only the length, area, solid contents, number, weight, or time in standard units, as the case may be, shall be considered as specified.

Unless otherwise specified, quantities of work shall be determined from measurements or dimensions in the horizontal planes. Stationing shall be along the street centerline, lengths of sanitary sewers, storm drains and water lines shall be measured as the horizontal distances from center to center of structures, rounded to the nearest foot, and lengths of all return radii and curb data shall be measured along the face of curb. Volumetric quantities shall be the product of the mean area of vertical or horizontal sections and the intervening horizontal or vertical dimensions. Measurements shall be in accordance with U.S. Standard Measures. A pound is an avoirdupois pound. A ton is two-thousand (2,000) pounds avoirdupois. The unit of liquid measure is the U.S. gallon.

When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales or, when approved by the Engineer, on a completely automated weighing and recording system. The Contractor shall submit to the Engineer with duplicate licensed Weighmaster's certificates showing the actual net weights. The City will accept the certificates as evidence of the weights delivered.

10.02 Bid Items - Should any bid item be eliminated in its entirety, payment will be made to the Contractor for actual costs incurred, in connection with such eliminated contract work, and for costs incurred prior to the date of the Engineer's written notification eliminating such work. The actual costs to be paid to the Contractor shall be computed in the same manner as if the work were to be paid on a force account basis. No compensation will be made to the Contractor, in any case, for loss of anticipated profits. Increased or decreased scope involving a change order will be paid as stipulated in the change order.

The estimated value of work performed, for lump sum bids or lump sum bid items will be determined from the schedule of values, to be prepared by the Contractor and presented at the preconstruction meeting. Elements of work on the schedule of values shall be separated into groupings appropriate for the project. The Technical Specifications may be used as a guide for establishing these groupings. Move-in costs, bond and insurance costs, and submittal preparation costs can be included in the schedule of values under a separate mobilization line item. This line item shall not exceed five-percent (5%) of the contract's value. Overhead and profit shall not be allowed as a line item, but shall be prorated over other items of work.

10.03 Bid Quantities - The quantities listed in the Bid Schedule for each bid item do not govern final payment. Payments to the Contractor will be made only for the actual quantities of contract items constructed in accordance with the plans and specifications. If upon completion of the construction, the actual quantities show either an increase or decrease from the quantities given in the bid schedule, the contract unit prices will still prevail.

Payment will not be made for materials wasted or disposed of in a manner not called for under the contract. This includes rejected material not unloaded from vehicles, material rejected after it has been placed and material placed outside of the plan lines. Unless otherwise provided, no payment will be made for materials delivered to the site but not incorporated in the work. Such quantities will not be included in the final pay quantities. No compensation will be allowed for the disposal of rejected or excess material.

When the estimated quantity for a specific portion of work is designated on the Bid Schedule as a "Final Pay Quantity", the estimated quantity specified shall be the final quantity for which payment for such specified portion of the work will be made, regardless of the actual quantity constructed, unless the dimensions of said portions of the work shown on the plans are revised by the Engineer. If such dimensions are revised and such revisions result in an increase or decrease in the quantity of such work, the final quantity for payment will be revised by the amount represented by the change. The estimated quantity for any portion of the work designated as a Final Pay Quantity shall be considered as approximate only and no guarantee is made that the quantity, which can be determined by computations, based upon the details and dimensions shown on the plans, will equal the estimated quantity. No allowance will be made in the event that the quantities based upon computations do not equal the estimated quantities. Final pay quantities will be designated on the Bid Schedule with the letter (F) and shall only apply to the corresponding portions of work specifically designated on the plans. Any portion of work not designated as a final pay quantity will be measured and paid for as specified under other provisions of the Contract Documents.

**10.04 Progress Payments** – On or about the 25<sup>th</sup> day of each month may be designated as the date which would terminate each working month for the purpose of making progress payments.

The Contractor's request for a progress payment shall be submitted under cover of the Request for Progress Payment form approved by the Engineer. The Request for Progress Payment form shall be complete and properly executed by the contractor, and have, as attachments, the items listed on the form.

The Contractor shall, on the date established, prepare and submit a progress estimate to the City for work accomplished during the previous working month, based on the various contract bid items and the unit bid prices. Invoices shall include amounts previously paid, itemized retention and any deductions or additions authorized by change order. Consultation with the Engineer may be necessary to determine the amount of work accomplished.

The first progress payment will not be made until the following submittals have been provided and accepted: list and schedule of submittals, Baseline Construction Schedule, schedule of values (if applicable), SWPPP. Subsequent progress payment requests will not be accepted unless accompanied by the progress payment cover letter, an updated baseline or revised schedule, a certification that the record drawings have been updated as of the date of the invoice.

Upon receipt of a progress payment request, the City shall, within ten (10) working days, determine if the request is proper, and if disputed the City will return the progress payment to the Contractor along with a written document setting forth the progress payment request's shortcomings. Following receipt of an undisputed and properly submitted progress payment request, the City shall authorize payment within thirty (30) calendar days.

Contractor may request partial payment for materials delivered to the site but not yet incorporated into the work (materials on hand). To receive consideration for payment of materials on hand, the Contractor shall provide the Engineer with a list of such materials at least five (5) working days prior to submitting the monthly estimate of amount earned for work completed. At the Engineer's sole discretion, up to seventy-five-percent (75%) of the estimated value of materials on hand may be considered for payment, subject to the following:

- (a) Only materials which have received favorable review of shop drawings will qualify.
- (b) Eligible materials must be delivered and properly stored, protected, and maintained in a manner favorably reviewed by the Engineer, at the job site or at a bonded warehouse.
- (c) The Contractor's actual net cost for the materials must be supported by paid invoices to suppliers or other documentation requested by the Engineer.

- (d) Materials delivered to the site less than thirty (30) days prior to their scheduled incorporation in the work shall not qualify.
- (e) Partial payments for materials on hand shall not be deemed to be final payment for the material nor relieve the Contractor of any obligations under the Contract.
- (f) Partial payments for materials on hand shall be subject to retention.

From each progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder of the amount due, less the amount of all previous payment will be paid to the Contractor provided all work invoiced has been completed and approved by the Engineer.

The Engineer may withhold or nullify, the whole or any part of any payment to such extent as may be necessary to protect the City from loss on account of any of the following:

- (a) Defective or vandalized work not remedied,
- (b) Damage to the City or another Contractor,
- (c) Claims filed, or reasonable evidence indicating probable filing of claims,
- (d) Stop notices, or failure of the Contractor to make payments properly to subcontractors or laborers or suppliers, in which case 125% of the stop notice amount shall be withheld until a release form is received,
- (e) A reasonable doubt that the contract can be completed for the balance unpaid,
- (f) Reasonable evidence that the work will not be completed within the contract time and that the unpaid balance of the contract sum would not be adequate to cover the City's liquidated damages assessed in accordance with the Agreement for the anticipated delay,
- (g) Failure of Contractor to maintain, update and submit record documents, schedules or other submittals as required by the Contract Documents,
- (h) Performance of work by Contractor without properly processed shop drawings;
- (i) Any other failure of Contractor to perform its obligations under the Contract Documents.

The Contractor may elect to receive one hundred percent (100%) of payments due under the contract from time to time, without retention of any portion of the payment by the City, by depositing and maintaining securities of a value equivalent to the retention amount with the City in accordance with the provisions of Public Contract Code, Section 22300. Such securities, if deposited by the Contractor, shall be valued by the City's Administrative Services Director, whose decision on valuation of the securities shall be final.

Contractor warrants that, upon submittal of an application for payment, all work for which payment has been previously issued by the City and received by the Contractor, shall be free and clear of all claims, stop notices, security interests, and encumbrances in favor of Contractor, Subcontractors, or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment relating to work.

The payment of progress payments by the City shall not be construed as an absolute acceptance of the work done up to the time of such payments and shall not constitute acceptance of defective work.



10.05 Retentions - The City shall retain five percent (5%) of the amount of each progress estimate, and the accumulation of said amounts so retained from the progressive payments to the extent unencumbered will be paid to the contractor in no less than thirty-five (35) days after the completion and acceptance by the Engineer and the City of the work done.

Upon contractor's request, City will make payment of funds withheld from progress payments pursuant to the requirements of Code Section 14402 if contractor deposits in escrow with the City, or with a bank acceptable to the City, securities eligible for the investment of State funds under Government Code Section 16430 or bank or savings and loan certificates of deposit, upon the following conditions:

- (a) Contractor shall bear the expense of the City and the escrow agent in connection with the escrow deposit made.
- (b) Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to the contractor pursuant to this section.
- (c) Contractor shall enter into an escrow agreement satisfactory to the City, which agreement shall include provisions governing inter alia:
  - 1. Amount of securities to be deposited.
    - 1. Providing of powers of attorney or other documents necessary for the transfer of the securities to be deposited.
    - 2. Conversion to cash to provide funds to meet defaults to termination of the contractor's control over the work, stop notices filed pursuant to the law, assessment of liquidated damages or other amounts to be kept or retained under the provisions of the contract.
    - 3. Decrease in value of securities or deposit.
    - 4. Termination of the escrow upon completion of the contract.
- (d) Contractor shall obtain the written consent of the surety to such agreement.

10.06 Final Payment - The City shall, prior to final acceptance, provide the Contractor with a copy of the final quantities for the various contract bid items and a summary of contract change orders for review. All prior payments shall be subject to correction in determining the total contract sum. The Contractor shall reply promptly in writing, to indicate either concurrence or an explanation of possible discrepancies in the total contract sum.

The project will not be submitted to the City Council for acceptance until the Engineer and the Contractor concur with the totals of all quantities, costs, contract change orders and the total contract sum. Following concurrence, a semi-final payment will be made to the Contractor after deducting all previous payments and all amounts to be retained under the provisions of the contract. The retention payment shall be due and payable as a final payment after the expiration of thirty-five (35) days following the date of final acceptance of the work by the City Council.

If within the time fixed by law, a properly executed notice to stop payment is filed with the City, due to Contractor's failure to pay for labor or materials used in the work, all money due for such labor or materials will be withheld from payment to the Contractor in accordance with applicable laws.

If releases are required, the Contractor shall pay or cause to be paid to Subcontractors the amount stated in the conditional releases within five (5) days after receipt of the semi-final payment, and shall promptly thereafter furnish evidence of such payment to the City.

The securities deposited by the Contractor will be released, providing that the following requirements of the contract have been fulfilled:



- (a) Satisfactory completion of all construction work and written acceptance of said work by the City;
- (b) The submission by the Contractor to the Engineer of all required stop notice releases, submittals, written guarantees, warranties, operating manuals, and other project related documentation;
- (c) The return to the Engineer of all drawings and written specifications loaned to the Contractor during the construction period.
- (d) The submission by the Contractor to the Engineer of record documents and a set of red-lined drawings showing the revisions to the original set of drawings which reflect the actual construction of the project for preparation of "Record Drawings".

The Contractor agrees that the payment of the final amount due under the contract shall release the City of San Carlos from any and all claims or liability on account of all work performed under the contract, except those items previously made in writing and identified by the Contractor as unsettled. Release of the final payment by the City shall not be construed as an acceptance of any defective work or acceptance of improper materials.

10.07 Acceptance - Contractor shall notify Engineer in writing of the completion of the work, whereupon the Engineer shall promptly satisfy them self by personal inspection as to the actual completion of the work in accordance with the terms of the contract. After receiving a written recommendation from the Engineer for acceptance of the work, City shall accept or reject the work; stating, if the work is rejected, the requisite conditions for acceptance. When the City accepts the work, they shall file a Notice of Completion with the County Recorder in the county where the work is located and shall promptly notify the contractor in writing of the recordation. Contractor warrants and guarantees that title to all work, materials and equipment accepted by the City will pass to the City free and clear of all liens, claims, security interests or encumbrances, and that no work, materials or equipment accepted will have been acquired by the contractor, or by any other person performing the work at the site or furnishing materials or equipment for the project, subject to an agreement under which an interest therein or encumbrances thereon is retained by the seller or otherwise imposed by contractor of such other person.

10.08 Compensation for Extra or Omitted Work – Compensation for extra or omitted work shall be in accordance with Section 5.08, Change Orders.

10.09 Compensation to City for Extension of Time - In case the work called for under this contract is not completed within the time limit stipulated herein, the City shall have the right, as provided hereinabove, to extend the time of completion thereof. If the time limit so be extended, the City shall have the right to charge to the contractor and to deduct from the final payment for the work the actual cost to the City of engineering, inspection, administration, legal and other overhead expenses which are directly chargeable to the extension of time. The cost of final surveys and preparation of the final estimate shall not be included in such charges.

10.10 Claims - The term "Claim" shall mean a written demand or assertion by the Contractor seeking, as a matter of asserted right, adjustment in the terms of the Contract Documents, payment of money, extension of time, or other relief with respect to the Contract Documents, or determination of other disputes or matters in question between the City and Contractor arising out of or related to the Contract Documents or the performance of the work, including claims alleging an error or omission.

A claim must be stated with specificity, including identification of the event giving rise to claim, the date of the event, and the asserted effect on contract sum and contract time. The claim shall include adequate supporting data. Adequate supporting data for a claim for an adjustment of the contract time shall include scheduling data demonstrating the impact of the event on the completion of the work. Adequate supporting data for a claim for an adjustment of the contract sum shall include a detailed cost breakdown of the items allowed, isolating labor, material, and equipment costs, and providing detailed quantities and unit prices for changed work. If the exact amount of a claim is not ascertainable at the time

such claim is made, the supporting data currently available shall be submitted. Supplemental data supporting the exact amount of the claim shall be submitted as soon as available.

Notwithstanding the making of any claim or the existence of any dispute regarding any claim, unless otherwise directed by the Engineer, the Contractor shall not cause any delay, cessation, or termination in the performance of the work, including portions of the work pertaining to a claim.

10.11 Time Limit on Claims - Contractor shall submit any and all claims, together with adequate supporting data to the Engineer as soon as possible but not later than ten (10) working days after occurrence of the event giving rise to the claim, or the date the Contractor first recognized, or reasonably should have recognized, the condition giving rise to the claim, whichever is earlier. Contractor hereby expressly waives all claims not made within this time limit.

Contractor is expressly barred from asserting any claims of which the Contractor was aware, whether or not the exact amount of such claims was ascertainable, that is not submitted to the Engineer prior to the Contractor proceeding with the work.

10.12 City Response to Claims - The Engineer shall promptly review claims. If additional supporting data is deemed necessary, the Engineer shall request such additional data within ten (10) working days after receipt of the claim. The Contractor shall furnish such additional data no later than ten (10) working days after receipt of the City's request. The Engineer shall render a decision promptly, but in any event, within thirty (30) working days after the receipt of the claim or the receipt of additional supporting data. If the amount of the claim is in excess of \$50,000, the aforesaid thirty (30) working day period shall be sixty (60) working days. Failure of the Engineer to render a decision within the aforesaid thirty (30) or sixty (60) working day period shall be deemed a decision denying the claim and the last day of such period shall be the date of such decision. The decision of the Engineer shall be final and binding unless appealed in accordance with the General Provisions, Section 10.15, "Appeal of the Engineer's Decision".

10.13 Appeal of Engineer's Decision - If Contractor disputes the Engineer's decision of a claim, the Contractor shall, within thirty (30) calendar days of the decision, make a written appeal of the decision to the Engineer. The written appeal shall include all supporting data upon which the Contractor requests the City to modify its decision, including all documentation transmitted between the Contractor and the Engineer on the underlying claim. The Engineer shall make a good faith effort to resolve the claim prior to final completion of the Project. In the event the claim is not resolved prior to final completion, the Contractor's claim shall be heard by the Director of Public Works prior to recommending final acceptance to the City Council. The Contractor's administrative remedies under the Contract Documents shall be exhausted after the decision of the Director of Public Works is rendered. In case of disagreement with the decision of the Director of Public Works, the Contractor may pursue the resolution of the dispute by presenting a formal claim to the City.

## SECTION 11 - GUARANTY

11.01 Contractor's Guaranty - Prior to final acceptance, the Contractor shall warrant and guaranty to the City that all work is in accordance with the Contract Documents and is not defective.

The guaranty shall be accompanied by a warranty bond for ten percent (10%) of the final contract sum, which shall warrant the quality of the work for a period of two (2) years after acceptance. The guaranty and warranty bond shall be in accordance with the Agreement Forms furnished in the Contract Documents.

11.02 Correction of Defective Work During the Guaranty Period - If within two (2) years after the date of City Council acceptance, or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guaranty required by the Contract Documents, any work is found to be defective, the Contractor shall promptly without cost to the City and in accordance with the City's written instructions, either correct such defective work or if it has been rejected by the City, remove it from the site and replace it with non-defective work.

If the Contractor does not promptly comply with the terms of such instructions within ten (10) working days after written demand by the City, the City may have the defective work corrected. The City may also correct defective work immediately in cases of emergency where delay would cause serious risk of loss or damage. All direct, indirect and consequential costs of correcting defective work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) shall be absorbed by the Contractor.

The Contractor shall remove from the Project site portions of the work and materials which are not in accordance with the Contract Documents and which are neither corrected by the Contractor nor accepted by the City. If Contractor fails to pay the costs of such removal within ten (10) working days after written demand, the City may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. The Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which the Contractor is liable to the City, including reasonable attorneys' fees and expenses and compensation for the City's services and expenses.

The City shall have the option, at its sole discretion and by notice to the Contractor, to accept defective work as defined in Section 4.18 – "Acceptance of Defective Work. "

## **SPECIAL PROVISIONS**

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## **SPECIAL PROVISIONS**

These Special Provisions contain project specific requirements pertaining to the work, and as such, shall take precedence over the General Conditions portions of these Specifications. All costs associated with satisfying the requirements in these Special Provisions shall be included in the Contractor's bid price and no additional compensation shall be made.

All work shall be done in accordance with the City Standard Specifications, City Standard Details, Caltrans Standard Specifications (where referenced), and the Contract Documents. The 2022 version of the Caltrans Standard Specifications (State Specifications) shall be used.

### **1. DESCRIPTION OF WORK**

The work to be done under this contract includes but is not limited to:

- Installation of new thermoplastic pavement markings
- Replacement of existing crosswalk markings
- Installation of red curb paint
- Installation of custom traffic signs
- Installation of flex-post delineators
- Coordination with residents
- Temporary traffic control

The Contractor shall furnish all materials, labor, tools, equipment, supervision, transportation, handling, storage, traffic control, permits, licenses, and all other incidentals necessary to complete the work successfully.

The work may also include: clearing, grubbing, removal of obstructions, protection of existing utilities and appurtenances and such other items required by the Project Plans and Specifications.

### **2. LOCATION**

Work to be done under this contract is within the neighborhood contained by Old County Road, Industrial Road, Holly Street, and Terminal Way as identified on the project plans.

### **3. QUALIFICATION OF BIDDERS**

The Contractor must have successfully completed similar construction effort(s) within the past three (3) years.

### **4. DAYS & HOURS OF OPERATION**

The hours of operation shall be limited to the hours between 9:00 a.m. and 4:30 p.m.

Activities outside of those hours shall not generate objectionable noise, dust, or inconvenience to the public. Regular working days are from Monday through Friday except City legal holidays unless exception is granted by the City Engineer.

## 5. CONTROL OF WORK

The Contractor shall as the first order of work coordinate with all residents and businesses seventy-two (72) hours in advance of any work.

The following sequencing constraints are required on the project, shall be incorporated into the Contractor's master schedule and shall be reflected in the order of work.

1. Work at multiple project location sites is acceptable so long as access to residential streets and driveways are maintained at all times.

The Contractor shall use only chalk-based marking paint for all construction information painted on the street, sidewalks, or any other visible surface.

## 6. LICENSES AND PERMITS

The Contractor and all subcontractors shall obtain a business license from the City of San Carlos and shall hold current licenses for the craft that the business is contracting for as required by Federal, State and Local laws.

The Contractor shall apply for any required permits, including encroachment and tree removal permits from the applicable agencies (with copies of the form and application submitted to the Engineer) **within thirty (30) calendar days** after the issuance of the Award of Contract Notification Letter and prior to beginning work in the affected areas. The Contractor shall submit copies of the permits, once issued, to the Engineer. No additional time schedule will be granted to the Contractor for any delays resulting from the processing of these permits.

A City of San Carlos "Encroachment Permit" is required. As a Contractor working for the City, no fee will be assessed to obtain an Encroachment Permit for this project.

If the construction work will require any street trees to be trimmed, Contractor shall obtain a "Street Tree Permit" from the City of San Carlos Department of Planning. Applications for Street Tree Permits are available by calling the **Department of Planning at (650) 802-4263**. It is the Contractor's responsibility to obtain fee information updates by calling the City Department of Planning.

A City of San Carlos "Hazardous Materials Storage System Permit" may be required for various construction activities. The Contractor is responsible for verifying to the requirements and fee schedule for storage of diesel fuel and/or hazardous materials by contacting the **San Carlos Fire Department at (650) 802-4300**. It is the Contractor's responsibility to follow any additional requirements as required by the 2016 California Fire Code.

## 7. SAFETY AND HEALTH REGULATIONS

The Contractor shall comply with all applicable occupational safety and health standards, rules, regulations and orders established by Federal and State Agencies.

Specific attention is directed also to OSHA safety rules, regulations and precautions to be taken by the Contractor before entering sanitary sewer manholes, and other sanitation



structures with respect to physical and chemical hazards that may be present.

The area of work shall at all times be protected by means of an adequate number of cones, barricades, flags or whatever means is necessary to properly and safely protect both vehicular and pedestrian traffic.

Any condition deemed to be an unsafe condition shall be immediately corrected by the Contractor. The failure of the City or its representatives to bring a potentially dangerous situation to the Contractor's attention shall not relieve the Contractor from the responsibility for providing a safe work area.

The sanitary sewers in this contract convey sanitary sewage and certain substances that may be hazardous. These substances may include: hydrogen sulfide; a natural gaseous byproduct of sanitary sewage; sodium hydroxide (caustic soda); and ferrous and ferric chloride (iron chlorides), which may be used to control odors in sewers. The Contractor shall exercise extreme caution and comply with all OSHA and CAL/OSHA requirements when working in the sewers or in the vicinity of hazardous substances.

All manhole entry shall be in compliance with the confined space entry requirements of CAL/OSHA, Santa Mateo County, and City of San Carlos. Contractor shall coordinate emergency retrieval procedures with local emergency service providers.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and safety programs in connection with the work and ensures compliance to all applicable safety and health regulations of federal, state, and local agencies.

## **8. SAFETY OF PERSONS AND PROPERTY**

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damages, injury or loss to:

1. All employees, City personnel, residents on the project, and all others who may be affected thereby;
2. All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of the Contractor's subcontractors; and
3. The work of the City or other contractors.

The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by existing conditions and the progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

The Contractor shall designate a Site Safety and Health Officer who is a responsible member of the Contractor's organization and whose duty shall be the prevention of accidents. The Contractor shall submit the name of the Site Safety and Health Officer to the Engineer in writing. The Site Safety and Health Officer shall be responsible for preparation of a Health and Safety Plan.

The Health and Safety Plan shall detail the Contractor's safety committee(s), safety rules, safety training, enforcement procedures, incentives, accident procedures and investigations, inspections, safety equipment and maintenance, hazardous materials (i.e. asbestos pipe) handling procedures, emergency action plan(s), alcohol and drug policies, confined space entry procedures, certification program and emergency retrieval procedures, 911 and emergency rescue services within jurisdiction of the work area, health providers and hospital emergency near the worksite.

## **9. STAGING / CONSTRUCTION AREA**

The City has not designated a staging area for this project. Should a staging area be desired, the Contractor shall be responsible for securing such an area along with any and all permits and permissions that may be necessary from the City and/or private property owners. Proof of concurrence shall be provided to the City upon request. Any fencing or other protective means (if required or employed by the Contractor) shall be at the contractor's expense.

## **10. CONTRACTOR'S PLANT AND EQUIPMENT**

The Contractor shall at all times be responsible for the security of all plant and equipment it owns or controls. The City will not take any responsibility for missing or damaged equipment, tools or personal belongings.

## **11. TRAFFIC CONTROL**

Construction shall be organized so as to cause the least possible inconvenience to traffic.

Traffic control shall comply with the 2022 Caltrans Standard Plans T9 through T14 (available at <https://dot.ca.gov/-/media/dot-media/programs/design/documents/locked-2022-std-plans-a11y.pdf>)

Traffic control devices shall be furnished, placed, and maintained in accordance with the latest version of Part 6, Temporary Traffic Control, of the California Manual on Uniform Traffic Control devices (CAMUTCD) (available at <https://dot.ca.gov/-/media/dot-media/programs/safety-programs/documents/ca-mutcd/rev6/camutcd2014-rev6.pdf>).

Traffic Control shall be provided for all project work areas and shall be provided for the duration of the project.

The Contractor shall provide all required signs, barricades, lights, high-level flag trees, arrow boards, and other devices. The Contractor shall restrict construction activities to the following hours:

<b>Schedule of Working Hours within Public Right of Way</b>		
<b>Construction Location</b>	<b>Working Days</b>	<b>Working Hours</b>
Residential/Local and Collector	Monday through Friday	8:00 a.m. to 5:00 p.m.
Downtown San Carlos	Monday through Friday	8:00 a.m. to 11:30 a.m. and 1:30 p.m. to 4:00 p.m.
Arterial	Monday through Friday	9:00 a.m. to 3:00 p.m.
No work shall be performed on Saturdays, Sundays, or designated legal holidays unless otherwise designated below.		

No work shall be performed on Saturdays, Sundays, or designated legal holidays. Exceptions may be made, at the Engineer's discretion, to allow work at other times and on other days if required for the Contractor's operations. In such cases, the Contractor shall have an alternate work schedule reviewed and authorized by the Engineer prior to commencement of work.

**General Requirements:**

1. The Contractor's attention is directed to Section 9.20 of the General Provisions for additional requirements.
2. The Contractor shall submit a traffic control plan to the Engineer for review, including any requests for alternate work schedules or work hours.
  - a. Separate typical traffic control plans shall be provided for typical conditions in residential areas, the state highway (El Camino Real), and major thoroughfares (Industrial Rd, Brittan Ave, Alameda de las Pulgas, and San Carlos Ave).
  - b. No work may begin under contract until the Traffic Control Plan has been approved by the Engineer. Time required for review and approval of the Traffic Control Plan shall not constitute a basis for time extension.
3. The Contractor shall maintain temporary AC surface to provide safe and comfortable passage for pedestrian and vehicular traffic.

At the end of each day, all trench or access pit excavations shall be either backfilled in accordance with Section 1301-4, "Bedding and Backfill," of these Technical Specifications, or covered with traffic rated non-skid steel plates. The steel plates shall be countersunk flush with the adjacent grade to provide a smooth surface if the plates are located within the traveled way of the road. Cutbacks shall be applied

in gaps and/or at edges. Adjoining plates shall be tack-welded where the plates meet. Plates located outside of the traveled way shall be held in place by placing temporary asphalt around all edges.

4. The Contractor shall provide electric arrow board(s) for any lane closures and reductions, except for on residential streets.

Special Requirements:

1. The Contractor shall be responsible for providing and maintaining all temporary traffic control and safety devices, including all personnel necessary for effectively directing vehicular, pedestrian and bicycle traffic through the construction zone. The Contractor assumes sole and complete responsibility for the job and site conditions, including safety of all persons and property, from start until final acceptance of the project. This requirement shall apply continuously twenty-four (24) hours per day and shall not be limited to normal working hours.
2. Streets shall not be closed unless authorized by the Engineer in writing at least 48 hours prior to the requested date. If street closure is approved, Contractor shall notify the following 48 hours prior to the street closure:
  - a. City's project manager and inspector
  - b. City of San Carlos Police Department, (650) 802-4277
  - c. City of San Carlos Fire Department, (650) 802-4300
  - d. City of San Carlos Garbage, Recycling, and Tree Trimming Haulers
  - e. Recology San Mateo County (650) 595-3900
  - f. Affected School Districts
  - g. Impacted residents and businesses,
2. If emergency or urgent street closures are required, the Contractor shall notify:
  - a. City's project manager and inspector
  - b. City of San Carlos Police Department, (650) 802-4277
  - c. City of San Carlos Fire Department, (650) 802-4300
3. The Contractor shall submit a schedule of traffic detours for street closure to the Engineer for review and approval. Noncompliance will result in suspension of work as outlined under Section 8.13, "Suspension of Work," of the General Provisions.
4. Scheduling of night time or weekend work shall be subject to the authorization of the Engineer. Contractor shall specify dates on the construction schedule when night time or weekend work is proposed. A minimum of two (2) working days' notice is required for any request to work at night or on weekends. No additional compensation for night or weekend work will be allowed therefor.
5. If construction will obstruct a bus stop, the Contractor shall notify the SamTrans Operations Control Center two (2) working days in advance at (650) 508-6200.
6. No road closures are authorized for diversion pumping of sewage flows. All diversion piping shall be placed to cause the least inconvenience to traffic and pedestrians, and be protected from breakage or leakage. Storm drains along the diversion pumping route shall be properly protected from sewage leaks.

7. All diversion or process water piping placed parallel to the street shall be placed along the curb or centerline. If located along the curb, ramps shall be made at all driveways and storm drains. Piping at driveways will utilize diversion piping contained within traffic ramps or "speed bumps", to protect the pipe and maintain an open driveway. All storm drains along a diversion pipe route shall be protected from leaks of sewage. No diversion or process water piping shall cross lanes of traffic perpendicular or at intersections.
8. Access for local residents and businesses and all private property shall be maintained at all times. Signs shall be placed in front of commercial and industrial driveways to allow continual access. At the end of each working day these streets shall be reopened to through traffic with proper barricades, warning devices and temporary striping. If these streets are closed, the Contractor shall proceed expeditiously and with consideration for public convenience from the start of work to its completion.
9. Provide at least one (1) ten-foot (10') minimum width through traffic lane in each direction.

## **12. STORM WATER POLLUTION PREVENTION**

Consistent with the requirements of the federal Clean Water Act, the Project is subject to water pollution prevention requirements, which include the implementation of a water pollution prevention plan and/or implementation of local storm water requirements, and prohibit the discharge of pollutants from the Project site. The Contractor shall use appropriate Best Management Practices (BMPs) and source control techniques on the site at all times in order to prevent non-stormwater discharges from construction.

All work shall conform to the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, NPDES No. CAS000002) ("General Permit"), and the NPDES Municipal Regional Stormwater Permit (MRP) (Order No. R2-2015-0049, NPDES No. CAS612008). The Contractor shall implement all applicable San Mateo Countywide Water Pollution Prevention Program (SMCWPPP) measures and BMPs. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations and/or a stop work order.

Prior to the start of any field work, the Contractor shall prepare a letter or plan which summarizes which BMPs and source control measures will be implemented on site to prevent non-stormwater discharges, and includes copies of any applicable California Department of Transportation Construction Site BMP Fact Sheets, or an approved equivalent.

The Contractor is responsible for furnishing, installing, constructing, inspecting, maintaining, removing, and disposing of the BMPs as necessary throughout the entirety of the project. The Contractor shall inspect BMPs regularly, and correct improperly installed, damaged, or ineffective BMPs immediately.

### **13. WATER**

Water for use during construction shall be furnished by the Contractor and all costs incurred including the water use, meter charges, meter/backflow preventer deposit, vehicles and containers needed in transporting water to the job site shall be paid by the Contractor. The Contractor's attention is directed to Section 9.11 of the General Provisions for additional information.

### **14. POWER**

All power for and in connection with work to be done under this contract shall be furnished and maintained by Contractor. The Contractor's attention is directed to Section 9.12(h) of the General Provisions for additional information.

### **15. DUST CONTROL**

The Contractor shall furnish all labor, equipment and means required and shall carry out effective measures wherever and as often as necessary to prevent its operation from producing dust in amounts damaging to property or causing nuisance as defined by the Engineer.

The Contractor shall be responsible for any damage resulting from any dust originating from its operations.

The dust abatement measures shall be continued until the Contractor is relieved of further responsibility by the Engineer.

The use of water shall not be permitted as a substitute for sweeping or other methods of dust control. Only dry sweeping is allowed.

Contractor shall sweep daily. The work area shall be left in a neat and presentable condition at the end of each workday.

### **16. CLEANUP**

Through all phases of construction, including suspension of work and until final acceptance of the project, the Contractor shall keep the worksite and other areas used by it in a neat and clean condition, and free from any accumulation of rubbish and debris.

Contractor shall properly dispose of all excess earth, concrete, AC and debris off job site and clean up the work area at the end of each workday. The work area shall be left in a neat and presentable condition.

The Contractor shall keep its haul roads free from dirt, rubbish, and unnecessary obstructions resulting from its operations. Care shall be taken to prevent spillage on haul routes. Contractor shall obtain all required truck route permits. Any such spillage shall be removed immediately and the area cleaned by the Contractor.

Disposal of all rubbish and surplus materials shall be off the site of construction, at the Contractor's expense, all in accordance with local codes and ordinances governing

locations and methods of disposal, and in conformance with all applicable safety laws, and the requirements of the OSHA Safety and Health Standards for Construction.

The Contractor is advised that the disposal of solid waste, sewage, industrial waste, or other polluted waters into the public storm drain system is prohibited. Any fines or penalties levied against the City or Contractor for illicit discharges to the storm drain system as a result of the Contractor's operation are the sole responsibility of the Contractor.

If the Contractor exceeds the number of days assigned to this contract, the Contractor shall continue to clean the area. When street cleaning is not performed to the satisfaction of the Engineer, the Engineer may have the area cleaned by City crews, and any incurred costs shall be deducted from the Contractor's progress payments.

## **17. CLEARING AND GRUBBING**

The work shall include, but is not limited to, removal of the following: PCC/AC pavement, manholes, existing sewer mains, and all other existing obstructions so designated on the plans, or as required by the Engineer or the Standard Specifications. The Contractor shall remove PCC/AC pavement to the limits as shown on the plans, or as directed by the Engineer, by sawcutting. Any and all pavement damaged by the Contractor shall also be saw-cut and removed as directed by the Engineer. Slurry from sawcutting shall be cleaned up by wet/dry shop vacuum.

All cleared and grubbed materials shall be hauled off and disposed outside of the right-of-way at a suitable location and in a lawful manner by the Contractor.

Unless shown on the plans, no trees shall be removed. Trees, limbs, and roots within the project area which interfere with the Contractor's operations may be trimmed, with authorization from the Engineer. Tree trimming shall only be performed by a qualified arborist or tree surgeon. Prior to any trimming being performed, the Contractor shall submit to the Engineer, for review, the qualifications of the proposed arborist or tree surgeon. Any tree roots one inch or greater in diameter which have to be removed or are damaged during construction operations shall be sawcut evenly and shall be treated with a heavy coat of commercially available water base asphalt emulsion sealing compound. If roots are to be left exposed for an extended period of time, all roots shall be covered immediately with two (2) layers of burlap or equivalent material and soaked regularly with water to ensure that all roots are kept moist for the duration of exposure. No tree shall be trimmed or removed without a permit from the Planning Department.

## **18. PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS**

The Contractor shall submit video DVDs of the job site to the Engineer, for review, prior to the start of construction, for the purpose of providing a record of existing conditions. Only DVD format and new DVDs shall be used. Each DVD shall be labeled and dated appropriately. The DVD shall provide a view encompassing the entire project area, for all construction activities including at a minimum, the proposed excavation areas and contractor's staging area, with sufficient clarity and scope to the satisfaction of the Engineer. The Contractor shall submit these DVD with a written log noting any existing



defects or irregularities in the existing pavement. The log shall also state the location (by station), date, and time the DVDs were made. Upon receipt by the Engineer, the DVDs shall become the property of the City.

If the Contractor plans to drive sheeting, the Contractor shall video inspect nearby structures prior to driving the sheeting. This video inspection shall be included in the site DVDs above, and shall be accompanied by a similar log which notes street address and existing defects or irregularities.

The Contractor shall be responsible for the protection of public and private property adjacent to the Work and shall exercise due caution to avoid damage to such property.

The Contractor shall repair or replace all existing improvements which are not designated for removal (e.g., street sections, curbs, gutters, driveways, fences, walls, structures, landscaping, etc.) which are damaged or removed as a result of its operations. Repairs and replacements shall be at least equal to existing improvements, and shall match them in finish and dimensions.

Any damages to the private properties will be restored to the satisfaction of the property owners/Engineer within seven (7) days of the damage(s).

Damages within the public right of way will be restored to the satisfaction of the Engineer after work on that particular block is completed.

## **19. EXISTING UTILITIES**

The Contractor shall notify Underground Service Alert (U.S.A) at 1-800-642-2444 for field location of all utilities 48 hours prior to any excavation. In addition, the Contractor shall contact the Railroad Call Before You Dig (CBUD) at 1-800-336-9193 for field location of utilities when work is within the railroad tracks a minimum of forty-eight (48) hours prior to any work.

The Contractor shall be responsible for verifying the presence of utilities within the limits of work, as well as any changes in the limits that are made to accommodate the project, protecting all utilities including but not limited to traffic signal conductors, signal interconnect communication, and fiber optic cables that may be affected by construction activities (e.g., clearing and grubbing, excavation, trenching, etc.), and notifying the Engineer in writing of any conflicts prior to beginning any excavation.

The Contractor shall pothole to verify the location and/or elevation of existing utilities as marked by Underground Service Alert (U.S.A.) within the limits of work. The Contractor shall work with utility companies and inspectors to protect existing utility lines. The Contractor shall notify the Engineer three (3) working days in advance of the potholing operation. Once the utilities are exposed, the excavation shall not be backfilled until the Engineer has inspected and taken measurements of the utilities.

Unless otherwise indicated on the plans, a pothole shall have a maximum length of six (6) feet, maximum depth as indicated on the plans or as directed by the Engineer, and the width dimension shall be as required by the Contractor with authorization of the Engineer.



The Contractor will protect and assume liability for all existing or newly installed structures and lines from damage by Contractor's forces during the construction period from the date of Notice to Proceed and the date of Final Acceptance.

All repairs of apparent or discovered utility facilities will be accomplished by the respective utility owners. The Contractor must coordinate with the utility companies to rewrap and/or repair their utility. All exposed existing telephone, gas, water, electrical and other public utility facilities will receive an envelope of twelve-inches (12") of sand.

All painted markings including USA and CBUD markings, marks placed by the Contractor, and marks placed by the City's survey crew on street pavement, curbs, gutters and sidewalks shall be completely removed by the Contractor prior to completion of the project. All cost incurred to complete this work shall be deemed included in other items of work and no additional payment will be made thereof.

## **20. UTILITY COORDINATION**

All relocations of apparent or discovered utility lines (e.g., AT&T, PG&E, SJWC, etc.) shall be accomplished by the forces of the appropriate utilities. The Contractor shall notify the appropriate utility at least forty-eight (48) hours in advance of working in the vicinity of any utilities in the project area.

Existing utilities shown on the plans are for information only and their locations are approximate. The Contractor shall assume full responsibility for the location of all existing utilities, whether or not shown on the plans, prior to the commencement of any construction activity (e.g., excavation, clearing & grubbing, etc.) which may damage any existing utilities. Furthermore, the Contractor shall protect and assume liability for all existing utilities, whether or not shown on the plans, and any newly installed structures and lines from damage by contractor's forces for the duration of the construction period (from the date of Notice to Proceed until the date of Final Acceptance).

The Contractor must allow utility companies to rewrap their utilities. All exposed existing or new telephone, gas, water electricity or other public utility facilities shall receive an envelope in all directions of twelve-inches (12") of sand surrounding said utility(s) within the backfill area. This envelope shall be placed by the Contractor. All utilities must be supported by the Contractor when trench is opened.

## **21. OBSTRUCTIONS**

The City shall not be responsible for any impact to the Contractor of any restrictions that may be caused by the work of other agencies, or the requirements thereof.

In the event that gas, electricity, telephone, water or other utility facilities are encountered, the Contractor shall immediately notify the Engineer and make the necessary coordination to have these structures (vaults, manholes, risers, valves, etc.) removed, relocated, and/or adjusted as necessary by the respective utility company unless specified in these Technical Specifications.

The storm and sanitary manholes, water valves, and monument covers shall be adjusted to grade by the Contractor as specified in these Technical Specifications. The

Contractor shall also notify and coordinate with utilities to raise and/or adjust vaults, cabinets, etc. to grade.

The Contractor is required to cooperate with forces engaged in utility work and shall schedule and conduct the work under the Contract in such a manner as to avoid any unnecessary delay or hindrance to the work of the utility companies.

If the Contractor causes damage to Traffic Signal Communication Cable(s), the Contractor shall replace at no cost to the City the complete run of Traffic Signal Communication Cable(s) to the next controller. No splicing of Traffic Signal Communication Cable(s) shall be allowed at pull box. No time extension shall be granted to re-pull/replace Traffic Signal Communication Cable(s).

**22. NOT USED**

**23. NOT USED**

**24. PROTECTION OF PUBLIC SAFETY**

If the Contractor encounters a condition where public safety is threatened (such as, but not limited to, a pipe hole, pipe collapse, stoppage, blockage and/or eminent sewer spill) the City's representative shall be notified immediately. Furthermore, the Contractor shall provide a visual record of the section of line containing the condition within eight (8) hours to City. If the CCTV camera becomes lodged inside the sewer and cannot be retrieved, the Contractor shall inform the City immediately. It is the Contractor's responsibility to remove the camera and ensure that the sewer is not damaged and Sanitary Sewer Overflows (SSOs) do not occur.

**25. NOT USED**

**26. NOT USED**

**27. NOTIFICATION OF RESIDENTS AND MERCHANTS**

The Contractor shall perform the following tasks prior to commencement of the work:

- A. Notify residents and businesses seventy-two (72) hours prior to commencing construction operations.
- B. Include Contractor's telephone number for the purpose of taking inquiries and complaints.
- C. Submit a draft copy of the notification letter to City at Pre-Construction conference. The final format and wording of this letter shall be subject to approval of City.

If Contractor encounters any difficulty regarding resident's or business manager's permission to access the work area in order to complete construction, then Contractor shall contact the City for assistance.

## 28. OWNER / CONTRACTOR MEETINGS

- A. **PRE-CONSTRUCTION CONFERENCE:** A Pre-Construction Conference will be held at the San Carlos City Hall, 600 Elm Street, San Carlos, CA 94070. Notice to Proceed shall be issued at the conclusion of the pre-construction conference.

The conference will address the scope of work and the Contractor's proposed construction schedule, traffic control and detour plan. At the Pre-construction conference the Contractor shall provide the following, in addition to the items specified in Section 8.09 of the General Provisions:

- The proposed construction schedule (for overall project);
- Two-week look-ahead construction schedule;
- Traffic Control Plan;
- Draft Notification Letter to Residents and Merchants;
- Critical Project Submittals and/or Submittal Log Showing Anticipated Submittal Schedule

**CONSTRUCTION MEETINGS:** Construction meetings will be held as needed at the construction site or at San Carlos City Hall, 600 Elm Street, San Carlos, CA 94070 as determined by the City Project Manager/Inspector. The meetings will be held on a day and time mutually satisfactory to the City and Contractor's representative and/or superintendent.

## 29. RECORD DRAWINGS

Upon completion of the project, the Contractor shall provide an electronic and hard copy of the project plans provided to the Contractor at the start of the project with any red line changes to the configuration that were identified in the field.

## 30. CONSTRUCTION SCHEDULE

The Contractor shall submit to the Engineer, for review, a construction schedule in Critical Path Method (CPM) format with accompanying bar chart setting forth the sequence in which construction will proceed. In addition, the Contractor shall submit an updated CPM schedule for review along with the monthly request for partial payment. The City may, at its sole discretion, withhold partial payment until an updated CPM schedule is submitted.

## 31. DAILY WORK REPORTS

The Contractor shall provide the City Inspector with daily work reports at the beginning of each working day for a report of the previous working day. The form shall conform to that which is provided in **Appendix A**.

## 32. SUBMITTALS

The Contractor shall provide one electronic copy in PDF format of the construction submittals. Each submittal shall be numbered. Re-submittals shall include the original submittal number followed by a letter indicating the revision (i.e. "A" for the first revision, "B" for the second revision). Submittals shall be provided as required by the Contract Documents. The Contractor shall be responsible for conforming to the requirements of

the specifications. The Contractor shall provide, at a minimum, the following submittals to the City **within twenty (20) calendar days** after the issuance of the Award of Contract Notification Letter and prior to beginning work.

Each submittal item shall include a signed cover sheet, of which a template will be provided by the City. The cover sheet shall be filled out completely and legibly.

GP – General Provisions SP – Special Provisions TP – Technical Provisions

<b><u>ITEM DESCRIPTION</u></b>	<b><u>SPECIFICATION SECTION</u></b>
1. Construction Schedule	GP 8.05 and SP 30
2. Traffic Control Plan	GP 9.20 and SP 11
3. Notification Letter	SP 27
4. Water Pollution Control Plan	GP 9.12 and SP 12
5. Designation of Site Safety and Health Officer(s)	SP 8
6. Health and Safety Plan	SP 8
7. Emergency Contact List	N/A
8. Site Video Inspection DVD	SP 18
9. Daily Work Report	SP 31
10. Staging Area (if applicable)	GP 9.09 and TP 7
11. CAL/OSHA Excavation Permit	GP 9.21

**Material Submittal List.** – The names of the manufacturers/producers of the materials proposed by the Contractor for use under this contract shall be submitted to the Engineer, for review prior to beginning of work. The manufacturer's/ producer's, materials, test results, specifications and/or certificates of compliance shall be submitted for all applicable products on the list, and shall be dated no earlier than six months from the award date.

<b><u>ITEM DESCRIPTION</u></b>	<b><u>SPECIFICATION SECTION</u></b>
12. Traffic Stripes & Pavement Markings	TP 1
13. Red Curb Paint	TP 2
14. Custom Traffic Sign	TP 3
15. Flex-Post Delineator	TP 4

**Additional Submittals.** – The lists provided are intended to be comprehensive but no claim for their completeness is implied, and submittal of each and every item on the lists shall not relieve the Contractor of supplying all information needed, or of complying with any of the other requirements of the specifications. Revised lists may be issued and items may be added to the list supplied.

## **BID ITEM DESCRIPTIONS**

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## **SPECIAL PROVISIONS BID ITEM DESCRIPTIONS**

### **1. GENERAL**

It is the intent of the Proposal and this Contract Document that the bid for each lump sum or unit price item, as submitted, and as required by the Contract Documents. All costs in connection with the work, including labor, materials and equipment to fully complete the work, shall be included in the lump sum or unit price named in the Proposal. No item of work required by contract documents for proper and successful completion of the contract will be paid for in addition to the prices submitted in the Proposal. All work not specifically set forth in the Proposal as a pay item shall be considered a subsidiary obligation of the Contractor and all costs in connection therewith shall be included in prices shown in the Proposal.

Full compensation for conforming to the requirements in the Special Provisions (with the exception of Traffic Control) shall be considered as included in the contract prices paid for the various items of work involved and no separate payment will be made therefor.

### **2. MEASUREMENT AND PAYMENT**

Unless otherwise specified in other individual sections of these specifications, linear foot quantities of 12"- and 24"-wide traffic stripes shall be based on the linear footage of the marking installed.

Lump sum bid items will be measured as a complete job and are intended to cover payment for all work in connection with the item as indicated on the plans and as described throughout these specifications.

Unit price bid items will be measured as described in the bid schedule or specifications.

Bid items for this project are as follows:

#### **Base Bid Item No. 1 – Mobilization & Demobilization**

Measurement and payment for this item shall be on a lump sum basis. The contract price for this bid item shall include full compensation for obtaining all bonds, all Contractor-acquired permits, licenses, agreements, certifications, and public and agency notifications; submittal and approval of initial and progress schedules; submittals; moving onto the site of all equipment, materials and staff including obtaining and setting up of Contractor's staging area/yard; furnishing and erecting all needed construction facilities, fencing, and project signage; project security; demobilization; preconstruction photographs and video recording of surface features; progress schedules and reports; contract meetings; and record drawings.

#### **Base Bid Item No. 2 – Traffic Control System**

Measurement and payment for this item shall be on a lump sum basis. The contract price for this bid item includes full compensation for preparing typical and/or detailed traffic control plans in accordance with the latest version of the California Manual on

Uniform Traffic Control Devices (CA MUTCD) and approved by the City of San Carlos. In addition, the contract price for this bid item shall include placing, adjusting and removing temporary traffic control measures, such as, but not limited to, flags, cones, barricades, crash barriers, signs, and flaggers (personnel dedicated to controlling and managing traffic); traffic control signs as required by the Contract Drawings and as part of the approved traffic control plan; and all incidentals necessary for worker, pedestrian and traffic protection, including furnishing all equipment, materials and personnel associated therewith, and in accordance with the Contract Documents. Traffic control shall be provided for all project work areas and shall be provided for the duration of the project.

### **Base Bid Items No. 3 – Furnish and Install Thermoplastic Pavement Marking**

Measurement and payment for this item shall be on a square foot (SF) basis. The contract price for this bid item shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in traffic striping and pavement marking, complete in place, including temporary striping; cat-tracking; coordination with City's Traffic Engineering Department; and clean-up, as shown on the plans, as specified in the State Standard Specifications and these Special Provisions, and as directed by the Engineer.

### **Base Bid Items 4, 5, and 6 – Furnish and Install 12" White Thermoplastic Striping, Furnish and Install 24" White Thermoplastic High-Visibility Ladder Marking, and Furnish and Install Red Curb Paint**

Measurement and payment for this item shall be on a linear foot (LF) basis. The contract price for this bid item shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in traffic striping, pavement marking, and curb paint, complete in place, including temporary striping; cat-tracking; coordination with City's Traffic Engineering Department; and clean-up, as shown on the plans, as specified in the State Standard Specifications and these Special Provisions, and as directed by the Engineer.

### **Base Bid Items 7 – Furnish and Install Custom Traffic Sign**

Measurement and payment for this item shall be on a per each basis. The contract price for this bid item shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in installing new traffic sign, complete in place, as shown on the plans, as specified in the State Standard Specifications and these Special Provisions, and as directed by the Engineer.

### **Base Bid Item 8 – Furnish and Install Flex-Post Delineator**

Measurement and payment for this item shall be on a per each basis. The contract price for this bid item shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved in installing new flex-post delineator, complete in place, as shown on the plans, as specified in the State Standard Specifications and these Special Provisions, and as directed by the Engineer.