



Agenda Item No: 4.e

Meeting Date: September 2, 2025

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Andrew Powell, Junior Engineer
April Miller, Public Works Director

City Manager Approval:

TOPIC: PICKLEWEED LIBRARY RENOVATION PROJECT

SUBJECT: RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PICKLEWEED LIBRARY RENOVATION PROJECT, CITY PROJECT NO. 11428 ("PROJECT"), AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION AGREEMENT WITH ARNTZ BUILDERS, INC. IN THE AMOUNT OF \$1,984,974, AND AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT AMOUNT USING CONTINGENCY FUNDS OF \$295,026, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$2,280,000; AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH UNICO ENGINEERING FOR CONSTRUCTION MANAGEMENT IN THE AMOUNT NOT TO EXCEED \$211,500; APPROPRIATING \$48,070 FROM THE LIBRARY MEMORIAL FUND (213); CEQA DETERMINATION EXEMPT PURSUANT TO CEQA GUIDELINE 15301

RECOMMENDATION:

Staff recommends that the City Council adopt the above-referenced resolution to move forward with construction of the Pickleweed Library Renovation Project, City Project No. 11428 ("Project").

BACKGROUND:

Pickleweed Branch Library is 2,000 square feet, co-located with the Albert J. Boro Community Center and within Pickleweed Community Park. The facility is heavily utilized and is an important resource for a predominantly Spanish-speaking community. Under the Library and Recreation Department, the broader facility is a successful example of joint and collaborative use between the City's Library and Recreation Divisions. The community's demand and practical need for more spacious, modern library facilities to serve the residents of San Rafael has been affirmed through numerous needs assessments, studies, and facility analyses. The [2019 Library Facilities Planning Study](#) identified the expansion of the current Pickleweed Branch Library as one opportunity for increasing library space for the community.

In 2022, the City secured a \$1,000,000 Building Forward Grant from the State Library Foundation to redesign and renovate the Pickleweed Library to increase public space, improve accessibility and inclusivity, and enhance means of egress. The Building Forward Grant requires a 100%

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

project match, for which the City has allocated memorial funds that were donated to the City for the purpose of improving library facilities and services that are accessible to all.

The City Council [Three-Year Strategic Plan for FY 2025 – FY 2028](#) identifies redesigning the Pickleweed Branch Library as objective E.4.1 under *Priority Area E: Quality of Life: Safety and Wellbeing*.

The Project aims to maximize limited space and to create a more cohesive and welcoming library through the redesign of the interior space to include a dedicated children's room, more flexible public space, modification to the existing restrooms, reconfiguration and upgrade of the Police Department Substation, accessible staff spaces, and improved means of egress.

On [April 15, 2024](#), the City entered into a Professional Services Agreement with Jayson Architecture for architectural, engineering, and interior design services for the Project, for an amount not to exceed \$251,210. The design team evaluated both the 2019 Existing Facilities Report and more recent infrastructure, staff, and patron needs at the Pickleweed Library to develop the final project plan.

The Project was appropriated \$1,748,790 in the fiscal year (FY) 2024-25 budget in anticipation of upcoming construction and \$100,000 in the FY 2025-26 budget for work associated with the Albert J. Boro Community Center Police Department Substation Upgrade and Restroom Sinks.

ANALYSIS:**1. Construction Agreement**

On July 7, 2025, the Project was advertised in accordance with [San Rafael's Municipal Code Chapter 11.50](#). Due to the budget limitations, the Project was advertised with some elements listed as "additional alternate items" to allow the City to choose whether to award them depending on the bids received. The plans and specifications, deemed reasonable by the City Engineer, are available at the Department of Public Works and on the City's website: <https://www.cityofsanrafael.org/pickleweed-branch-library-renovation/>

<u>ADVERTISED BID LIST</u>	<u>PROJECT ELEMENTS</u>
Base Bid	Full interior renovation of the existing Pickleweed Library, Police substation, and existing Community Center restroom.
Additional Alternate #1	Exterior Entry Improvements

At the bid opening on August 8, 2025, the following bids were received and read aloud. The low bidder was selected based on the Base Bid total.

BIDDER	BASE BID	ADD ALT #1	BID TOTAL
Arntz Builders, Inc.	\$ 1,851,097.00	\$ 133,877.00	\$ 1,984,974.00
FRC, Inc.	\$ 1,865,857.00	\$ 127,120.00	\$ 1,992,977.00
Unger Construction Co.	\$ 1,871,259.00	\$ 104,492.00	\$ 1,975,751.00
Zone 4 Construction, Inc.	\$ 1,896,664.45	\$ 115,797.00	\$ 2,012,461.45
Rubicon Builders	\$ 1,909,084.00	\$ 68,101.00	\$ 1,977,185.00
DMR Builders	\$ 1,954,380.00	\$ 161,400.00	\$ 2,115,780.00
JPB Designs Inc.	\$ 2,515,000.00	\$ 195,000.00	\$ 2,710,000.00

The construction bids were reviewed by Public Works staff, and the low base bid of \$1,851,097 from Arntz Builders, Inc. was found to be both responsive and responsible.

Alternative #1 – Exterior Entry Improvements

Staff recommends awarding Alternate #1, which consists of exterior entry improvements including a new book drop location, redesigned exterior storefront and glazing, additional paving for stroller parking, and a new exterior sign.

City staff recommends awarding the Base Bid plus Alternate #1 in the construction agreement with Arntz Builders, Inc. in the amount of \$1,984,974 and recommends the City Council authorize a construction contingency of \$295,026, approximately 15% percent, for a total amount of \$2,280,000. Staff does not anticipate major scope changes for the Project; however, the contingency will provide some financial assurance for unforeseen conditions.

The Public Works Director would be authorized to issue any change order to the contract within the total contingency amount. The Construction Agreement is attached (Attachment 1) and is in a form approved by the City Attorney.

2. Professional Services Agreement for Construction Management and Inspection

The City also requested proposals from construction management and inspection firms listed on the City's service level agreement on-call list for these services. Due to the quick turnaround, firm availability, and type of construction, the City only received one proposal for this immediate need. Unico Engineering, Inc. provided the City with a proposal and scope of work to provide construction management and inspection services throughout the duration of construction. The City negotiated the scope of work to reduce the cost and scope by supplementing construction management support with existing City staff. In addition, the City compared rates and fees with other recent construction management proposals and has deemed the proposal responsive and responsible. Staff recommends awarding the professional services agreement (Attachment 2) for construction management and inspection services to Unico Engineering, Inc., for \$ 211,500.

The construction and construction management agreements bring the project total to \$2,742,710, requiring an additional \$642,710 in project appropriations. Staff proposes utilizing \$51,930 in funding that was originally allocated to the Downtown Library Modernization project (Project No. 11428) from the Library Special Assessment Fund (formerly Measure C) Capital Set Aside funds (Fund 215) to support the Project. The former Measure C-Capital Set Aside fund was established to fund necessary facility improvements to the San Rafael Public Libraries, such as the Pickleweed Library Renovation Project. At the [April 7, 2025, City Council meeting](#), \$100,000 of funds were allocated to support the Downtown Library Modernization Project. However, that project is wrapping up and will not require the full funding allocated to the project. Staff also proposes allocating an additional \$48,070 in memorial funds from the Robert & Lorraine Joses Memorial Fund, which was donated to the City for improved library facilities and services that are accessible to all, to support the Project.

Measure P, a voter-approved citizens' initiative, established a new parcel tax, primarily intended to fund a new Library and Community Center at Albert Park. However, Measure P also allows for the tax proceeds to be spent on renovations at the City's branch libraries, provided that sufficient funding is available to complete the Albert Park project.

Staff recommend allocating \$542,710 in Measure P appropriations to the Pickleweed Library Renovation project. The funding proposed for the Pickleweed Library renovation would represent less than 0.3% of the expected revenue generated by Measure P. This level of funding will not

impact the funding needed for the Albert Park Library and Community Center project. Measure P is expected to generate \$6,370,000 annually, with a bonding capacity of \$95,000,000. Additionally, the City has \$915,000 in funds that have been donated to build a new library in San Rafael. Between Measure P and the donated funds, the City will have more than sufficient funding for the main Albert Park Library and Community Center project.

COMMUNITY OUTREACH:

The designs for this Project were presented to the Library Board of Trustees at their regularly scheduled meeting on August 13, 2024, and at a special meeting of the Pickleweed Advisory Committee on September 11, 2024. They were also presented to the community during the 2024 Movies in the Park event at Pickleweed Park and through displays at the library in the Summer and Fall of 2024. Feedback from those meetings and events has been integrated into the final project plan. The feedback included input on the color palette, particularly in the children's room, and requests for specific furniture and seating styles. Additionally, staff have notified the public about this project and related impacts through the City Library's [project webpage](#), a press release, newsletters, signage, and social media.

ENVIRONMENTAL DETERMINATION:

Staff reviewed the scope of work necessary for the Project and determined that it qualifies for a categorical exemption under the [California Environmental Quality Act \(CEQA\) Guidelines, Section 15301 for Existing Facilities](#). The key consideration to obtain a categorical exemption is that the project involves negligible or no expansion of use. Qualifying examples that are in line with the scope of the Project include, but are not limited to, alterations of existing public structures, facilities, mechanical equipment, plumbing, and such.

FISCAL IMPACT:

The recommendation in this staff report would result in committing costs totaling \$2,491,500, including \$2,280,000 for construction (including contingency) and \$211,500 for construction management. The following table summarizes the available funding to support these project costs:

Uses		
Construction Contract	1,984,974	
Construction Contingency	295,026	
Construction Management	211,500	
	<u>\$ 2,491,500</u>	
Sources		
213 Library Memorial Fund	\$ 48,070	<i>Fund Balance *</i>
214 Library Fund	1,748,790	<i>FY 2024-24</i>
215 Library Special Assessment Fund	51,930	<i>FY 2024-25</i>
420 Measure E	50,000	<i>FY 2025-26</i>
430 Measure P Fund	542,710	<i>FY 2025-26</i>
611 Building Maintenance Fund	50,000	<i>FY 2025-26</i>
	<u>\$ 2,491,500</u>	

Funding to support \$1,748,790 of these agreements was included in the adopted FY 2024-25 Capital Improvement Program (CIP) budget through appropriations within the Library Fund (214) – Pickleweed Branch Library Redesign Project. This funding is proposed to be carried forward to the current FY 2025-26 budget via separate Council action. Underlying funding sources for the project include \$1 million in grant funding, combined with City matching funds allocated for this purpose.

An additional \$50,000 from Measure E Fund (420) and \$50,000 from Building Maintenance Fund (611) were appropriated in the adopted FY 2025-26 CIP budget for work associated with the project. Staff identified \$51,930 in Library Special Assessment Fund (formerly Measure C) Capital Set Aside funds (Fund 215) to support the project.

Staff is further recommending an allocation of \$542,710 of available Measure P funds included in the FY 2025-26 and is requesting City Council authorization to appropriate \$48,070 in available Library Memorial Funds (Fund 213) to the Pickleweed Library Renovation project to cover the remaining construction costs.

OPTIONS:

1. Adopt the proposed resolution to move forward with the construction of the Project.
2. Do not adopt the resolution and provide further direction to staff. This option will severely delay this project and likely result in the loss of grant funds.

RECOMMENDED ACTION:

Staff recommends that the City Council adopt the above-referenced resolution to move forward with construction of the Pickleweed Library Renovation Project, City Project No. 11428 ("Project").

ATTACHMENTS:

1. Resolution
2. Draft Formal Construction Contract with Arntz Builders, Inc.
3. Draft Professional Services Agreement with Unico Engineering Inc. for construction management and inspection services

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING THE PLANS AND SPECIFICATIONS FOR THE PICKLEWEED LIBRARY RENOVATION PROJECT, CITY PROJECT NO. 11428 ("PROJECT"), AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION AGREEMENT WITH ARNTZ BUILDERS, INC. FOR THE PROJECT IN THE AMOUNT OF \$1,984,974, AND AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT AMOUNT USING CONTINGENCY FUNDS OF \$295,026, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$2,280,000; AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH UNICO ENGINEERING FOR CONSTRUCTION MANAGEMENT IN THE AMOUNT NOT TO EXCEED \$211,500; APPROPRIATING \$48,070 FROM THE LIBRARY MEMORIAL FUND (213); CEQA DETERMINATION EXEMPT PURSUANT TO CEQA GUIDELINE 15301

WHEREAS, on the 7th day of July 2025, pursuant to due and legal notice published in the manner provided by law, inviting sealed bids or proposals for the work hereinafter mentioned, as more fully appears from the Affidavit of Publication thereof on file in the office of the City Clerk of the City of San Rafael, California, the City Clerk of said City did publicly open, examine, and declare all sealed bids or proposals for doing the following work in said City, to wit:

**"Pickleweed Library Renovation Project"
City Project No. 11428**

(hereinafter referred to as the "Project") in accordance with the plans and specifications, therefore, on file in the office of the Department of Public Works; and

WHEREAS, the bid of \$1,984,974 from Arntz Builders, Inc., at the unit prices stated in its bid, was and is the lowest bid for said work and said bidder is the lowest responsible bidder; and

WHEREAS, staff has recommended an additional 15% of the bid price for a contingency in the amount of \$295,026, resulting in a total not-to-exceed contract amount of \$2,280,000; and

WHEREAS, funding in the amount of \$1,848,790 has previously been approved for this Project through the fiscal year (FY) 2024-25 and FY 2025-26 budget; and

WHEREAS, staff has determined that construction management services from qualified consultants will be required for the Project; and

WHEREAS, staff has found the proposal from UNICO Engineering to be complete and within industry standards; and

WHEREAS, an additional \$51,930 shall be reallocated to City Project No. 11428 from the Downtown Library Modernization project (Project No. 11439), which was previously appropriated from the Library Special Assessment Fund (formerly Measure C - Fund 215) and is no longer needed to complete that Downtown Library project; and

WHEREAS, an additional \$48,070 in Library Memorial Funds (Fund 712), which were donated to the City for the purpose of improved library facilities and services that are accessible to all, are available to support City Project No. 11428; and

WHEREAS, an additional \$542,740 shall be reallocated to City Project No. 11428 from appropriated Measure P funds for the purposes of this Project, given that such expenditure will not impact

the funding needed for the Albert Park Library and Community Center Project, and in accordance with San Rafael Municipal Code Section 3.42.030.B.4;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The foregoing recitals are true and correct.
2. The City Council finds that the Project is exempt from review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline 15301 for existing facilities; and
3. The plans and specifications for the Project, which are on file in the Department of Public Works, are hereby approved.
4. The bid of Arntz Builders, Inc. is hereby accepted at the unit prices stated in its bid.
5. The City Manager is authorized and directed to execute the contract for the Project, in a form approved by the City Attorney, with Arntz Builders, Inc., for the bid amount stated in its bid, and is authorized to execute any amendment(s) up to the construction contingency amount of \$295,026 (approximately 15% of the contract value, for a total not to exceed contract amount of \$2,280,000.
6. The proposal of UNICO Engineering is hereby accepted at the unit prices stated in its proposal.
7. The City Manager is authorized and directed to execute a Professional Services Agreement for the Project, in a form approved by the City Attorney, with UNICO Engineering, Inc., for construction management and inspection services, for a total not to exceed contract amount of \$211,500.
8. To supplement funding previously authorized for this Project, the City Council further authorizes the allocation of \$542,710 in Measure P funds appropriated within the FY 2025-26 capital budget and further authorizes the appropriations of \$48,070 from available Library Memorial Funds (Fund 213) to support the project.
9. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City on Tuesday, the 2nd day of September 2025, by the following vote, to wit:

AYES: **Councilmembers:**
NOES: **Councilmembers:**
ABSENT: **Councilmembers:**

Lindsay Lara, City Clerk

File No.: 06.01.257

Contract

This public works contract ("Contract") is entered into by and between the City of San Rafael ("City") and Arntz Builders, Inc. ("Contractor"), for work on the Pickleweed Library Renovation Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On _____, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
 - 2.1 Notice Inviting Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment and Performance Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Plans and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Potential Award;
 - 2.12 Notice to Proceed; and
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.
4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor \$1,984,974 ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project, meeting all requirements for Final Completion, within 240 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** As further specified in Section 5.4 of the General Conditions, if Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of \$1,800 per day for each day of unexcused delay in achieving Final Completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

7. Labor Code Compliance.

7.1 General. This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.

7.2 Prevailing Wages. This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.

7.3 DIR Registration. City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.

8. Workers' Compensation Certification. Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. Conflicts of Interest. Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

10. Independent Contractor. Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.

11. Notice. Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

City:

City of San Rafael
Department of Public Works
111 Morphew Street
San Rafael, CA 94901
415-458-5006
Attn: Andrew Powell, Junior Engineer
andrewp@cityofsanrafael.org

Contractor:

Name: Arntz Builders, Inc.
Address: 431 Payran Street
City/State/Zip: Petaluma, CA, 94952
Phone: 707-835-2900
Attn: Brian Proteau
Email: brian@arntzbuilders.com
Copy to: darntz@arntzbuilders.com

12. General Provisions.

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.
- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Marin County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Marin County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code § 313.

The parties agree to this Contract as witnessed by the signatures below:

CITY:

Approved as to form:

s/ _____
CRISTINE ALILOVICH, City Manager

s/ _____
ROBERT F. EPSTEIN, City Attorney

Date: _____

Date: _____

Attest:

s/ _____
LINDSAY LARA, City Clerk

Date: _____

CONTRACTOR: _____
Business Name

s/ _____

Seal:

Name, Title

Date: _____

Second Signature (See Section 12.8):

s/ _____

Name, Title

Date: _____

Contractor's California License Number(s) and Expiration Date(s)

END OF CONTRACT

Exhibit A

General Info
Alt Total: \$133,877.00
Total:
\$1,984,974.00

Number	Description
Pickleweed Library Renovation Project	The purpose of this Request for Proposals is to solicit bid proposals for qualified contractors to construct the Pickleweed Library Renovation Project.
Deadline 08/08/2025 11:00 AM PDT	The project is a full interior renovation of the Pickleweed Branch Library. The Project scope includes, but it is not limited to, modifications to: new interior walls, doors, interior glazing, ceilings, and finishes, compliance with current life safety codes, public safety office, exterior entry improvements, and modifications to building systems (HVAC, electrical, lighting, telecommunications, audiovisual, and plumbing).
Vendor Arntz Builders, Inc.	
Submitted 08/08/2025 10:56 AM PDT	
Signed by Brian Proteau Account Holder Brian Proteau	Allows zero unit prices and labor No
Opened 08/08/2025 11:01 AM PDT By andrew.powell@cityofsanrafael.org	Allows negative unit prices and labor No

ATTACHMENT LIST

Responsiveness Questions.pdf (559 KB)
Bidder could be found non-responsive if answered "No" to questions 1-6 or "Yes" to questions 7-13. Disregard reference to Section A and B.

Bidder's Questionnaire.pdf (463 KB)

Pickleweed Library Hazmat Report.pdf (985 KB)

PICKLEWEED LIBRARY - BID SET DRAWINGS_ADDENDUM 01.pdf (59.2 MB)

PICKLEWEED LIBRARY - BID SET SPECIFICATIONS_ADDENDUM 01.pdf (5.26 MB)

As-Builts (53 MB)

Pickleweed Library - Bid Addendum 1.pdf (271 KB)

Front End Specifications - Addendum 02.pdf (2.08 MB)

Pickleweed Library - Bid Addendum 2.pdf (545 KB)

BID PROPOSAL

(“Bidder”) *

Arntz Builders, Inc.

hereby submits this Bid Proposal to the City of San Rafael (“City”) for the above-referenced project (“Project”) in response to the Notice Inviting Bids and in accordance with the Contract Documents referenced in the Notice.

1. **Base Bid.** Bidder proposes to perform and fully complete the Work for the Project as specified in the Contract Documents, within the time required for full completion of the Work, including all labor, materials, supplies, and equipment and all other direct or indirect costs including, but not limited to, taxes, insurance and all overhead for the following price (“Base Bid”):

\$: *

\$1,851,097.00

2. **Addenda.** Bidder agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Bid. Bidder waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Bidder specifically acknowledges receipt of the following addenda (click "+" to add addenda. Type "N/A" if no addenda have been issued):

Addendum #: *

1

Addendum Date: *

07/28/2025

2. **Addenda.** Bidder agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Bid. Bidder waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Bidder specifically acknowledges receipt of the following addenda (click "+" to add addenda. Type "N/A" if no addenda have been issued): 1

Addendum #: *

2

Addendum Date: *

08/01/2025

3. **Bidder’s Certifications and Warranties.** By signing and submitting this Bid Proposal, Bidder certifies and warrants the following:

3.1 **Examination of Contract Documents.** Bidder has thoroughly examined the Contract Documents and represents that, to the best of Bidder’s knowledge, there are no errors, omissions, or discrepancies in the Contract Documents, subject to the limitations of Public Contract Code§ 1104.

3.2 Examination of Project Site. Bidder has had the opportunity to examine the Project site and local conditions at the Project location.

3.3 Bidder Responsibility. Bidder is a responsible bidder, with the necessary ability, capacity, experience, skill, qualifications, workforce, equipment, and resources to perform or cause the Work to be performed in accordance with the Contract Documents and within the Contract Time.

3.4 Responsibility for Bid. Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid. All statements and information provided in this Bid Proposal and enclosures are true and correct to the best of Bidder's knowledge.

3.5 Nondiscrimination. In preparing this Bid, the Bidder has not engaged in discrimination against any prospective or present employee or Subcontractor on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status.

3.6 Iran Contracting Act. If the Contract Price exceeds \$1,000,000, Bidder is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.

4. Award of Contract. By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, within ten days following issuance of the Notice of Award to Bidder, Bidder will do all of the following:

4.1 Execute Contract. Enter into the Contract with City in accordance with the terms of this Bid Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;

4.2 Submit Required Bonds. Submit to City a payment bond and a performance bond, each for 100% of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and

4.3 Insurance Requirements. Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.

This Bid Proposal is hereby submitted on [Date] *

08/08/2025

s/ *

Brian Proteau

Name and Title *

Brian Proteau, President

s/ *

David Arntz

Name and Title *

David Arntz, Secretary/Treasurer

Company Name *

Arntz Builders, Inc.

License #, Expiration Date, and Class *

856393, Exp: 3/31/27, A, B

Address *

431 Payran Street

DIR Registration # *

1000003147

City, State, Zip *

Petaluma, CA 94952

Phone *

(707) 835-2900

Contact Name *

Brian Proteau

Contact Email *

bid@arntzbuilders.com

END OF BID PROPOSAL

BID SCHEDULE - DIRECTIONS

This Bid Schedule must be completed electronically and included with the Electronic Bid Proposal. Pricing must be provided for each Bid Item as indicated. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total Amount" column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal form.

AL = Allowance LF = Linear Foot CF = Cubic Feet LS = Lump Sum CY = Cubic Yard SF = Square Feet EA = Each TON = Ton (2000lbs)

LB = Pounds

BID SCHEDULE - BASE BID ITEMS

\$1,747,196.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
1	Selective Building Demolition	1.00	LS	\$40,000.00	\$40,000.00
2	Concrete	1.00	LS	\$1.00	\$1.00
3	Structural and Misc. Steel	1.00	LS	\$8,500.00	\$8,500.00
4	Gypsum Board, Metal Stud Framing	1.00	LS	\$60,000.00	\$60,000.00
5	Rough Carpentry	1.00	LS	\$526,495.00	\$526,495.00
6	Casework	1.00	LS	\$400,000.00	\$400,000.00
7	Building Insulation	1.00	LS	\$7,000.00	\$7,000.00
8	Joint Sealants	1.00	LS	\$500.00	\$500.00
9	Waterproofing and Weather Resistant Barriers	1.00	LS	\$5,000.00	\$5,000.00
10	Roofing	1.00	LS	\$60,000.00	\$60,000.00
11	Metal Wall Panels, Sheet Metal Flashing	1.00	LS	\$10,000.00	\$10,000.00
12	Doors, Frames, Hardware	1.00	LS	\$35,000.00	\$35,000.00
13	Aluminum, Glazing, Railings	1.00	LS	\$90,000.00	\$90,000.00
14	Tiling	1.00	LS	\$55,000.00	\$55,000.00
15	Acoustical Ceilings	1.00	LS	\$30,000.00	\$30,000.00
16	Tile, Carpeting, and Resilient Flooring	1.00	LS	\$26,000.00	\$26,000.00
					Total: \$1,747,196.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
17	Painting and Wall Covering	1.00	LS	\$60,000.00	\$60,000.00
18	Fire Protection and Suppression	1.00	LS	\$20,000.00	\$20,000.00
19	Shelving	1.00	LS	\$3,700.00	\$3,700.00
20	Signage	1.00	LS	\$5,000.00	\$5,000.00
21	Plumbing	1.00	LS	\$55,000.00	\$55,000.00
22	HVAC	1.00	LS	\$110,000.00	\$110,000.00
23	Electrical	1.00	LS	\$135,000.00	\$135,000.00
24	Utilities	1.00	LS	\$5,000.00	\$5,000.00
					Total: \$1,747,196.00

BID SCHEDULE - BASE BID - UNIT PRICE #1: Restroom Renovation at Community Center Wing

\$26,000.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
1	Selective Demolition	1.00	LS	\$3,000.00	\$3,000.00
2	Gypsum Board, Metal Stud Framing	1.00	LS	\$2,500.00	\$2,500.00
3	Tiling	1.00	LS	\$2,500.00	\$2,500.00
4	Electrical	1.00	LS	\$2,500.00	\$2,500.00
5	Plumbing	1.00	LS	\$11,000.00	\$11,000.00
6	Utilities	1.00	LS	\$1,000.00	\$1,000.00
7	Furnishings and Accessories	1.00	LS	\$3,500.00	\$3,500.00
					Total: \$26,000.00

BID SCHEDULE - BASE BID - UNIT PRICE #2 PUBLIC SAFETY OFFICE TI & EXT WALLS
WORK

\$77,901.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
1	Selective Demolition	1.00	LS	\$10,000.00	\$10,000.00
2	Structural and Misc. Steel	1.00	LS	\$1.00	\$1.00
3	Rough Carpentry	1.00	LS	\$6,500.00	\$6,500.00
4	Building Insulation	1.00	LS	\$1,200.00	\$1,200.00
5	Doors, Frames, Hardware	1.00	LS	\$2,500.00	\$2,500.00
6	Glazing	1.00	LS	\$1,200.00	\$1,200.00
7	Tile Carpeting and Resilient Flooring	1.00	LS	\$8,500.00	\$8,500.00
8	Acoustical Ceilings	1.00	LS	\$10,000.00	\$10,000.00
9	Specialty Finishes	1.00	LS	\$5,000.00	\$5,000.00
10	HVAC	1.00	LS	\$5,000.00	\$5,000.00
11	Plumbing	1.00	LS	\$20,000.00	\$20,000.00
12	Fire Protection	1.00	LS	\$500.00	\$500.00
13	Electrical	1.00	LS	\$7,500.00	\$7,500.00
					Total: \$77,901.00

BID SCHEDULE - ADDITIONAL ALTERNATE ITEMS #1: EXTERIOR ENTRY IMPROVEMENTS

\$133,877.00

Item Code	Description	Quantity	Units	Unit Price	Extension
Alternate: Owner-agency may award independently from entire bid.					
1	Selective Demolition	1.0000	LS	\$20,000.00	\$20,000.00
2	Rough Carpentry	1.0000	LS	\$47,377.00	\$47,377.00
3	Aluminum , Glazing, Railings	1.0000	LS	\$2,500.00	\$2,500.00
4	Concrete	1.0000	LS	\$25,000.00	\$25,000.00
5	Painting	1.0000	LS	\$3,500.00	\$3,500.00
6	Electrical	1.0000	LS	\$1,500.00	\$1,500.00
7	Signage	1.0000	LS	\$8,000.00	\$8,000.00
8	Metal Wall Panels, Sheet Metal Flashing	1.0000	LS	\$17,000.00	\$17,000.00
9	Furnishings and Accessories	1.0000	LS	\$9,000.00	\$9,000.00
				Alternate Total: \$133,877.00	Total: \$133,877.00

SUBCONTRACTOR LIST - INSTRUCTIONS

For each Subcontractor that will perform a portion of the Work in an amount in excess of one-half of 1% of the bidder's total Contract Price,[1] the bidder must list a description of the Work, the name of the Subcontractor, its California contractor license number, the location of its place of business, its DIR registration number, and the portion of the Work that the Subcontractor is performing based on a percentage of the Base Bid price.

[1] For street or highway construction this requirement applies to any subcontract of \$10,000 or more.

SUBCONTRACTOR LIST

Description Of Work	Subcontractor Name	California Contractor License Number
Roofing	Westech Roofing	500843
Fire Protection	Bay Cities Fire Protection	731222
Demolition	Professional Asbestos & Lead Services	700658
Aluminum Frames & Doors & glass & glazing	Integrity Glass	1036272
Gyp Board	North Bay Drywall & Construction	1035251
Acoustical Ceilings	Division 9 Specialty	1003305
Flooring	Kim's Flooring	739226
Casework & Countertops	JR Stephens	445547
Plumbing	Cal Pacific Systems	924244
Tiling	KZ Tile	767277
Electrical	A&G Electric	915693
HVAC	Top Notch Mechanical	972009
Painting	KBI Painting	944475
Location Of Business	Dir Reg No.	Percent Of Work
Richmond, CA	1000006381	3.25%
Santa Rosa, CA	1000045613	1%
Concord, CA	1000868914	2.75%
Rohnert Park, CA	1000514921	4.5%
Cotati, CA	1000054143	3.00%
Rohnert Park, CA	1000025918	1.5%
San Francisco, CA	1000006544	1.5%
Arcata, CA	1000009737	21%

Location Of Business	Dir Reg No.	Percent Of Work
Brisbane, CA	1000004768	3%
South San Francisco, CA	1000001756	2.75%
West Sacramento, CA	1001121189	7.5%
Sacramento, CA	1000017371	5.75%
Petaluma, CA	1000005867	5.25%

NON-COLLUSION DECLARATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the *

President

of: *

Arntz Builders, Inc.

the party making the foregoing bid.

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

This declaration is intended to comply with California Public Contract Code § 7106 and Title 23 U.S.C § 112.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on

[date], *	[city] *	[state] *
08/08/2025	Petaluma	California

☒ **I agree that my digital or electronic signature applies to this form**

*

Name *

Brian Proteau

Bid Security

As a guarantee that, if awarded the Contract, Bidder will perform its obligations under Section 4 above, Bidder is enclosing bid security in the amount of ten percent of its maximum bid amount in one of the following forms (select one). Upload a scan of the paper bid security.

Within ten calendar days following City's issuance of the Notice of Award to the apparent low bidder, the bidder must submit original hardcopies of the payment and performance bonds to City as specified in the Contract Documents using the bond forms included in the Contract Documents.

Guarantee Method *

Paper Bid Security, Cashier's
Check, or Certified Check:

Paper Bid Security, Cashier's Check, or Certified Check:

Confirmation: *

A bid security, using the Bid Security form included with the Contract Documents, payable to City and executed by a surety licensed to do business in the State of California.

REQUIRED DOCUMENTS LIST

Name	Omission Terms	Submitted File
Paper Bid Security, Certified Check, or Cashier's Check [insert instructions for delivery of wet-ink, original documents]	I am verifying my bid security electronically.	Bid Bond - Arntz Builders.pdf
Bidder's Questionnaire Submission of bidder's questionnaire is required.		Bidders Questionnaire - Arntz Builders.pdf
Responsiveness Questions Submission of responsiveness questions is required.		Responsiveness Questions-Arntz Builders.pdf
3 Required Documents		

Bid Bond

Arntz Builders, Inc. _____ ("Bidder") has submitted a bid, dated August 8, 20 25 ("Bid"), to < City of San Rafael > ("City") for work on the < Pickleweed Library Renovation > Project ("Project"). Under this duly executed bid bond ("Bid Bond"), Bidder as Principal and Great American Insurance Company, its surety ("Surety"), are bound to City as obligee in the penal sum of ten percent of the maximum amount of the Bid (the "Bond Sum"). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. **Submittals.** Within ten days following issuance of the Notice of Potential Award to Bidder, Bidder must submit to City the following:
 - 2.1 **Contract.** The executed Contract, using the form provided by City in the Project contract documents ("Contract Documents");
 - 2.2 **Payment Bond.** A payment bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
 - 2.3 **Performance Bond.** A performance bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents; and
 - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required by the Instructions to Bidders or Notice of Potential Award.
3. **Enforcement.** If Bidder fails to execute the Contract and to submit the bonds and insurance certificates as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: Mr. Wade Wilson
Address: 1255 Treat Boulevard, Suite 336
City/State/Zip: Walnut Creek, CA 94597
Phone: (925) 988-2245
Fax: (888) 812-2529
Email: wwilson@gaig.com
4. **Duration and Waiver.** If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise, it will remain in full force and effect for 60 days following the bid opening or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code §§ 2819 and 2845.

[Signatures are on the following page.]

This Bid Bond is entered into and effective on August 1, 2025.

SURETY:

Great American Insurance Company
Business Name

s/ [Signature]

August 1, 2025

Date

Stacy M. Clinton, Attorney-in-fact
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

BIDDER:

Arntz Builders, Inc.
Business Name

s/ [Signature]

August 8, 2025

Date

Brian Proteau, President
Name, Title

END OF BID BOND

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than TWO

No. 0 22150

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
K. DIXON WRIGHT	BOTH OF	BOTH
STACY M. CLINTON	PETALUMA, CALIFORNIA	\$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 24TH day of MARCH, 2023.

Attest

GREAT AMERICAN INSURANCE COMPANY



Assistant Secretary

Stephen C. Beraha

Mark V. Vicario

Divisional Senior Vice President

MARK VICARIO (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 24TH day of MARCH, 2023, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 1st day of August, 2025



Stephen C. Beraha

Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

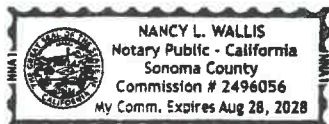
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Sonoma)
 On 8/1/25 before me, Nancy L. Wallis, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared Stacy M. Clinton
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Nancy L. Wallis
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____



August 8, 2025

City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

Subject: Pickleweed Library Renovation
Bid Date: 8/8/25 @ 11:00am
Bidder Questionnaire

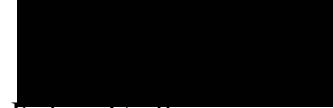
To whom it may concern:

Enclosed please find our Responsiveness Questions with associated backup.

Please contact us with any questions or concerns.

Sincerely,

ADNETZ BUILDERS, INC



Kelsey Godfrey
Bid Coordinator

Bidder's Questionnaire

PICKLEWEED LIBRARY RENOVATION PROJECT

Within 48 hours following a request by City, a bidder must submit to City a completed, signed Bidder's Questionnaire using this form and all required attachments, including clearly labeled additional sheets as needed. City may request the Questionnaire from one or more of the apparent low bidders following the bid opening, and may use the completed Questionnaire as part of its investigation to evaluate a bidder's qualifications for this Project. The Questionnaire must be filled out completely, accurately, and legibly. Any errors, omissions, or misrepresentations in completion of the Questionnaire may be grounds for rejection of the bid or termination of a Contract awarded pursuant to the bid.

Part A: General Information

Bidder Business Name: Arntz Builders, Inc. ("Bidder")

Check One: ☒ Corporation (State of incorporation: California)
☐ Partnership
☐ Sole Proprietorship
☐ Joint Venture of: _____
☐ Other: _____

Main Office Address and Phone: 431 Payran Street, Petaluma, CA 94952
707-835-2900

Local Office Address and Phone: 431 Payran Street, Petaluma, CA 94952
707-835-2900

Website address: www.arntzbuilders.com

Owner of Business: See attached ownership list

Contact Name and Title: Brian Proteau, President

Contact Phone and Email: 707-835-2900; brian@arntzbuilders.com

Bidder's California Contractor's License Number(s): 856393

Bidder's DIR Registration Number: 1000003147

Part B: Bidder Experience

1. How many years has Bidder been in business under its present business name? 21 years
2. Has Bidder completed projects similar in type and size to this Project as a general contractor?
☒ Yes ☐ No
3. Has Bidder ever been disqualified from a bid on grounds that it is not responsible, or otherwise disqualified or disbarred from bidding under state or federal law?
☐ Yes ☒ No

If yes, provide additional information on a separate sheet regarding the disqualification or disbarment, including the name and address of the agency or owner of the project, the type and size of the project, the reasons that Bidder was disqualified or disbarred, and the month and year in which the disqualification or disbarment occurred.

4. Has Bidder ever been terminated for cause, alleged default, or legal violation from a construction project, either as a general contractor or as a subcontractor?

_____ Yes X No

If yes, provide additional information on a separate sheet regarding the termination, including the name and address of the agency or owner of the subject project, the type and size of the project, whether Bidder was under contract as a general contractor or a subcontractor, the reasons that Bidder was terminated, and the month and year in which the termination occurred.

5. Provide information about Bidder's past projects performed as general contractor as follows:

- 5.1 Six most recently completed public works projects within the last three years;
- 5.2 Three largest completed projects within the last three years; and
- 5.3 Any project which is similar to this Project including scope and character of the work.

6. Use separate sheets to provide all of the following information for each project identified in response to the above three categories:

- 6.1 Project name, location, and description;
- 6.2 Owner (name, address, email, and phone number);
- 6.3 Prime contractor, if applicable (name, address, email, and phone number);
- 6.4 Architect or engineer (name, email, and phone number);
- 6.5 Project and/or construction manager (name, email, and phone number);
- 6.6 Scope of work performed (as general or as subcontractor);
- 6.7 Initial contract price and final contract price (including change orders);
- 6.8 Original scheduled completion date and actual date of completion;
- 6.9 Time extensions granted (number of days);
- 6.10 Number and amount of stop notices or mechanic's liens filed;
- 6.11 Amount of any liquidated damages assessed against Bidder; and
- 6.12 Nature and resolution of any project-related claim, lawsuit, mediation, or arbitration involving Bidder.

Part C: Safety

1. Provide Bidder's Experience Modification Rate (EMR) for the last three years:

Year	EMR
2024	.93
2023	.81
2022	.83

2. Complete the following, based on information provided in Bidder's CalOSHA Form 300 or Form 300A, Annual Summary of Work-Related Illnesses and Injuries, from the most recent past calendar year:

- 2.1 Number of lost workday cases: 0
- 2.2 Number of medical treatment cases: 0
- 2.3 Number of deaths: 0

3. Has Bidder ever been cited, fined, or prosecuted by any local, state, or federal agency, including OSHA, CalOSHA, or EPA, for violation of any law, regulation, or requirements pertaining to health and safety?

☒ Yes ☐ No

*General Citations - Please see attached

If yes, provide additional information on a separate sheet regarding each such citation, fine, or prosecution, including the name and address of the agency or owner of the project, the type and size of the project, the reasons for and nature of the citation, fine, or prosecution, and the month and year in which the incident giving rise to the citation, fine, or prosecution occurred.

4. Name, title, and email for person responsible for Bidder's safety program:

Brian Proteau President brian@arntzbuilders.com
Name Title Email

Part D: Verification

In signing this document, I, the undersigned, declare that I am duly authorized to sign and submit this Bidder's Questionnaire on behalf of the named Bidder, and that all responses and information set forth in this Bidder's Questionnaire and accompanying attachments are, to the best of my knowledge, true, accurate and complete as of the date of submission. **I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Signature: 

Date: 8/6/25

By: Brian Proteau, President

Name and Title

END OF BIDDER'S QUESTIONNAIRE



Arntz Builders, Inc.

431 Payran St, Petaluma CA 94952 License No. 856393 T (707) 835-2900 F (707) 835-2993 www.arntzbuilders.com

COMPANY INFORMATION

Donald Arntz, CEO, 21 years with the company and 16.33% owner.

Thomas Arntz, Vice President, 21 years with the company and 16.33% owner.

David Arntz, Secretary/Treasurer, 20 years with the company and 27.33% owner.

JP Van Zee, Vice President, 21 years with the company and 7.00% owner.

Brian Proteau, President, 21 years with the company and 0.00% owner.

Samuel Arntz, Owner/Project Manager, 12 years with the company and 16.50% owner.

Robert Arntz, Owner/Project Manager, 10 years with the company and 16.50% owner.



Arntz Builders, Inc.

431 Payran St, Petaluma CA 94952 License No. 856393 T (707) 835-2900 F (707) 835-2993 www.arntzbuilders.com

5/27/21 OSHA Citation #1531916

Type of Violation: General

\$450 Citation – Paid

Jobsite: Willows Courthouse Renovation

Item 1 – Scaffold Permit. The Division district office was not notified of permit required activity at the jobsite at least 24 hours prior to the activity. This issue was corrected during the inspection and permit was displayed as necessary.

Item 2 – Unlabeled Drums: all unlabeled drums and containers received proper labels to identify contents.

11/10/21 OSHA Citation #1553456

Type of Violation: Regulatory

\$560 Citation – Paid

Jobsite: Willows Courthouse Renovation

Item 1 – Work on permit-required for a building or structure over 36 feet high prior to work beginning. Permit was acquired and displayed as necessary.



Arntz Builders, Inc.

431 Payran St, Petaluma CA 94952 License No. 856393 T (707) 835-2900 F (707) 835-2993 www.arntzbuilders.com

Arntz Builders, Inc. was the General Contractor on all of the following projects.

5.1 SIX MOST RECENTLY COMPLETED PROJECTS IN THE PAST THREE YEARS

Project Name: Bolinas Field Station

Type: Renovation

Address: 72 Wharf Road, Bolinas, CA 94924

Owner: College of Marin, Enzo Garetto, 415-485-7645, egaretto@marin.edu

Construction Manager: Same as Owner

Architect: Perkins-Eastman, Jordan Cayanan, 415-528-1106, j.cayanan@perkinseastman.com

Start Date: 9/25/23

Anticipated Completion Date: 6/20/24

Completion Date: 1/31/25

Contract Amount: \$5,229,367

Revised Contract Amount: \$5,229,367

Change Order Amount: \$0

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: A new 2,416 SF single story structure. The new structure will include a laboratory classroom, office, storage, utility, and restrooms to support activities for college science programs.

Project Name: Rincon Valley MS Roof & HVAC – Lease-Leaseback

Type: Renovation

Address: 4650 Badger Road, Santa Rosa, CA 95409

Owner: Santa Rosa City Schools, Erik Oden, 707-890-3800, eoden@srcs.k12.ca.us

Construction Manager: Greystone, Steve Petcavich, 707-933-0624, steve@greystonewest.com

Architect: Axia Architects, Doug Hilberman, 707-542-4652, dhilberman@axiaarchitects.com

Start Date: 6/1/24

Anticipated Completion Date: 9/6/24

Completion Date: 9/6/24

Contract Amount: \$18,832,958

Revised Contract Amount: \$18,832,958

Change Order Amount: \$0

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Roofing replacement and repair, replacement of mechanical/ventilation equipment and all associated incidental work.

Project Name: Cali-Calmeacac Language Academy TK Upgrades – Lease-Leaseback

Type: New PC

Address: 9491 Starr Road, Windsor, CA 95492

Owner: Windsor Unified School District, Austin Matzaganian, 707-837-7708, amatzaganian@wusd.org

Construction Manager: Van Pelt Construction Services, Brian Cameron, 530-961-2705, brian@vpcsonline.com

Architect: CA+SA Studio Architects, Trent Sommers, 530-781-3112, trent@casa.studio

Start Date: 06/15/23

Anticipated Completion Date: 07/01/2024

Completion Date: 07/01/2024

Contract Amount: \$8,335,994

Revised Contract Amount: \$8,515,727

Change Order Amount: \$179,763

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: (6) Pre-Checked 1350 SF Transitional Kinder classrooms. Site work, landscaping, and play area.

Project Name: Tallman Gym Modernization – Lease-Leaseback

Type: Renovation

Address: 20932 Big Canyon Road, Middletown, CA 95461

Owner: Middletown Unified School District, Nikki Sabatier, 707-987-4100,

nikki.sabatier@middletownusd.org

Construction Manager: Van Pelt Construction Services, Ray Green, 707-438-3790,

ray.green@vpcsonline.com

Architect: QKA, Lyanne Schuster, 707-576-0829, lyannes@qka.com

Start Date: 6/10/24

Anticipated Completion Date: 9/16/24

Completion Date: 9/1/24

Contract Amount: \$4,766,697

Revised Contract Amount: \$5,311,756

Change Order Amount: \$545,059

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Remove the existing roof and replace with new built-up roof. Remove and replace existing doors and windows and mechanical equipment. Structural upgrades. 14,860 sf.

Project Name: Alta Heights Interior Remodel

Type: Renovation

Address: 15 Montecito Blvd., Napa, CA 94559

Owner: Napa Valley Unified School District, Mike Pearson, 707-815-1883, pearson.mike82@gmail.com

Construction Manager: Van Pelt Construction Services, Kelli Jurgenson, 707-438-3790,

kelli@vpcsonline.com

Architect: TLCD Architecture, (707) 525-5600

Start Date: 6/17/24

Anticipated Completion Date: 8/6/24

Completion Date: 8/13/24

Contract Amount: \$867,335

Revised Contract Amount: \$1,111,282

Change Order Amount: \$243,947

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Maintenance replacement of interior finishes, demolition of (2) relocatable classroom buildings and related site repairs.

Project Name: 911 Fire Dispatch Center

Type: Renovation

Address: 1600 Los Gamos Drive, Suite 300, San Rafael, CA 94903

Owner: County of Marin, Jason Weber, 415-473-4100 jason.weber@marincounty.gov

Construction Manager: Nova Partners, Inc., Joe Capps-Jenner, 415-720-1462, joeci@novapartners.com

Architect: Ware Malcomb, HoiSan Sio, 510-326-3853, hsio@waremalcomb.com

Start Date: 12/11/23

Anticipated Completion Date: 5/9/24

Completion Date: 6/6/24
Contract Amount: \$4,222,062
Revised Contract Amount: \$5,195,301
Change Order Amount: \$973,239
Liquidated Damages: No
Claims: No
Stop Notices: 0

Project Description: Project required a fast track 4-month duration to construct and relocate Marin County Fire Department 911 call center. Project required a complete removal of interior walls, ceilings and related finishes. Construction included new infrastructure, communications, offices, restrooms and data center for Marin County Fire Department.

5.2 THREE LARGEST COMPLETED PROJECTS IN THE PAST THREE YEARS

Project: Central Administrative Center at Cole Campus

Type: New Construction
Address: 1011 Union Street, Oakland, CA 94607
Owner: Oakland Unified School District, Kenya Chatman, kenya.chatman@ousd.org
Construction Manager: Cumming Management Group, Elena Comrie, 415-916-2461, ecomrie@cumming-group.com
Architect: Shah Kawasaki Architects, Nestor Mena, 510-663-6090, nmena@skarc.com
Inspector of Record: Brad Williamson, 925-356-9461
Start Date: 11/1/2021
Original Scheduled Completion Date: 2/20/23
Completion Date: 12/31/24
Contract Amount: \$35,752,816
Contract Amount: \$51,485,839
Change Order Amount: \$15,733,023
Liquidated Damages: No
Claims: No
Stop Notices: 2
Project Description: A new 56,176 GSF two-story administration building will house Oakland USD Central Office Staff and Board Room for Public meetings. Site improvements include landscaping, fences, parking lots, and driveways on the 2.6-acre site.

Project: Willows Courthouse Renovation – CM at Risk

Type: Renovation
Address: 526 W. Sycamore Street, Willows, CA 95988
Owner: Judicial Council of California, Srinivas Rao, 916-860-4051, Srinivas.rao@jud.ca.gov
Construction Manager: Vanir Construction Management, Deepak Rana, 469-525-9603, Deepak.rana@vanir.com
Architect: Page & Turnbull, Todd Smith, 510-229-2303, smith@page-turnbull.com
Start Date: 12/21/2020
Anticipated Completion Date: 6/16/2022
Completion Date: 11/1/23
Contract Amount: \$40,379,680
Revised Contract Amount: \$46,139,871
Change Order Amount: \$5,760,191
Liquidated Damages: No
Claims: No
Stop Notices: 1
Project Description: The existing Glenn County Historic Courthouse was renovated and expanded from a one-courtroom facility into a three-courtroom facility. The building addition included court space

comprised of a mixture of b and a occupancies, and a temporary courtroom in-custody holding area. –
LEED Gold

Project: PUSD District Wide Roofing & HVAC Replacement Package 5 Lease-Leaseback

Type: Modernization

Address: 6 School Sites in Pleasanton, CA

Owner: Pleasanton Unified School District, John Chwastyk, 925-462-5500,

jchwastyk@pleasantonUSD.net

Construction Manager: Van Pelt Construction Services, Jenny Choi, 707-438-3790,

jenny.choi@vpconline.com

Architect: Sugimura Finney Architects, Mark Finney, 408-879-0600, mark@sugimura.com

Start Date: 6/6/22

Original Anticipated Completion Date: 8/3/2022

Completion Date: 2/28/23

Contract Amount: \$20,485,408

Revised Contract Amount: \$20,265,562

Unused Contingency Amount: \$219,846

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: District Wide Roofing and HVAC Replacement at 6 school sites in Pleasanton, CA

5.3 ADDITIONAL COMPLETED PROJECTS IN THE PAST THREE YEARS

Project: Booker T. Anderson Community Center Restoration Project

Type: Renovation

Address: 960 South 47th Street, Richmond, CA 94804

Owner: City of Richmond, Joe Leach, 510-620-5478, joe_leach@ci.richmond.ca.us

Construction Manager: Same as Owner

Architect: Mark Albertson Architect, Mark Albertson, 707-763-1580, mark@architects.ma.com

Start Date: 12/8/22

Anticipated Completion Date: 6/6/23

Completion Date: Phase 1: 10/19/23; Phase 2: 9/13/24

Contract Amount: \$3,302,178

Revised Contract Amount: \$4,156,426

Change Order Amount: \$854,426

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: The scope of work required is to repair and reconstruct the damaged portions of the community center using similar building materials and finishes as originally constructed to the greatest extent possible.

Project: Laurel Child Development Center

Type: New Construction

Address: 3825 California Street - Oakland, CA 94619

Owner: Oakland Unified School District, Mary Ledezma, 510-499-4447, mary.ledezma@ousd.com

Construction Manager: Same as Owner

Architect: Multistudio, Brandon Kent, 415-844-2121, brandon.kent@multi.studio

Inspector of Record: Richard Thomsen, 707-953-2396, rtinspector@gmail.com

Start Date: 6/23/22

Anticipated Completion Date: 9/20/23

New Anticipated Completion Date: 5/31/24

Completion Date: 7/31/24

Contract Amount: \$14,174,463

Revised Contract Amount: \$14,674,463

Change Order Amount: \$500,000

Liquidated Damages: No

Claims: No

Stop Notices: 1

Project Description: Demolition of an existing single-story modular building and associated play areas, Construction of a new single-story building (approximately 7,400 s.f.) including five (5) pre-school classrooms, administrative offices, kitchen, and ancillary spaces.

Site improvements include, but not limited to, underground utilities, retaining walls, play structure, landscaping, hardscape, bioswale, artificial turf playfield and public right-of-way improvements.

Project: Claremont Middle School Multi-Purpose

Type: New Construction

Address: 5750 College Ave. Oakland, CA 94618

Owner: Oakland Unified School District, Kenya Chatman, 510-879-2700, kenya.chatman@ousd.org

Construction Manager: Sixth Dimension, 510-517-1155, Deshonne.hall@sixthdimensionpm.com

Architect: S Meek Architecture, Susannah Meek, 415-543-5505, smeek@smarchitecture.com

Inspector of Record: Ken DeCarlo, 510-333-6521, ken@kdigrp.com

Start Date: 8/3/22

Original Anticipated Completion Date: September 2023

New Anticipated Completion Date: 2/28/24

Completion Date: 7/31/24

Contract Amount: \$15,985,725

Revised Contract Amount: \$16,699,658

Change Order Amount: \$713,933

Liquidated Damages: No

Claims: No

Stop Notices: 1

Project Description: A new one-story Type V-B construction steel frame building. Program consists of a cafeteria, kitchen, stage platform, and associated support storage rooms. The project will be California High Performance School (CHPS) Designed. The building will be fully sprinklered. Renovation scope to the existing classroom Building A consists of removal and replacement of existing folding walls with permanent walls, reconfiguration of existing restrooms into a new unisex accessible restroom, reconfiguration of an existing interior ramp to make it accessible, and minor restroom upgrades. Scope includes a campus wide replacement of the existing intrusion alarm (contractor must be BOSCH certified). Site work improvements include new fencing, storm water management site work, regrading, covered pedestrian walkway, stairs, ramps, game line restriping, pavement associated with the new building.

Project: Ironworkers Apprenticeship Training Center Interior Renovation

Type: Renovation

Address: 2055 Research Drive, Livermore, CA 94550

Owner: California Ironworkers Livermore, Jason Rafter, 916-952-4664,

jasonrafter@ironworkerbenny.net

Construction Manager: Same as Owner

Architect: Don Mackey Architect, Ltd., Don Mackey, 775-742-3019, don@dmackey.com

Start Date: 3/20/23

Anticipated Completion Date: 3/20/24

Completion Date: 1/28/24

Contract Amount: \$7,611,606

Revised Contract Amount: \$7,735,332

Change Order Amount: \$123,726

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: The work includes demolition; new office and training spaces on main and upper levels; new exterior canopies; doors and hardware; glass and glazing; new toilet rooms; new plumbing; new HVAC; new electrical service, lighting, power and signal work; and new Fire Suppression work.

Project: Liberty High School New Classroom Building

Type: Renovation/New Construction

Address: 850 2nd Street, Brentwood, CA 94513

Owner: Liberty Union High School District, Paul Melloni, 925-634-3812, mellonip@luhsd.net

Construction Manager: Lathrop Construction Associates, Inc., Anthony D'Amante, aed@lathropconstruction.com, 707-746-4450

Architect: Quattrocchi Kwok Architects, Bill Lindermann, bill@qka.com, 707-576-0829

Start Date: 10/31/22

Anticipated Completion Date: 4/1/24

Completion Date: 4/1/24

Contract Amount: \$18,395,220

Revised Contract Amount: \$18,962,788

Change Order Amount: \$567,568

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Demolition of three existing single-story buildings and construction of two new classroom buildings. Building A is a two-story steel framed building with 14 general education classrooms at 960-sf each; 2 Special Day classrooms at 1,045-sf each, each with a restroom and sensory room; shared staff prep room and restroom; elevator and machine room; and utility rooms. Building B is a single-story wood framed building with 1 science labs at 1,656-sf; 2 multi-stall student restrooms; and maintenance/custodial accessory spaces. The two buildings will form a new learning and gathering courtyard and have 2 gated entry points.

Project: Petaluma Construction Center

Type: New Construction

Address: 680 Sonoma Mountain Parkway, Petaluma, CA 94954

Owner: Santa Rosa Junior College, Ron Stewart, 707-975-4232, rstewart2@santarosa.edu

Construction Manager: Same as Owner

Architect: TLCD Architecture, Carl Servais, 707-525-5600, carl.servais@tlcd.com

Start Date: 4/6/2023

Anticipated Completion Date: 5/30/24

Completion Date: 4/30/24

Contract Amount: \$9,102,899

Revised Contract Amount: \$9,610,698

Change Order Amount: \$507,799

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Construction of a new 11,221 square foot Construction center with associated Site work.

Project: Cesar Chavez Reroof & HVAC Replacement

Type: Renovation

Address: 2480 Sebastopol Rd., Santa Rosa, CA 95407

Owner: Santa Rosa City Schools, Erik Oden, 707-890-3800, eoden@srcs.k12.ca.us

Construction Manager: Greystone West Company, John Dilena, 707-933-0624, john@greystonewest.com

Architect: PBK Architects/BEAM Professionals, Inc., Shawn LeCrone, 916-927-4444, shawn.lecrone@beamprof.com

Start Date: 6/12/23

Anticipated Completion Date: 11/24/23

Completion Date: 2/1/24

Contract Amount: \$12,053,054

Revised Contract Amount: \$11,165,414

Change Order Amount: -\$887,639

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: The project scope includes the replacement of existing HVAC system, roofing, skylights, and interior ceiling tiles in selected classrooms and patching and painting.

Project: Pleasanton USD District Wide Roof & HVAC Replacement Package 6 – Lease-Leaseback

Type: Renovation

Address: 4 School Sites in Pleasanton, CA

Owner: Pleasanton Unified School District, John Chwastyk, 925-462-5500,

jchwastyk@pleasantonusd.net

Construction Manager: Van Pelt Construction Services, Jenny Choi, 707-438-3790,

jenny.choi@vpcsonline.com

Architect: Sugimura Finney Architects, Mike Bowers, 408-879-0600, mike@sugimura.com

Start Date: 6/5/23

Anticipated Completion Date: 10/30/23

Completion Date: 2/3/24

Contract Amount: \$9,999,169

Revised Contract Amount: \$10,041,469

Change Order Amount: \$42,000

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: District Wide Roofing and HVAC Replacements Project and Modernization Package 6 at Donlon ES, Hart MS, Mohr ES, Walnut Grove ES.

Project: Vacaville Annex HVAC & Roof Replacement

Type: Renovation

Address: 200 North Village Parkway, Vacaville, CA 95688

Owner: Solano Community College District, Kristoffer Bridges, 512-720-9207,

Kristoffer.bridges@solano.edu

Architect: SALASO'BRIEN, 877-725-2755

Start Date: NTP: 9/28/22; Construction Start: 8/15/23

Anticipated Completion Date: 2/28/24

Completion Date: 1/15/24

Contract Amount: \$2,107,771

Revised Contract Amount: \$2,097,072

Change Order Amount: -\$10,698

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Removal and replacement of the existing 3 ply built up roof system. Installation of OSHA compliant railings/gate at Roof hatches, modifications to existing utility elevations to match new flashing height, demolition and install of 10 new package rooftop units, removal and re-install of existing plumbing vents, all mechanical, patching, repair, rigging, controls and balance work with corresponding report, pre and post construction air balance reports, install of new district standard Delta DDC System, cleaning of new ductwork systems, demo and provide power to new HVAC equipment, fire alarm work in support of new HVAC scope.

Project: Side by Side Cottages 3 & 4 Conversion

Type: Renovation

Address: 300 Sunny Hills Drive, San Anselmo, CA 94960

Owner: Side by Side, Karen Bischoff, 415-457-3200 ext. 117, kbischoff@sidebysideyouth.org

Construction Manager: Same as Owner

Architect: Siegel & Strain Architects, Karen Richards, 510-547-8092

Start Date: 4/17/23
Anticipated Completion Date: 8/14/23
Completion Date: 9/30/23
Contract Amount: \$694,414
Revised Contract Amount: \$757,007
Change Order Amount: \$62,593
Liquidated Damages: No
Claims: No
Stop Notices: 0

Project Description: The existing cottage buildings number 3 and 4 are to be remodeled to serve as educational buildings for Side by Side, a nonpublic school serving children ages 5 to 15. Repave exterior walkway to provide an accessible route from the parking to the entry of the buildings. Upgrade buildings as required for the change of occupancy from R-2 to E. Seismic upgrades, remodel one existing single occupancy unisex restroom in each building to meet accessibility. Removal of interior partitions within building to create classroom.

Project: Roosevelt MS Inc. #1

Type: Renovation
Address: 1926 E 19th Street, Oakland, CA 94606
Owner: Oakland Unified School District, Mary Ledezma, 510-535-7055, mary.ledezma@ousd.org
Construction Manager: Same as Owner
Architect: HKIT Architects, Jeff Evans, 510-625-9800, jevans@hkit.com
Start Date: 5/26/23
Anticipated Completion Date: 7/31/23
Completion Date: 7/31/23
Contract Amount: \$1,932,364
Change Order Amount: \$0
Liquidated Damages: No
Claims: No
Stop Notices: 0

Project Description: The scope of work for this project is site preparation for a new modular science classroom building with restroom facilities. Additionally the project includes access compliance, including but not limited to: accessible path of travel to the area of work, site work and conduit for future utilities.

Project: Coyote Valley Elementary School Restroom Remodel

Type: Renovation
Address: 18950 Coyote Valley Rd., Hidden Valley Lake, CA 95467
Owner: Middletown Unified School District, Nikki Sabatier, 707-987-4100, nikki.sabatier@middletownusd.org
Construction Manager: Van Pelt Construction Services, Ray Green, 707-484-2974, ray.green@vpcsonline.com
Architect: Quattrocci Kwok Architect, 707-576-0829, balynp@qka.com
Start Date: 6/20/23
Anticipated Completion Date: 9/30/23
Completion Date: 9/1/23
Contract Amount: \$927,432
Revised Contract Amount: \$923,541
Change Order Amount: -\$3,890
Liquidated Damages: No
Claims: No
Stop Notices: 0

Project Description: Modernization of existing restrooms at Building E multi-use and classroom Building C. Restrooms received new plumbing fixtures, toilet accessories, toilet partitions, tile flooring and walls, paint, and light fixtures.

Project: Lydiksen Elementary School Modernization

Type: Modernization

Address: 7700 Highland Oaks Drive, Pleasanton, CA 94588

Owner: Pleasanton Unified School District, John Chwastyk, 925-462-5500,
jchwastyk@pleasantonUSD.net

Construction Manager: Van Pelt Construction Services, Ed Lee, 707-438-3790, ed.lee@vpcsonline.com

Architect: Aedis Architect, Pascal Najem, 408-300-5160, pnajem@aedisarchitects.com

Start Date: 6/6/22

Anticipated Completion Date: April 2023

Completion Date: 8/31/23

Contract Amount: \$4,574,967

Revised Contract Amount: \$4,631,712

Change Order Amount: \$56,745.60

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Modernization of Building C, partial modernization of Building E and Addition of (1) Shade Structure.

Project: Cali-Calmeacac Language Academy Portable Replacement & Site Improvements - Increment #2 – Lease Leaseback

Type: New Construction

Address: 9491 Starr Road, Windsor, CA 95492

Owner: Windsor Unified School District, Austin Matzaganian, 707-837-7708, amatzaganian@wusd.org

Construction Manager: Van Pelt Construction Services, Brian Cameron, 530-961-2705,
brian@vpcsonline.com

Architect: AC Martin, Rup Chand, 707-648-8800, e.rup.chand@acmartin.com

Start Date: 5/10/22

Anticipated Completion Date: September 2023

Completion Date: 6/16/23

Contract Amount: \$16,700,413

Revised Contract Amount: \$16,436,760

Change Order Amount: -\$261,742 (unused contingency)

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Construction of 2 story classroom building. Mechanical, plumbing, electrical, fire alarm and sprinkler system throughout the building, new hardscape and site utilities landscape improvements, relocated fire access lane, construction of play structure and lunch shelter structure.

Project Name: Santa Rosa High School Agricultural Facility

Type: New Construction

Address: 4260 Alba Lane, Santa Rosa, CA 95403

Owner: Santa Rosa City Schools, Erik Oden, 707-890-3800, eoden@srcs.k12.ca.us

Architect: PBK Architects, Richard Heintz, rheintz@pbk-wlc.com

Construction Manager: Same as Owner

Start Date: 10/12/21

Anticipated Completion: 8/31/22

Completion Date: 03/15/23

Contract Amount: \$2,781,373

Revised Contract Amount: \$2,924,645

Change Order Amount: \$143,272

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Construction of a new barn, parking, and associated site improvements.

Project: Finishing Kitchens at Bel Aire & Napa Valley Language Academy

Type: Renovation

Address: Bel Aire Elementary: 3580 Beckworth Drive, Napa, CA 94558; Napa Valley Language Academy: 2700 Kilburn Avenue, Napa, CA 94558

Owner: Napa Valley Unified School District, Mike Pearson, 707-815-1883, pearson.mike82@gmail.com

Construction Manager: Van Pelt Construction Services, Ray Green, 707-484-2974, ray.green@vpcsonline.com

Architect: TLCD Architecture, Carl Servais, 707-525-5600, carl.servais@tlcd.com

Start Date: 3/7/2022

Anticipated Completion Date: 8/5/22

Completion Date: Bel Aire: 8/5/22; NVLA: 10/21/22

Contract Amount: \$1,806,119

Revised Contract Amount: \$1,899,855

Change Order Amount: \$93,736

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: New Food Service Equipment, HVAC, Plumbing, Electrical, Fire Alarm Improvements, and Associated Site Work.

Project: CSO Building Seismic Retrofit and Reroof

Type: Renovation

Address: 2901 Hilltop Drive, Richmond, CA 94806

Owner: West County Wastewater, Keith Reynolds, 510-230-3085, kreynolds@wewd.org

Construction Manager: Consolidated CM, Timothy Roberts, 510-208-1720, roberts@consolidatedcm.com

Architect: Thornton Tomasetti, Matt Thomas, 415-365-6900, mthomas@thorntontomasetti.com

Start Date: 2/10/22

Anticipated Completion Date: 4/11/22

Completion Date: 9/15/22

Contract Amount: \$490,292

Revised Contract Amount: \$673,068

Change Order Amount: \$182,776

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Remove and replace the existing built-up roof membrane with SBS modified (cold process). Remove and replace existing metal coping. Remove, store and reinstall existing ventilators and increase the height of the respective curbs. Flash all existing roof penetrations and through-wall scuppers and overflows. Structural upgrade for an ACSE 41-based seismic retrofit of indicated buildings on site.

Project: Residential Treatment Facility

Type: Renovation

Address: 920 Grand Avenue, San Rafael, CA 94901

Owner: Progress Foundation, Steve Boyd, 707-334-1825, sboyd@progressfoundation.com

Construction Manager: Nova Partners, Inc., Joe Capps-Jenner, joecj@novapartners.com

Architect: Ross Drulis Cusenbery Architecture, Michael Ross, 707-996-8448, mross@rdcarchitecture.com

Start Date: 12/22/21

Anticipated Completion Date: 8/22/22

Completion Date: 9/30/22

Contract Amount: \$4,471,840

Revised Contract Amount: \$4,787,792

Change Order Amount: \$315,952

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: The project consists of adaptive reuse of an existing single story former public health laboratory building into a 16-bed residential care facility.

Project: Cali-Calmeccac Language Academy Portable Replacement & Site Improvements - Increment #1 – Lease Leaseback

Type: Renovation

Address: 9491 Starr Road, Windsor, CA 95492

Owner: Windsor Unified School District, Austin Matzaganian, 707-837-7708, amatzaganian@wusd.org

Construction Manager: Van Pelt Construction Services, Brian Cameron, 530-961-2705, brian@vpcsonline.com

Architect: AC Martin, Rup Chand, 707-648-8800, e.rup.chand@acmartin.com

Start Date: 2/18/22

Anticipated Completion Date: 6/30/22

Completion Date: 6/30/22

Contract Amount: \$1,125,570

Revised Contract Amount: \$1,230,190

Change Order Amount: \$104,619

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: Addition of twelve relocatable classroom buildings, electrical, fire alarm, drop-off lane improvements, and hardscaping.

Project: American Canyon MS New Student Commons & Site Improvements – Design Build

Type: Design Build

Address: 300 Benton Way, American Canyon, CA 94503

Owner: Napa Valley Unified School District, Mike Pearson, 707-815-1883, pearson.mike82@gmail.com

Construction Manager: Van Pelt Construction, Kelli Jurgenson, 707-695-1603 kelli@vpcsonline.com

Architect: PBK Architects, Anthony Harris, 916-241-8533, anthony.harris@pbk.com

Start Date: 3/17/21

Anticipated Completion: 08/2022

Completion Date: 9/30/22

Contract Amount: \$13,595,526

Revised Contract Amount: \$15,575,546

Change Order Amount: \$1,980,020

Liquidated Damages: No

Claims: No

Stop Notices: 0

Project Description: The project includes site and building demolition and abatement, site grading, site utilities, construction of a new Multi-Purpose building of approximately 13,000 sf. with a stage, warming kitchen, serving area, restrooms, support spaces, library, classroom and project-based learning center. All associated electrical, mechanical, and plumbing work. The work includes site hardscape finishes, landscape, site furnishings. The work may also include limited modernization work on other existing buildings.



August 8, 2025

City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

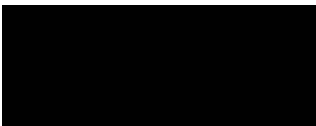
Subject: Pickleweed Library Renovation
Bid Date: 8/8/25 @ 11:00am
Responsiveness Questions

To whom it may concern:

Enclosed please find our Responsiveness Questions with associated backup.

Please contact us with any questions or concerns.

Sincerely,

 NC

Kelsey Godfrey
Bid Coordinator

C. ESSENTIAL CRITERIA QUESTIONS

Circle Answer

- | | | | |
|----|---|--------------------------------------|----|
| 1. | Does your firm possess a valid and current California Contractor's or other professional license as required by law for the project or projects for which it intends to submit a bid? | <input checked="" type="radio"/> Yes | No |
| 2. | Is your firm registered with DIR as a Public Works Contractor for the current fiscal year? | <input checked="" type="radio"/> Yes | No |
| 3. | Does your firm have a liability insurance policy with a policy limit of at least \$2,000,000 per occurrence and \$4,000,000 aggregate? | <input checked="" type="radio"/> Yes | No |
| 4. | Does your firm have current workers' compensation insurance policy as required by the Labor Code or is your firm legally self-insured pursuant to Labor Code section 3700 et. seq.? | <input checked="" type="radio"/> Yes | No |
| 5. | Have you attached your firm's latest copy of reviewed or audited financial statements with accompanying notes and supplemental information? * | <input checked="" type="radio"/> Yes | No |

NOTE: Financial statements that are not either reviewed or audited are not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statements.

- | | | | |
|----|--|--------------------------------------|----|
| 6. | Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) authorized to issue bonds in the State of California, which states that: (a) your current bonding capacity is sufficient for the project for which you seek pre-qualification if you are seeking pre-qualification for a single project; or valid for a year if you are seeking pre-qualification valid for a year; and (b) your current available bonding capacity? ** | <input checked="" type="radio"/> Yes | No |
|----|--|--------------------------------------|----|

NOTE: Notarized statement must be from the surety company, not an agent or broker.

- | | | | |
|----|---|-----|-------------------------------------|
| 7. | Has your contractor's or other professional license been revoked at any time in the last five years? | Yes | <input checked="" type="radio"/> No |
| 8. | Has a surety firm completed a contract on your behalf, or paid for completion because your firm was in default and/or terminated by the project owner within the last five years? | Yes | <input checked="" type="radio"/> No |

Circle Answer

9. Is your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B, ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to Labor Code section 1777.1, Labor Code section 1777.7, or any other federal, state, county, municipal or other local law providing for the debarment of contractors from public works?
- Yes ☒ No
10. Has your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B been convicted of a crime involving the awarding of a contract of a government construction project, the bidding or performance of a government contract, antitrust statutes, racketeering statutes, safety and health regulations, environmental laws, laws banning workplace discrimination, laws governing wages, hours or labor standards, or laws involving fraud, theft, or any other act of dishonesty?
- Yes ☒ No
11. Is your firm currently the debtor in a bankruptcy case?
- (If yes, attach a copy of the bankruptcy petition showing the case number and date on which the petition was filed.)
- Yes ☒ No
12. Has your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B ever been terminated from a public works contract, including but not limited to termination based on any misconduct, such as failure to comply with contractual, statutory, or other legal obligations from any public construction project?
- Yes ☒ No
13. Does your firm, any of its officers, supervisors, managers, or any firm or individual identified above in Section A and/or Section B currently have any delinquent liability to an employee, the state, or any awarding body for any assessment of back wages or related damages, interest, fines or penalties pursuant to any final judgment, order, or determination by any court or any federal, state, or local administrative agency, including a confirmed arbitration award?
- Yes ☒ No

* Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is "no more than 25 percent of the qualifying amount provided in section 14837(d)(1)." As of January 1, 2001, the qualifying amount is \$10 million, and 25 percent of that amount, therefore, is \$2.5 million.

** An additional notarized statement from the surety may be requested by City of San Rafael at the time of submission of a bid, if this pre-qualification questionnaire is submitted more than 60 days prior to submission of the bid.

Contract Bond Division
1255 Treat Boulevard, Suite 810
Walnut Creek, CA 94597
925.935.9060 main
925.988.2247 direct
888.812.2529 fax

www.greatamericaninsurance.com



August 5, 2025

City of San Rafael
111 Morpew Street
San Rafael, CA 94901

Re: Arntz Builders, Inc.
Pickleweed Library Renovation Project

Dear Sir or Madam,

Great American Insurance Company is the acting surety for Arntz Builders, Inc. We are pleased to be able to write to you concerning our valued customer. During our association we have given favorable consideration to the bonding of projects in excess of \$120,000,000. While their available bond capacity depends to a large extent on the total work on hand at any given time, their aggregate capacity is at least \$175,000,000.

Great American Insurance Company is a California admitted surety and we comply with the California Code of Civil Procedures, Section 995.660. Our California Company I.D. Number is 1301-1 and our California License Number is 3597. We are listed in the current Federal Register (NAIC #16691). Our A.M. Best Rating is A+ (XV) and our S&P valuation is A+.

Please be advised that before we can make a final decision on providing any bond, we reserve the right to review the other bids, the contract proposal, and any other specific underwriting factors that may be present at the time. You understand, of course, that any arrangement for the final bond(s) is a matter between Arntz Builders, Inc. and Great American Insurance Company and we assume no liability to third parties or to you, if for any reason we do not execute any bond or bonds.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stacy M. Clinton", is written over the typed name.

Stacy M. Clinton
Attorney-in-Fact
(415) 413-9308



GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than TWO

No. 0 22150

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
K. DIXON WRIGHT	BOTH OF	BOTH
STACY M. CLINTON	PETALUMA, CALIFORNIA	\$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 24TH day of MARCH, 2023.

Attest

GREAT AMERICAN INSURANCE COMPANY



My L C. B.

Assistant Secretary

Mark V. Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

On this 24TH day of MARCH, 2023, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

5th

day of

August

2025



My L C. B.

Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

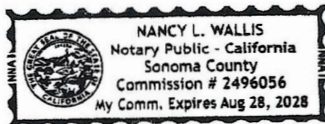
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Sonoma)
 On 8/5/25 before me, Nancy L. Wallis, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared Stacy M. Clinton
 Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Nancy L. Wallis
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
 Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Payment Bond

The City of San Rafael ("City") and _____ ("Contractor") have entered into a contract for work on the Pickleweed Library Renovation Project ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee in an amount not less than \$ _____, under California Civil Code § 9550 et seq., to ensure payment to authorized claimants. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay a person authorized in California Civil Code § 9100 to assert a claim against a payment bond, any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors under California Unemployment Insurance Code § 13020 with respect to the work and labor, then Surety will pay the obligation.
3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code § 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845. City waives the requirement of a new bond for any supplemental contract under Civil Code § 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
Address: _____
City/State/Zip: _____
Phone: _____
Email: _____
6. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Marin County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

[Signatures are on the following page.]

7. **Effective Date; Execution.** This Bond is entered into and is effective on _____,
20__.

SURETY:

Business Name

s/ _____

Date

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

Business Name

s/ _____

Date

Name, Title

APPROVED BY CITY:

s/ _____
ROBERT F. EPSTEIN, City Attorney

Date

END OF PAYMENT BOND

Performance Bond

The City of San Rafael ("City") and _____ ("Contractor") have entered into a contract for work on the Pickleweed Library Renovation Project ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee for an amount not less than \$_____ to ensure Contractor's faithful performance of its obligations under the Contract. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845.
4. **Application of Contract Balance.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which City is entitled under the terms of the Contract.
5. **Contractor Default.** Upon written notification from City of Contractor's termination for default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
 - 5.1 Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;
 - 5.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense; or
 - 5.3 Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.
6. **Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.
7. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

Attn: _____

Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
Email: _____

8. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Marin County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

9. **Effective Date; Execution.** This Bond is entered into and effective on _____, 20____.

SURETY:

Business Name

s/ _____

Date

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

Business Name

s/ _____

Date

Name, Title

APPROVED BY CITY:

s/ _____
ROBERT F. EPSTEIN, City Attorney

Date

END OF PERFORMANCE BOND

General Conditions

Article 1 - Definitions

Definitions. The following definitions apply to all of the Contract Documents unless otherwise indicated, e.g., additional definitions that apply solely to the Specifications or other technical documents. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the following (in any tense or form): “day,” “furnish,” “including,” “install,” “work day” or “working day.”

Allowance means a specific amount that must be included in the Bid Proposal for a specified purpose.

Article, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.

Change Order means a written document duly approved and executed by City, which changes the scope of Work, the Contract Price, or the Contract Time.

City means the municipality which has entered into the Contract with Contractor for performance of the Work, acting through its City Council, officers, employees, City Engineer, and any other authorized representatives.

City Engineer means the City Engineer for City and his or her authorized delegee(s).

Claim means a separate demand by Contractor for a change in the Contract Time or Contract Price, that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

Contract means the signed agreement between City and Contractor for performing the Work required for the Project, and all documents expressly incorporated therein.

Contract Documents means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the Notice of Potential Award and Notice to Proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Plans and Specifications; any Change Orders; and any other documents which are clearly and unambiguously made part of the Contract Documents. The Contract Documents do not include documents provided “For Reference Only,” or documents that are intended solely to provide information regarding existing conditions.

Contract Price means the total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as may be amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, supplies or equipment following submission of the Bid Proposal.

Contract Time means the time specified for complete performance of the Work, as set forth in the Contract and as may be amended by Change Order.

Contractor means the individual, partnership, corporation, or joint-venture that has signed the Contract with City to perform the Work.

Day means a calendar day unless otherwise specified.

Design Professional means the licensed individual(s) or firm(s) retained by City to provide architectural, engineering, or electrical engineering design services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.

DIR means the California Department of Industrial Relations.

Drawings has the same meaning as Plans.

Engineer means the City Engineer for the City of < _____ > and his or her authorized delegates.

Excusable Delay is defined in Section 5.3(B), Excusable Delay.

Extra Work means new or unforeseen work added to the Project, as determined by the Engineer in his or her sole discretion, including Work that was not part of or incidental to the scope of the Work when the Contractor's bid was submitted; Work that is substantially different from the Work as described in the Contract Documents at bid time; or Work that results from a substantially differing and unforeseeable condition.

Final Completion means Contractor has fully completed all of the Work required by the Contract Documents to the City's satisfaction, including all punch list items and any required commissioning or training, and has provided the City with all required submittals, including the instructions and manuals, product warranties, and as-built drawings.

Final Payment means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld or deducted pursuant to the Contract Documents.

Furnish means to purchase and deliver for the Project.

Government Code Claim means a claim submitted pursuant to California Government Code § 900 et seq.

Hazardous Materials means any substance or material identified now or in the future as hazardous under any Laws, or any other substance or material that may be considered hazardous or otherwise subject to Laws governing handling, disposal, or cleanup.

Including, whether or not capitalized, means "including, but not limited to," unless the context clearly requires otherwise.

Inspector means the individual(s) or firm(s) retained or employed by City to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all Laws.

Install means to fix in place for materials, and to fix in place and connect for equipment.

Laws means all applicable local, state, and federal laws, regulations, rules, codes, ordinances, permits, orders, and the like enacted or imposed by or under the auspices of any governmental entity with jurisdiction over any of the Work or any performance of the Work, including health and safety requirements.

Non-Excusable Delay is defined in Section 5.3(D), Non-Excusable Delay.

Plans means the City-provided plans, drawings, details, or graphical depictions of the Project requirements, but does not include Shop Drawings.

Project means the public works project referenced in the Contract.

Project Manager means the individual designated by City to oversee and manage the Project on City's behalf and may include his or her authorized delegee(s) when the Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer.

Recoverable Costs is defined in Section 5.3(F), Recoverable Costs.

Request for Information or **RFI** means Contractor's written request for information about the Contract Documents, the Work or the Project, submitted to City in the manner and format specified by City.

Section, when capitalized in these General Conditions, means a numbered section or subsection of the General Conditions, unless the context clearly indicates otherwise.

Shop Drawings means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to City acceptance, which are intended to provide details for fabrication, installation, and the like, of items required by or shown in the Plans or Specifications.

Specialty Work means Work that must be performed by a specialized Subcontractor with the specified license or other special certification, and that the Contractor is not qualified to self-perform.

Specifications means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into the Contract by or on behalf of City, and does not include the Contract, General Conditions or Special Conditions.

Subcontractor means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors of all tiers, unless otherwise indicated by the context. A third party such as a utility performing related work on the Project is not a Subcontractor, even if Contractor must coordinate its Work with the third party.

Technical Specifications has the same meaning as Specifications.

Work means all of the construction and services necessary for or incidental to completing the Project in conformance with the requirements of the Contract Documents.

Work Day or **Working Day**, whether or not capitalized, means a weekday when the City is open for business, and does not include holidays observed by the City.

Worksite means the place or places where the Work is performed, which includes, but may extend beyond the Project site, including separate locations for staging, storage, or fabrication.

Article 2 - Roles and Responsibilities

2.1 City.

(A) **City Council.** The City Council has final authority in all matters affecting the Project, except to the extent it has delegated authority to the Engineer.

(B) **Engineer.** The Engineer, acting within the authority conferred by the City Council, is responsible for administration of the Project on behalf of City, including authority to provide directions to the Design Professional and to Contractor to ensure

proper and timely completion of the Project. The Engineer's decisions are final and conclusive within the scope of his or her authority, including interpretation of the Contract Documents.

(C) **Project Manager.** The Project Manager assigned to the Project will be the primary point of contact for the Contractor and will serve as City's representative for daily administration of the Project on behalf of City. Unless otherwise specified, all of Contractor's communications to City (in any form) will go to or through the Project Manager. City reserves the right to reassign the Project Manager role at any time or to delegate duties to additional City representatives, without prior notice to or consent of Contractor.

(D) **Design Professional.** The Design Professional is responsible for the overall design of the Project and, to the extent authorized by City, may act on City's behalf to ensure performance of the Work in compliance with the Plans and Specifications, including any design changes authorized by Change Order. The Design Professional's duties may include review of Contractor's submittals, visits to any Worksite, inspecting the Work, evaluating test and inspection results, and participation in Project-related meetings, including any pre-construction conference, weekly meetings, and coordination meetings. The Design Professional's interpretation of the Plans or Specifications is final and conclusive.

2.2 Contractor.

(A) **General.** Contractor must provide all labor, materials, supplies, equipment, services, and incidentals necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economical and efficient manner in the best interests of City, and with minimal inconvenience to the public.

(B) **Responsibility for the Work and Risk of Loss.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for and required to exercise full control over the Work, including the construction means, methods, techniques, sequences, procedures, safety precautions and programs, and coordination of all portions of the Work with that of all other contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions. Contractor's responsibilities extend to any plan, method or sequence suggested, but not required by City or specified in the Contract Documents. From the date of commencement of the Work until either the date on which City formally accepts the Project or the effective date of termination of the Contract, whichever is later, Contractor bears all risks of injury or damage to the Work and the materials and equipment delivered to any Worksite, by any cause including fire, earthquake, wind, weather, vandalism or theft.

(C) **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including telephone numbers and email address, for the officer or employee in Contractor's organization who is to serve as Contractor's primary representative for the Project, and who has authority to act on Contractor's behalf. A Subcontractor may not serve as Contractor's primary representative.

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent acceptable to City, and assistants as necessary, who must be physically present at the Project site while any aspect of the Work is being performed. The superintendent must have full authority to act

and communicate on behalf of Contractor, and Contractor will be bound by the superintendent's communications to City. City's approval of the superintendent is required before the Work commences. If City is not satisfied with the superintendent's performance, City may request a qualified replacement of the superintendent. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of Contract Time, until an approved superintendent is physically present to supervise the Work. Contractor must provide written notice to City, as soon as practicable, before replacing the superintendent.

(E) **Standards.** Contractor must, at all times, ensure that the Work is performed in an efficient, skillful manner following best practices and in full compliance with the Contract Documents and Laws and applicable manufacturer's recommendations. Contractor has a material and ongoing obligation to provide true and complete information, to the best of its knowledge, with respect to all records, documents, or communications pertaining to the Project, including oral or written reports, statements, certifications, Change Order requests, or Claims.

(F) **Meetings.** Contractor, its project manager, superintendent and any primary Subcontractors requested by City, must attend a pre-construction conference, if requested by City, as well as weekly Project progress meetings scheduled with City. If applicable, Contractor may also be required to participate in coordination meetings with other parties relating to other work being performed on or near the Project site or in relation to the Project, including work or activities performed by City, other contractors, or other utility owners.

(G) **Construction Records.** Contractor will maintain up-to-date, thorough, legible, and dated daily job reports, which document all significant activity on the Project for each day that Work is performed on the Project. The daily report for each day must include the number of workers at the Project site; primary Work activities; major deliveries; problems encountered, including injuries, if any; weather and site conditions; and delays, if any. Contractor will take date and time-stamped photographs to document general progress of the Project, including site conditions prior to construction activities, before and after photographs at offset trench laterals, existing improvements and utilities, damage and restoration. Contractor will maintain copies of all subcontracts, Project-related correspondence with Subcontractors, and records of meetings with Subcontractors. Upon request by the City, Contractor will permit review of and/or provide copies of any of these construction records.

(H) **Responsible Party.** Contractor is solely responsible to City for the acts or omissions of any Subcontractors, or any other party or parties performing portions of the Work or providing equipment, materials or services for or on behalf of Contractor or the Subcontractors. Upon City's written request, Contractor must promptly and permanently remove from the Project, at no cost to City, any employee or Subcontractor or employee of a Subcontractor who the Engineer has determined to be incompetent, intemperate or disorderly, or who has failed or refused to perform the Work as required under the Contract Documents.

(I) **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by City to be deficient or defective in any way, including workmanship, materials, parts or equipment. Workmanship, materials, parts or equipment that do not conform to the requirements under the Plans, Specifications and every other Contract Document, as determined by City, will be considered defective and subject to rejection. Contractor must also promptly correct, at Contractor's sole expense, any Work performed beyond the lines and grades shown on the Plans or established by City, and any Extra Work performed without City's prior written approval. If Contractor fails to correct or to take reasonable steps toward correcting defective Work within five

days following notice from City, or within the time specified in City's notice to correct, City may elect to have the defective Work corrected by its own forces or by a third party, in which case the cost of correction will be deducted from the Contract Price. If City elects to correct defective Work due to Contractor's failure or refusal to do so, City or its agents will have the right to take possession of and use any equipment, supplies, or materials available at the Project site or any Worksite on City property, in order to effectuate the correction, at no extra cost to City. Contractor's warranty obligations under Section 11.2, Warranty, will not be waived nor limited by City's actions to correct defective Work under these circumstances. Alternatively, City may elect to retain defective Work, and deduct the difference in value, as determined by the Engineer, from payments otherwise due to Contractor. This paragraph applies to any defective Work performed by Contractor during the one-year warranty period under Section 11.2.

(J) **Contractor's Records.** Contractor must maintain all of its records relating to the Project in any form, including paper documents, photos, videos, electronic records, approved samples, and the construction records required pursuant to paragraph (G), above. Project records subject to this provision include complete Project cost records and records relating to preparation of Contractor's bid, including estimates, take-offs, and price quotes or bids.

(1) Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as Extra Work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

(2) Contractor must continue to maintain its Project-related records in an organized manner for a period of five years after City's acceptance of the Project or following Contract termination, whichever occurs first. Subject to prior notice to Contractor, City is entitled to inspect or audit any of Contractor's records relating to the Project during Contractor's normal business hours. The record-keeping requirements set forth in this subsection 2.2(J) will survive expiration or termination of the Contract.

(K) **Copies of Project Documents.** Contractor and its Subcontractors must keep copies, at the Project site, of all Work-related documents, including the Contract, permit(s), Plans, Specifications, Addenda, Contract amendments, Change Orders, RFIs and RFI responses, Shop Drawings, as-built drawings, schedules, daily records, testing and inspection reports or results, and any related written interpretations. These documents must be available to City for reference at all times during construction of the Project.

2.3 Subcontractors.

(A) **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors. City reserves the right to approve or reject any and all Subcontractors proposed to perform the Work, for reasons including the subcontractor's poor reputation, lack of relevant experience, financial instability, and lack of technical ability or adequate trained workforce. Each Subcontractor must obtain a City business license before performing any Work.

(B) **Contractual Obligations.** Contractor must require each Subcontractor to comply with the provisions of the Contract Documents as they apply to the Subcontractor's portion(s) of the Work, including the generally applicable terms of the Contract Documents, and to likewise bind their subcontractors. Contractor will provide that the rights that each Subcontractor may have against any manufacturer or supplier for breach of warranty or guarantee relating to items provided by the Subcontractor for the Project, will be assigned to City. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and City, but City is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

(C) **Termination.** If the Contract is terminated, each Subcontractor's agreement must be assigned by Contractor to City, subject to the prior rights of any surety, but only if and to the extent that City accepts, in writing, the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.

(D) **Substitution of Subcontractor.** If Contractor requests substitution of a listed Subcontractor under Public Contract Code § 4107, Contractor is solely responsible for all costs City incurs in responding to the request, including legal fees and costs to conduct a hearing, and any increased subcontract cost to perform the Work that was to be performed by the listed Subcontractor. If City determines that a Subcontractor is unacceptable to City based on the Subcontractor's failure to satisfactorily perform its Work, or for any of the grounds for substitution listed in Public Contract Code § 4107(a), City may request removal of the Subcontractor from the Project. Upon receipt of a written request from City to remove a Subcontractor pursuant to this paragraph, Contractor will immediately remove the Subcontractor from the Project and, at no further cost to City, will either (1) self-perform the remaining Work to the extent that Contractor is duly licensed and qualified to do so, or (2) substitute a Subcontractor that is acceptable to City, in compliance with Public Contract Code § 4107, as applicable.

2.4 Coordination of Work.

(A) **Concurrent Work.** City reserves the right to perform, have performed, or permit performance of other work on or adjacent to the Project site while the Work is being performed for the Project. Contractor is responsible for coordinating its Work with other work being performed on or adjacent to the Project site, including by any utility companies or agencies, and must avoid hindering, delaying, or interfering with the work of other contractors, individuals, or entities, and must ensure safe and reasonable site access and use as required or authorized by City. To the full extent permitted by law, Contractor must hold harmless and indemnify City against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of any utility company or agency or another contractor or subcontractor.

(B) **Coordination.** If Contractor's Work will connect or interface with work performed by others, Contractor is responsible for independently measuring and visually inspecting such work to ensure a correct connection and interface. Contractor is responsible for any failure by Contractor or its Subcontractors to confirm measurements before proceeding with connecting Work. Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give the Project Manager prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any known or reasonably discoverable defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work. Contractor must also promptly notify City if work performed by others, including work or activities performed by City's own forces, is operating to hinder, delay, or interfere with Contractor's timely

performance of the Work. City reserves the right to backcharge Contractor for any additional costs incurred due to Contractor's failure to comply with the requirements in this Section 2.4.

2.5 Submittals. Unless otherwise specified, Contractor must submit to the Engineer for review and acceptance, all schedules, Shop Drawings, samples, product data, and similar submittals required by the Contract Documents, or upon request by the Engineer. Unless otherwise specified, all submittals, including Requests for Information, are subject to the general provisions of this Section, as well as specific submittal requirements that may be included elsewhere in the Contract Documents, including the Special Conditions or Specifications. The Engineer may require submission of a submittal schedule at or before a pre-construction conference, as may be specified in the Notice to Proceed.

(A) **General.** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

(B) **Time and Manner of Submission.** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current City-accepted schedule for the Work and within the applicable time specified in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Project.

(C) **Required Contents.** Each submittal must include the Project name and contract number, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and references to applicable Specification section(s) and/or drawing and detail number(s).

(D) **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections as specified in full conformance with the requirements of this Section, or other requirements that apply to that submittal.

(E) **Effect of Review and Acceptance.** Review and acceptance of a submittal by City will not relieve Contractor from complying with the requirements of the Contract Documents. Contractor is responsible for any errors in any submittal, and review or acceptance of a submittal by City is not an assumption of risk or liability by City.

(F) **Enforcement.** Any Work performed or any material furnished, installed, fabricated or used without City's prior acceptance of a required submittal is performed or provided at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work or material, and the cost of additional time or services required of City, including costs for the Design Professional, Project Manager, or Inspector.

(G) **Excessive RFIs.** A RFI will be considered excessive or unnecessary if City determines that the explanation or response to the RFI is clearly and unambiguously discernable from the Contract Documents. City's costs to review and respond to excessive or unnecessary RFIs may be deducted from payments otherwise due to Contractor.

2.6 Shop Drawings. When Shop Drawings are required by the Specifications or requested by the Engineer, they must be prepared according to best practices at Contractor's expense. The Shop Drawings must be of a size and scale to clearly show all necessary details. Unless otherwise specified by City, Shop Drawings must be provided to the Engineer for review and acceptance at least 30 days before the Work will be performed. If City requires changes, the corrected Shop Drawings must be resubmitted to the Engineer for review within the time specified by the Engineer. For all Project components

requiring Shop Drawings, Contractor will not furnish materials or perform any Work until the Shop Drawings for those components are accepted by City. Contractor is responsible for any errors or omissions in the Shop Drawings, shop fits and field corrections; any deviations from the Contract Documents; and for the results obtained by the use of Shop Drawings. Acceptance of Shop Drawings by City does not relieve Contractor of Contractor's responsibility.

- 2.7 Access to Work.** Contractor must afford prompt and safe access to any Worksite by City and its employees, agents, or consultants authorized by City; and upon request by City, Contractor must promptly arrange for City representatives to visit or inspect manufacturing sites or fabrication facilities for items to be incorporated into the Work.
- 2.8 Personnel.** Contractor and its Subcontractors must employ only competent and skillful personnel to perform the Work. Contractor and its Subcontractor's supervisors, security or safety personnel, and employees who have unescorted access to the Project site must possess proficiency in English sufficient to read, understand, receive, and implement oral or written communications or instructions relating to their respective job functions, including safety and security requirements. Upon written notification from the Engineer, Contractor and its Subcontractors must immediately discharge any personnel who are incompetent, disorderly, disruptive, threatening, abusive, or profane, or otherwise refuse or fail to comply with the requirements of the Contract Documents or Laws, including Laws pertaining to health and safety. Any such discharged personnel may not be re-employed or permitted on the Project in any capacity without City's prior written consent.

Article 3 - Contract Documents

3.1 Interpretation of Contract Documents.

(A) **Plans and Specifications.** The Plans and Specifications included in the Contract Documents are complementary. If Work is shown on one but not on the other, Contractor must perform the Work as though fully described on both, consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Plans and Specifications are deemed to include and require everything necessary and reasonably incidental to completion of the Work, whether or not particularly mentioned or shown. Contractor must perform all Work and services and supply all things reasonably related to and inferable from the Contract Documents. In the event of a conflict between the Plans and Specifications, the Specifications will control, unless the drawing(s) at issue are dated later than the Specification(s) at issue. Detailed drawings take precedence over general drawings, and large-scale drawings take precedence over smaller scale drawings. Any arrangement or division of the Plans and Specifications into sections is for convenience and is not intended to limit the Work required by separate trades. A conclusion presented in the Plans or Specifications is only a recommendation. Actual locations and depths must be determined by Contractor's field investigation. Contractor may request access to underlying or background information in City's possession that is necessary for Contractor to form its own conclusions.

(B) **Duty to Notify and Seek Direction.** If Contractor becomes aware of a changed condition in the Project, or of any ambiguity, conflict, inconsistency, discrepancy, omission, or error in the Contract Documents, including the Plans or Specifications, Contractor must promptly submit a Request for Information to the Engineer and wait for a response from City before proceeding further with the related Work. The RFI must notify City of the issue and request clarification, interpretation or direction. The Engineer's clarification, interpretation or direction will be final and binding on Contractor. If Contractor proceeds with the related Work before obtaining City's response, Contractor will be responsible for any resulting costs, including the cost of correcting any incorrect or

defective Work that results. Timely submission of a clear and complete RFI is essential to avoiding delay. Delay resulting from Contractor's failure to submit a timely and complete RFI to the Engineer is Non-Excusable Delay. If Contractor believes that City's response to an RFI justifies a change to the Contract Price or Contract Time, Contractor must perform the Work as directed, but may submit a timely Change Order request in accordance with the Contract Documents. (See Article 5 and 6.)

(C) **Figures and Dimensions.** Figures control over scaled dimensions.

(D) **Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

(E) **Measurements.** Contractor must verify all relevant measurements in the Contract Documents and at the Project site before ordering any material or performing any Work, and will be responsible for the correctness of those measurements or for costs that could have been avoided by independently verifying measurements.

(F) **Compliance with Laws.** The Contract Documents are intended to comply with Laws and will be interpreted to comply with Laws.

3.2 Order of Precedence. Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest, with the most recent version taking precedent over an earlier version:

- (A) Change Orders;
- (B) Addenda;
- (C) Contract;
- (D) Notice to Proceed;
- (E) Attachment B – Federal Contract Requirements (only if used);
- (F) Special Conditions;
- (G) General Conditions;
- (H) Payment and Performance Bonds;
- (I) Specifications;
- (J) Plans;
- (K) Notice of Potential Award;
- (L) Notice Inviting Bids;
- (M) Attachment A – Federal Bidding Requirements (only if used);
- (N) Instructions to Bidders;
- (O) Contractor's Bid Proposal and attachments;
- (P) the City's standard specifications, as applicable; and
- (Q) Any generic documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, such as the Caltrans Standard Specifications or Caltrans Special Provisions.

3.3 Caltrans Standard Specifications. Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including "Standard Specifications," "Caltrans Specifications," "State Specifications," or "CSS," means the most current edition of Caltrans' Standard Specifications, unless otherwise specified ("Caltrans Standard Specifications"), including the most current amendments as of the date that Contractor's bid was submitted for this Project. The following provisions apply to use of or reference to the Caltrans Standard Specifications or Special Provisions:

(A) **Limitations.** The “General Provisions” of the Caltrans Standard Specifications, i.e., sections 1 through 9, do not apply to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

(B) **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Caltrans Standard Specifications or Special Provisions and a provision of these Contract Documents, as determined by City, the provision in the Contract Documents will govern.

(C) **Meanings.** Terms used in the Caltrans Standard Specifications or Special Provisions are to be interpreted as follows:

(1) Any reference to the “Engineer” is deemed to mean the City Engineer.

(2) Any reference to the “Special Provisions” is deemed to mean the Special Conditions, unless the Caltrans Special Provisions are expressly included in the Contract Documents listed in Section 2 of the Contract.

(3) Any reference to the “Department” or “State” is deemed to mean City.

3.4 For Reference Only. Contractor is responsible for the careful review of any document, study, or report provided by City or appended to the Contract Documents solely for informational purposes and identified as “For Reference Only.” Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. Contractor is advised that City or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Any record drawings or similar final or accepted drawings or maps that are not part of the Contract Documents are deemed to be For Reference Only. The provisions of the Contract Documents are not modified by any perceived or actual conflict with provisions in any document that is provided For Reference Only.

3.5 Current Versions. Unless otherwise specified by City, any reference to standard specifications, technical specifications, or any City or state codes or regulations means the latest specification, code or regulation in effect at the time the Contract is signed.

3.6 Conformed Copies. If City prepares a conformed set of the Contract Documents following award of the Contract, it will provide Contractor with two hard copy (paper) sets and one copy of the electronic file in PDF format. It is Contractor’s responsibility to ensure that all Subcontractors, including fabricators, are provided with the conformed set of the Contract Documents at Contractor’s sole expense.

3.7 Ownership. No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

Article 4 - Bonds, Indemnity, and Insurance

4.1 Payment and Performance Bonds. Within ten days following issuance of the Notice of Potential Award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100% of the Contract Price, and each

executed by Contractor and its surety using the bond forms included with the Contract Documents.

(A) **Surety.** Each bond must be issued and executed by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from City, Contractor must substitute a surety acceptable to City. If Contractor fails to substitute an acceptable surety within the specified time, City may, at its sole discretion, withhold payment from Contractor until the surety is replaced to City's satisfaction, or terminate the Contract for default.

(B) **Supplemental Bonds for Increase in Contract Price.** If the Contract Price increases during construction by five percent or more over the original Contract Price, Contractor must provide supplemental or replacement bonds within ten days of written notice from City pursuant to this Section, covering 100% of the increased Contract Price and using the bond forms included with the Contract Documents.

4.2 Indemnity. To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of Contractor under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this Contract will be deemed a material breach of the Contract. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. Contractor waives any right to express or implied indemnity against any Indemnitee. Contractor's indemnity obligations under this Contract will survive the expiration or any early termination of the Contract.

4.3 Insurance. No later than ten days following issuance of the Notice of Potential Award, Contractor must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements acceptable to City. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract, through the date of City's acceptance of the Project. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, City may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for default. The procurement of the required insurance will not be construed to limit Contractor's liability under this Contract or to fulfill Contractor's indemnification obligations under this Contract.

(A) **Policies and Limits.** The following insurance policies and limits are required for this Contract, unless otherwise specified in the Special Conditions:

(1) **Commercial General Liability ("CGL") Insurance:** The CGL insurance policy must be issued on an occurrence basis, written on a comprehensive general

liability form, and must include coverage for liability arising from Contractor's or its Subcontractor's acts or omissions in the performance of the Work, including contractor's protected coverage, contractual liability, products and completed operations, and broad form property damage, with limits of at least \$2,000,000 per occurrence and at least \$4,000,000 general aggregate. The CGL insurance coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth in this Section, including required endorsements.

(2) *Automobile Liability Insurance:* The automobile liability insurance policy must provide coverage of at least \$2,000,000 combined single-limit per accident for bodily injury, death, or property damage, including hired and non-owned auto liability.

(3) *Workers' Compensation Insurance and Employer's Liability:* The workers' compensation and employer's liability insurance policy must comply with the requirements of the California Labor Code, providing coverage of at least \$1,000,000 or as otherwise required by the statute. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the DIR.

(4) *Pollution Liability Insurance:* The pollution liability insurance policy must be issued on an occurrence basis, providing coverage of at least \$2,000,000 for all loss arising out of claims for bodily injury, death, property damage, or environmental damage caused by pollution conditions resulting from the Work.

(5) *Builder's Risk Insurance:* The builder's risk insurance policy must be issued on an occurrence basis, for all-risk or "all perils" coverage on a 100% completed value basis on the insurable portion of the Project for the benefit of City.

(B) **Notice.** Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City.

(C) **Waiver of Subrogation.** Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against City.

(D) **Required Endorsements.** The CGL policy, automobile liability policy, pollution liability policy, and builder's risk policy must include the following specific endorsements:

(1) The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "Additional Insured") must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract. The additional insured endorsement must be provided using ISO form CG 20 10 11 85 or an equivalent form approved by the City.

(2) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(3) The insurance provided by Contractor is primary and no insurance held or owned by any Additional Insured may be called upon to contribute to a loss.

(4) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

(E) **Contractor's Responsibilities.** This Section 4.3 establishes the minimum requirements for Contractor's insurance coverage in relation to this Project, but is not intended to limit Contractor's ability to procure additional or greater coverage. Contractor is responsible for its own risk assessment and needs and is encouraged to consult its insurance provider to determine what coverage it may wish to carry beyond the minimum requirements of this Section. Contractor is solely responsible for the cost of its insurance coverage, including premium payments, deductibles, or self-insured retentions, and no Additional Insured will be responsible or liable for any of the cost of Contractor's insurance coverage.

(F) **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions that apply to the required insurance (collectively, "deductibles") in excess of \$100,000 are subject to approval by the City's Risk Manager, acting in his or her sole discretion, and must be declared by Contractor when it submits its certificates of insurance and endorsements pursuant to this Section 4.3. If the City's Risk Manager determines that the deductibles are unacceptably high, at City's option, Contractor must either reduce or eliminate the deductibles as they apply to City and all required Additional Insured; or must provide a financial guarantee, to City's satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.

(G) **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the Additional Insureds and waiver of subrogation, but excluding pollution liability or builder's risk insurance unless otherwise specified in the Special Conditions. A Subcontractor may be eligible for reduced insurance coverage or limits, but only to the extent approved in writing in advance by the City's Risk Manager. Contractor must confirm that each Subcontractor has complied with these insurance requirements before the Subcontractor is permitted to begin Work on the Project. Upon request by the City, Contractor must provide certificates and endorsements submitted by each Subcontractor to prove compliance with this requirement. The insurance requirements for Subcontractors do not replace or limit the Contractor's insurance obligations.

Article 5 - Contract Time

5.1 Time is of the Essence. Time is of the essence in Contractor's performance and completion of the Work, and Contractor must diligently prosecute the Work and complete it within the Contract Time.

(A) **General.** Contractor must commence the Work on the date indicated in the Notice to Proceed and must fully complete the Work in strict compliance with all requirements of the Contract Documents and within the Contract Time. Contractor may not begin performing the Work before the date specified in the Notice to Proceed.

(B) **Authorization.** Contractor is not entitled to compensation or credit for any Work performed before the date specified in the Notice to Proceed, with the exception of any schedules, submittals, or other requirements, if any, that must be provided or performed before issuance of the Notice to Proceed.

(C) **Rate of Progress.** Contractor and its Subcontractors must, at all times, provide workers, materials, and equipment sufficient to maintain the rate of progress necessary to ensure full completion of the Work within the Contract Time. If City determines that Contractor is failing to prosecute the Work at a sufficient rate of progress, City may, in its sole discretion, direct Contractor to provide additional workers, materials, or equipment, or to work additional hours or days without additional cost to City, in order to achieve a rate of progress satisfactory to City. If Contractor fails to comply with City's directive in this regard, City may, at Contractor's expense, separately contract for additional workers, materials, or equipment or use City's own forces to achieve the necessary rate of progress. Alternatively, City may terminate the Contract based on Contractor's default.

5.2 Schedule Requirements. Contractor must prepare all schedules using standard, commercial scheduling software acceptable to the Engineer, and must provide the schedules in electronic and paper form as requested by the Engineer. In addition to the general scheduling requirements set forth below, Contractor must also comply with any scheduling requirements included in the Special Conditions or in the Technical Specifications.

(A) **Baseline (As-Planned) Schedule.** Within ten calendar days following City's issuance of the Notice to Proceed (or as otherwise specified in the Notice to Proceed), Contractor must submit to City for review and acceptance a baseline (as-planned) schedule using critical path methodology showing in detail how Contractor plans to perform and fully complete the Work within the Contract Time, including labor, equipment, materials and fabricated items. The baseline schedule must show the order of the major items of Work and the dates of start and completion of each item, including when the materials and equipment will be procured. The schedule must also include the work of all trades, reflecting anticipated labor or crew hours and equipment loading for the construction activities, and must be sufficiently comprehensive and detailed to enable progress to be monitored on a day-by-day basis. For each activity, the baseline schedule must be dated, provided in the format specified in the Contract Documents or as required by City, and must include, at a minimum, a description of the activity, the start and completion dates of the activity, and the duration of the activity.

(1) **Specialized Materials Ordering.** Within five calendar days following issuance of the Notice to Proceed, Contractor must order any specialized material or equipment for the Work that is not readily available from material suppliers. Contractor must also retain documentation of the purchase order date(s).

(B) **City's Review of Schedules.** City will review and may note exceptions to the baseline schedule, and to the progress schedules submitted as required below, to assure completion of the Work within the Contract Time. Contractor is solely responsible for resolving any exceptions noted in a schedule and, within seven days, must correct the schedule to address the exceptions. City's review or acceptance of Contractor's schedules will not operate to waive or limit Contractor's duty to complete the Project within the Contract Time, nor to waive or limit City's right to assess liquidated damages for Contractor's unexcused failure to do so.

(C) **Progress Schedules.** After City accepts the final baseline schedule with no exceptions, Contractor must submit an updated progress schedule and three-week look-ahead schedule, in the format specified by City, for review and acceptance with each application for a progress payment, or when otherwise specified by City, until completion of the Work. The updated progress schedule must: show how the actual progress of the Work as constructed to date compares to the baseline schedule; reflect any proposed changes in the construction schedule or method of operations, including to achieve Project milestones within the Contract Time; and identify any actual or potential impacts

to the critical path. Contractor must also submit periodic reports to City of any changes in the projected material or equipment delivery dates for the Project.

(1) **Float.** The progress schedule must show early and late completion dates for each task. The number of days between those dates will be designated as the "float." Any float belongs to the Project and may be allocated by the Engineer to best serve timely completion of the Project.

(2) **Failure to Submit Schedule.** Reliable, up-to-date schedules are essential to efficient and cost-effective administration of the Project and timely completion. If Contractor fails to submit a schedule within the time periods specified in this Section, or submits a schedule to which City has noted exceptions that are not corrected, City may withhold up to ten percent from payment(s) otherwise due to Contractor until the exceptions are resolved, the schedule is corrected and resubmitted, and City has accepted the schedule. In addition, Contractor's failure to comply with the schedule requirements in this Section 5.2 will be deemed a material default and a waiver of any claims for Excusable Delay or loss of productivity arising during any period when Contractor is out of compliance, subject only to the limits of Public Contract Code § 7102.

(D) **Recovery Schedule.** If City determines that the Work is more than one week behind schedule, within seven days following written notice of such determination, Contractor must submit a recovery schedule, showing how Contractor intends to perform and complete the Work within the Contract Time, based on actual progress to date.

(E) **Effect of Acceptance.** Contractor and its Subcontractors must perform the Work in accordance with the most current City-accepted schedule unless otherwise directed by City. City's acceptance of a schedule does not operate to extend the time for completion of the Work or any component of the Work, and will not affect City's right to assess liquidated damages for Contractor's unexcused delay in completing the Work within the Contract Time.

(F) **Posting.** Contractor must at all times prominently post a copy of the most current City-accepted progress or recovery schedule in its on-site office.

(G) **Reservation of Rights.** City reserves the right to direct the sequence in which the Work must be performed or to make changes in the sequence of the Work in order to facilitate the performance of work by City or others, or to facilitate City's use of its property. The Contract Time or Contract Price may be adjusted to the extent such changes in sequence actually increase or decrease Contractor's time or cost to perform the Work.

(H) **Authorized Working Days and Times.** Contractor is limited to working Monday through Friday, excluding holidays, during City's normal business hours, except as provided in the Special Conditions or as authorized in writing by City. City reserves the right to charge Contractor for additional costs incurred by City due to Work performed on days or during hours not expressly authorized in the Contract Documents, including reimbursement of costs incurred for inspection, testing, and construction management services.

5.3 Delay and Extensions of Contract Time.

(A) **Notice of Delay.** If Contractor becomes aware of any actual or potential delay affecting the critical path, Contractor must promptly notify the Engineer in writing, regardless of the nature or cause of the delay, so that City has a reasonable opportunity to mitigate or avoid the delay.

(B) **Excusable Delay.** The Contract Time may be extended if Contractor encounters "Excusable Delay," which is an unavoidable delay in completing the Work within the Contract Time due to causes completely beyond Contractor's control, and which Contractor could not have avoided or mitigated through reasonable care, planning, foresight, and diligence, provided that Contractor is otherwise fully performing its obligations under the Contract Documents. Grounds for Excusable Delay may include fire, natural disasters including earthquake or unusually severe weather, acts of terror or vandalism, epidemic, unforeseeable adverse government actions, unforeseeable actions of third parties, encountering unforeseeable hazardous materials, unforeseeable site conditions, or suspension for convenience under Article 13. The Contract Time will not be extended based on circumstances which will not unavoidably delay completing the Work within the Contract Time based on critical path analysis.

(C) **Weather Delays.** A "Weather Delay Day" is a Working Day during which Contractor and its forces, including Subcontractors, are unable to perform more than 40% of the critical path Work scheduled for that day due to adverse weather conditions which impair the ability to safely or effectively perform the scheduled critical path Work that day. Adverse weather conditions may include rain, saturated soil, and Project site clean-up required due to adverse weather. Determination of what constitutes critical path Work scheduled for that day will be based on the most current, City-approved schedule. Contractor will be entitled to a non-compensable extension of the Contract Time for each Weather Delay Day in excess of the normal Weather Delay Days within a given month as determined by reliable records, including monthly rainfall averages, for the preceding ten years (or as otherwise specified in the Special Conditions or Specifications).

(1) Contractor must fully comply with the applicable procedures in Articles 5 and 6 of the General Conditions regarding requests to modify the Contract Time.

(2) Contractor will not be entitled to an extension of time for a Weather Delay Day to the extent Contractor is responsible for concurrent delay on that day.

(3) Contractor must take reasonable steps to mitigate the consequences of Weather Delay Days, including prudent workforce management and protecting the Work, Project Site, materials, and equipment.

(D) **Non-Excusable Delay.** Delay which Contractor could have avoided or mitigated through reasonable care, planning, foresight and diligence is "Non-Excusable Delay." Contractor is not entitled to an extension of Contract Time or any compensation for Non-Excusable Delay, or for Excusable Delay that is concurrent with Non-Excusable Delay. Non-Excusable Delay includes delay caused by:

(1) weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten years;

(2) Contractor's failure to order equipment and materials sufficiently in advance of the time needed for completion of the Work within the Contract Time;

(3) Contractor's failure to provide adequate notification to utility companies or agencies for connections or services necessary for completion of the Work within the Contract Time;

- (4) foreseeable conditions which Contractor could have ascertained from reasonably diligent inspection of the Project site or review of the Contract Documents or other information provided or available to Contractor;
- (5) Contractor's failure, refusal, or financial inability to perform the Work within the Contract Time, including insufficient funds to pay its Subcontractors or suppliers;
- (6) performance or non-performance by Contractor's Subcontractors or suppliers;
- (7) the time required to respond to excessive RFIs (see Section 2.5(G));
- (8) delayed submission of required submittals, or the time required for correction and resubmission of defective submittals;
- (9) time required for repair of, re-testing, or re-inspection of defective Work;
- (10) enforcement of Laws by City, or outside agencies with jurisdiction over the Work; or
- (11) City's exercise or enforcement of any of its rights or Contractor's duties pursuant to the Contract Documents, including correction of defective Work, extra inspections or testing due to non-compliance with Contract requirements, safety compliance, environmental compliance, or rejection and return of defective or deficient submittals.

(E) **Compensable Delay.** Pursuant to Public Contract Code § 7102, in addition to entitlement to an extension of Contract Time, Contractor is entitled to compensation for costs incurred due to delay caused solely by City, when that delay is unreasonable under the circumstances involved and not within the contemplation of the parties ("Compensable Delay"). Contractor is not entitled to an extension of Contract Time or recovery of costs for Compensable Delay that is concurrent with Non-Excusable Delay. Delay due to causes that are beyond the control of either City or Contractor, including Weather Delay Days, discovery of Historic or Archeological Items pursuant to Section 7.18, or the actions or inactions of third parties or other agencies, is not Compensable Delay, and will only entitle Contractor to an extension of time commensurate with the time lost due to such delay.

(F) **Recoverable Costs.** Contractor is not entitled to compensation for Excusable Delay unless it is Compensable Delay, as defined above. Contractor is entitled to recover only the actual, direct, reasonable, and substantiated costs ("Recoverable Costs") for each working day that the Compensable Delay prevents Contractor from proceeding with more than 50% of the critical path Work scheduled for that day, based on the most recent progress schedule accepted by City. Recoverable Costs will not include home office overhead or lost profit.

(G) **Request for Extension of Contract Time or Recoverable Costs.** A request for an extension of Contract Time or any associated Recoverable Costs must be submitted in writing to City within ten calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or any entitlement to the Contract Time extension or to the Recoverable Costs will be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6 below. Strict compliance with these requirements is necessary to ensure that any delay or consequences of delay may be mitigated as soon as possible, and to facilitate cost-

efficient administration of the Project and timely performance of the Work. Any request for an extension of Contract Time or Recoverable Costs that does not strictly comply with all of the requirements of Article 5 and Article 6 will be deemed waived.

(1) *Required Contents.* The request must include a detailed description of the cause(s) of the delay and must also describe the measures that Contractor has taken to mitigate the delay and/or its effects, including efforts to mitigate the cost impact of the delay, such as by workforce management or by a change in sequencing. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor's plan for continued mitigation of the delay or its effects.

(2) *Delay Days and Costs.* The request must specify the number of days of Excusable Delay claimed or provide a realistic estimate if the duration of the delay is not yet known. If Contractor believes it is entitled to Recoverable Costs for Compensable Delay, the request must specify the amount and basis for the Recoverable Costs that are claimed or provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known. The maximum extension of Contract Time will be the number of days, if any, by which an Excusable Delay or a Compensable Delay exceeds any concurrent Non-Excusable Delay. Contractor is entitled to an extension of Contract Time, or compensation for Recoverable Costs, only if, and only to the extent that, such delay will unavoidably delay Final Completion.

(3) *Supporting Documentation.* The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including scheduling and cost impacts with a time impact analysis using critical path methodology and demonstrating the unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to City.

(4) *Burden of Proof.* Contractor has the burden of proving that: the delay was an Excusable or Compensable Delay, as defined above; Contractor has fully complied with its scheduling obligations in Section 5.2, Schedule Requirements; Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts; the delay will unavoidably result in delaying Final Completion; and any Recoverable Costs claimed by Contractor were actually incurred and were reasonable under the circumstances.

(5) *Legal Compliance.* Nothing in this Section 5.3 is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code § 7102.

(6) *No Waiver.* Any grant of an extension of Contract Time, or compensation for Recoverable Costs due to Compensable Delay, will not operate as a waiver of City's right to assess liquidated damages for Non-Excusable Delay.

(7) *Dispute Resolution.* In the event of a dispute over entitlement to an extension of Contract Time or compensation for Recoverable Costs, Contractor may not stop Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work. Contractor's sole recourse for an unresolved dispute based on City's rejection of a Change Order request for an extension of Contract Time or compensation for Recoverable Costs is to comply with the dispute resolution provisions set forth in Article 12 below.

5.4 Liquidated Damages. It is expressly understood that if Final Completion is not achieved within the Contract Time, City will suffer damages from the delay that are difficult to determine and accurately specify. Pursuant to Public Contract Code § 7203, if Contractor fails to achieve Final Completion within the Contract Time due to Contractor's Non-Excusable Delay, City will charge Contractor in the amount specified in the Contract for each calendar day that Final Completion is delayed beyond the Contract Time, as liquidated damages and not as a penalty. Any waiver of accrued liquidated damages, in whole or in part, is subject to approval of the City Council or its authorized delegee.

(A) **Liquidated Damages.** Liquidated damages will not be assessed for any Excusable or Compensable Delay, as set forth above.

(B) **Milestones.** Liquidated damages may also be separately assessed for failure to meet milestones specified elsewhere in the Contract Documents.

(C) **Setoff.** City is entitled to deduct the amount of liquidated damages assessed against any payments otherwise due to Contractor, including progress payments, Final Payment, or unreleased retention. If there are insufficient Contract funds remaining to cover the full amount of liquidated damages assessed, City is entitled to recover the balance from Contractor or its performance bond surety.

(D) **Occupancy or Use.** Occupancy or use of the Project in whole or in part prior to Final Completion does not constitute City's acceptance of the Project and will not operate as a waiver of City's right to assess liquidated damages for Contractor's Non-Excusable Delay in achieving Final Completion.

(E) **Other Remedies.** City's right to liquidated damages under this Section applies only to damages arising from Contractor's Non-Excusable Delay or failure to complete the Work within the Contract Time. City retains its right to pursue all other remedies under the Contract for other types of damage, including damage to property or persons, costs or diminution in value from defective materials or workmanship, costs to repair or complete the Work, or other liability caused by Contractor.

Article 6 - Contract Modification

6.1 Contract Modification. Subject to the limited exception set forth in subsection (D) below, any change in the Work or the Contract Documents, including the Contract Price or Contract Time, will not be a valid and binding change to the Contract unless it is formalized in a Change Order, including a "no-cost" Change Order or a unilateral Change Order. Changes in the Work pursuant to this Article 6 will not operate to release, limit, or abridge Contractor's warranty obligations pursuant to Article 11 or any obligations of Contractor's bond sureties.

(A) **City-Directed Changes.** City may direct changes in the scope or sequence of Work or the requirements of the Contract Documents, without invalidating the Contract. Such changes may include Extra Work as set forth in subsection (C) below, or deletion or modification of portions of the Work. Contractor must promptly comply with City-directed changes in the Work in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement as to adjustments to the Contract Price or Contract Time for the change in the Work or for the Extra Work. Contractor is not entitled to extra compensation for cost savings resulting from "value engineering" pursuant to Public Contract Code § 7101, except to the extent authorized in advance by City in writing, and subject to any applicable procedural requirements for submitting a proposal for value engineering cost savings.

(B) **Disputes.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to a City-directed change in the Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute. Likewise, in the event that City and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents or constitute Extra Work, or otherwise dispute the interpretation of any portion(s) of the Contract Documents, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute, as directed by City. If Contractor refuses to perform the Work in dispute, City may, acting in its sole discretion, elect to delete the Work from the Contract and reduce the Contract Price accordingly, and self-perform the Work or direct that the Work be performed by others. Alternatively, City may elect to terminate the Contract for convenience or for cause. Contractor's sole recourse for an unresolved dispute related to changes in the Work or performance of any Extra Work is to comply with the dispute resolution provisions set forth in Article 12, below.

(C) **Extra Work.** City may direct Contractor to perform Extra Work related to the Project. Contractor must promptly perform any Extra Work as directed or authorized by City in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement on adjustments to the Contract Price or Contract Time for such Extra Work. If Contractor believes it is necessary to perform Extra Work due to changed conditions, Contractor must promptly notify the Engineer in writing, specifically identifying the Extra Work and the reason(s) the Contractor believes it is Extra Work. This notification requirement does not constitute a Change Order request pursuant to Section 6.2, below. Contractor must maintain detailed daily records that itemize the cost of each element of Extra Work, and sufficiently distinguish the direct cost of the Extra Work from the cost of other Work performed. For each day that Contractor performs Extra Work, or Work that Contractor contends is Extra Work, Contractor must submit no later than the following Working Day, a daily report of the Extra Work performed that day and the related costs, together with copies of certified payroll, invoices, and other documentation substantiating the costs ("Extra Work Report"). The Engineer will make any adjustments to Contractor's Extra Work Report(s) based on the Engineer's records of the Work. When an Extra Work Report(s) is agreed on and signed by both City and Contractor, the Extra Work Report(s) will become the basis for payment under a duly authorized and signed Change Order. Failure to submit the required documentation by close of business on the next Working Day is deemed a full and complete waiver for any change in the Contract Price or Contract Time for any Extra Work performed that day.

(D) **Minor Changes and RFIs.** Minor field changes, including RFI replies from City, that do not affect the Contract Price or Contract Time and that are approved by the Engineer acting within his or her scope of authority, do not require a Change Order. By executing an RFI reply from City, Contractor agrees that it will perform the Work as clarified therein, with no change to the Contract Price or Contract Time.

(E) **Remedy for Non-Compliance.** Contractor's failure to promptly comply with a City-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, City may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor's sole expense, and may deduct the cost from the Contract Price.

6.2 Contractor Change Order Requests. Contractor must submit a request or proposal for a change in the Work, compensation for Extra Work, or a change in the Contract Price or Contract Time as a written Change Order request or proposal.

(A) **Time for Submission.** Any request for a change in the Contract Price or the Contract Time must be submitted in writing to the Engineer within ten calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time. If City requests that Contractor propose the terms of a Change Order, unless otherwise specified in City's request, Contractor must provide the Engineer with a written proposal for the change in the Contract Price or Contract Time within five working days of receiving City's request, in a form satisfactory to the Engineer.

(B) **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, subcontract amounts, and, if applicable, Extra Work Reports. Any estimated cost must be updated in writing as soon as the actual amount is known.

(C) **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions. Upon request, Contractor must permit City to inspect its original and unaltered bidding records, subcontract agreements, subcontract change orders, purchase orders, invoices, or receipts associated with the claimed costs.

(D) **Required Form.** Contractor must use City's form(s) for submitting all Change Order requests or proposals, unless otherwise specified by City.

(E) **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived."

6.3 Adjustments to Contract Price. The amount of any increase or decrease in the Contract Price will be determined based on one of the following methods listed below, in the order listed with unit pricing taking precedence over the other methods. Markup applies only to City-authorized time and material Work, and does not apply to any other payments to Contractor. For Work items or components that are deleted in their entirety, Contractor will only be entitled to compensation for those direct, actual, and documented costs (including restocking fees), reasonably incurred before Contractor was notified of the City's intent to delete the Work, with no markup for overhead, profit, or other indirect costs.

(A) **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, either in a bid schedule or in a post-award schedule of values pursuant to Section 8.1, Schedule of Values, will apply to determine the price for the affected Work, to the extent applicable unit prices have been provided for that type of Work. No additional markup for overhead, profit, or other indirect costs will be added to the calculation.

(B) **Lump Sum.** A mutually agreed upon, all-inclusive lump sum price for the affected Work with no additional markup for overhead, profit, or other indirect costs.

(C) **Time and Materials.** On a time and materials basis, if and only to the extent compensation on a time and materials basis is expressly authorized by City in advance of Contractor's performance of the Work and subject to any not-to-exceed limit. Time and materials compensation for increased costs or Extra Work (but not decreased costs or deleted Work), will include allowed markup for overhead, profit, and other indirect costs, calculated as the total of the following sums, the cumulative total of which may not exceed the maximum markup rate of 15%:

- (1) All direct labor costs provided by the Contractor, excluding superintendence, project management, or administrative costs, plus 15% markup;
- (2) All direct material costs provided by the Contractor, including sales tax, plus 15% markup;
- (3) All direct plant and equipment rental costs provided by the Contractor, plus 15% markup;
- (4) All direct additional subcontract costs plus 10% markup for Work performed by Subcontractors; and
- (5) Increased bond or insurance premium costs computed at 1.5% of total of the previous four sums.

6.4 Unilateral Change Order. If the parties dispute the terms of a proposed Change Order, including disputes over the amount of compensation or extension of time that Contractor has requested, the value of deleted or changed Work, what constitutes Extra Work, or quantities used, City may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time for the adjustment to compensation or time that the City believes is merited. Contractor's sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.

6.5 Non-Compliance Deemed Waiver. Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to fully comply with the provisions of this Article. Contractor will not be paid for unauthorized Extra Work.

Article 7 - General Construction Provisions

7.1 Permits, Fees, Business License, and Taxes.

(A) **Permits, Fees, and City Business License.** Contractor must obtain and pay for all permits, fees, or licenses required to perform the Work, including a City business license. Contractor must cooperate with and provide notifications to all government agencies with jurisdiction over the Project, as may be required. Contractor must provide City with copies of all records of permits and permit applications, payment of required fees, and any licenses required for the Work.

(B) **Taxes.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that City is exempt from Federal Excise Tax.

7.2 Temporary Facilities. Contractor must provide, at Contractor's sole expense, any and all temporary facilities for the Project, including an onsite staging area for materials and equipment, a field office, sanitary facilities, utilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any incidental utility services. The location of all temporary facilities must be

approved by the City prior to installation. Temporary facilities must be safe and adequate for the intended use and installed and maintained in accordance with Laws and the Contract Documents. Contractor must fence and screen the Project site and, if applicable, any separate Worksites, including the staging area, and its operation must minimize inconvenience to neighboring properties. Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

(A) **Utilities.** Contractor must install and maintain the power, water, sewer and all other utilities required for the Project site, including the piping, wiring, internet and wifi connections, and any related equipment necessary to maintain the temporary facilities.

(B) **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any damage to City's property or to other property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

7.3 Noninterference and Site Management. Contractor must avoid interfering with City's use of its property at or adjacent to the Project site, including use of roadways, entrances, parking areas, walkways, and structures. Contractor must also minimize disruption of access to private property in the Project vicinity. Contractor must coordinate with affected property owners, tenants, and businesses, and maintain some vehicle and pedestrian access to their residences or properties at all times. Temporary access ramps, fencing or other measures must be provided as needed. Before blocking access to a private driveway or parking lot, Contractor must provide effective notice to the affected parties at least 48 hours in advance of the pending closure and allow them to remove vehicles. Private driveways, residences and parking lots must have access to a roadway during non-Work hours.

(A) **Offsite Acquisition.** Unless otherwise provided by City, Contractor must acquire, use and dispose of, at its sole expense, any Worksites, licenses, easements, and temporary facilities necessary to access and perform the Work.

(B) **Offsite Staging Area and Field Office.** If additional space beyond the Project site is needed, such as for the staging area or the field office, Contractor may need to make arrangements with the nearby property owner(s) to secure the space. Before using or occupying any property owned by a third party, Contractor must provide City with a copy of the necessary license agreement, easement, or other written authorization from the property owner, together with a written release from the property owner holding City harmless from any related liability, in a form acceptable to the City Attorney.

(C) **Traffic Management.** Contractor must provide traffic management and traffic controls as specified in the Contract Documents, as required by Laws, and as otherwise required to ensure public and worker safety, and to avoid interference with public or private operations or the normal flow of vehicular, bicycle, or pedestrian traffic.

7.4 Signs. No signs may be displayed on or about City's property, except signage which is required by Laws or by the Contract Documents, without City's prior written approval as to size, design, and location.

7.5 Project Site and Nearby Property Protections.

(A) **General.** Contractor is responsible at all times, on a 24-hour basis and at its sole cost, for protecting the Work, the Project site, and the materials and equipment to be incorporated into the Work, until the City has accepted the Project, excluding any exceptions to acceptance, if any. Except as specifically authorized by City, Contractor

must confine its operations to the area of the Project site indicated in the Plans and Specifications. Contractor is liable for any damage caused by Contractor or its Subcontractors to the Work, City's property, the property of adjacent or nearby property owners and the work or personal property of other contractors working for City, including damage related to Contractor's failure to adequately secure the Work or any Worksite.

(1) Subject to City's approval, Contractor will provide and install safeguards to protect the Work; any Worksite, including the Project site; City's real or personal property and the real or personal property of adjacent or nearby property owners, including plant and tree protections.

(2) City wastewater systems may not be interrupted. If the Work disrupts existing sewer facilities, Contractor must immediately notify City and establish a plan, subject to City's approval, to convey the sewage in closed conduits back into the sanitary sewer system. Sewage must not be permitted to flow in trenches or be covered by backfill.

(3) Contractor must remove with due care, and store at City's request, any objects or material from the Project site that City will salvage or reuse at another location.

(4) If directed by Engineer, Contractor must promptly repair or replace any property damage, as specified by the Engineer. However, acting in its sole discretion, City may elect to have the property damage remedied otherwise, and may deduct the cost to repair or replace the damaged property from payment otherwise due to Contractor.

(5) Contractor will not permit any structure or infrastructure to be loaded in a manner that will damage or endanger the integrity of the structure or infrastructure.

(B) **Securing Project Site.** After completion of Work each day, Contractor must secure the Project site and, to the extent feasible, make the area reasonably accessible to the public unless City approves otherwise. All excess materials and equipment not protected by approved traffic control devices must be relocated to the staging area or demobilized. Trench spoils must be hauled off the Project site daily and open excavations must be protected with steel plates. Contractor and Subcontractor personnel may not occupy or use the Project site for any purpose during non-Work hours, except as may be provided in the Contract Documents or pursuant to prior written authorization from City.

(C) **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Plans or apparent from inspection of the Project site, Contractor must immediately notify the City and promptly submit a Request for Information to obtain further directions from the Engineer. Contractor must avoid taking any action which could cause damage to the facilities or utilities pending further direction from the Engineer. The Engineer's written response will be final and binding on Contractor. If the Engineer's subsequent direction to Contractor affects Contractor's cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6 above.

(D) **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, and underpinning necessary to provide support to City's property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by Laws. See also, Section 7.15, Trenching of Five Feet or More.

(E) **Notification of Property Damage.** Contractor must immediately notify the City of damage to any real or personal property resulting from Work on the Project. Contractor must immediately provide a written report to City of any such property damage in excess of \$500 (based on estimated cost to repair or replace) within 24 hours of the occurrence. The written report must include: (1) the location and nature of the damage, and the owner of the property, if known; (2) the name and address of each employee of Contractor or any Subcontractor involved in the damage; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with another government agency, Contractor will provide a copy of the report to City.

7.6 Materials and Equipment.

(A) **General.** Unless otherwise specified, all materials and equipment required for the Work must be new, free from defects, and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Contractor must employ measures to preserve the specified quality and fitness of the materials and equipment. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation and must be installed in accordance with the manufacturer's recommendations or instructions. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work. Contractor is responsible for providing security and protecting the Work and all of the required materials, supplies, tools and equipment at Contractor's sole cost until City has formally accepted the Project as set forth in Section 11.1, Final Completion. Contractor will not assign, sell, mortgage, or hypothecate any materials or equipment for the Project, or remove any materials or equipment that have been installed or delivered.

(B) **City-Provided.** If the Work includes installation of materials or equipment to be provided by City, Contractor is solely responsible for the proper examination, handling, storage, and installation in accordance with the Contract Documents. Contractor must notify City of any defects discovered in City-provided materials or equipment, sufficiently in advance of scheduled use or installation to afford adequate time to procure replacement materials or equipment as needed. Contractor is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor's custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

(C) **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization or license required for use of patented or copyright-protected materials, equipment, devices or processes that are incorporated into the Work. Contractor's indemnity obligations in Article 4 apply to any claimed violation of intellectual property rights in violation of this provision.

7.7 Substitutions.

(A) **"Or Equal."** Any Specification designating a material, product, or thing (collectively, "item") or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate the quality and type of item or service desired, and Contractor may request use of any equal item or service. Unless otherwise stated in the Specifications, any reference to a specific brand or trade name for an item or service that is used solely for the purpose of describing the type of item or service desired, will be deemed to be followed by the words "or equal." A substitution will only be approved if it is a true "equal" item or service in every aspect of design, function, and quality, as

determined by City, including dimensions, weight, maintenance requirements, durability, fit with other elements, and schedule impacts.

(B) **Request for Substitution.** A post-award request for substitution of an item or service must be submitted in writing to the Engineer for approval in advance, within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within 35 days after the date of award of the Contract, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

(C) **Substantiation.** Any available data substantiating the proposed substitute as an equal item or service must be submitted with the written request for substitution. Contractor's failure to timely provide all necessary substantiation, including any required test results as soon as they are available, is grounds for rejection of the proposed substitution, without further review.

(D) **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution at Contractor's sole cost. City has sole discretion to determine whether a proposed substitution is equal, and City's determination is final.

(E) **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs or time associated with the substituted item or service. If the proposed substitution is rejected, Contractor must, without delay, install the item or use the service as specified by City.

(F) **Contractor's Obligations.** City's approval of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

7.8 Testing and Inspection.

(A) **General.** All materials, equipment, and workmanship used in the Work are subject to inspection and testing by City at all times and locations during construction and/or fabrication and at any Worksite, including at shops and yards as well as at the Project site. All manufacturers' application or installation instructions must be provided to the Inspector at least ten days prior to the first such application or installation. Contractor must, at all times, make the Work available for testing or inspection. Neither City's inspection or testing of Work, nor its failure to do so, operate to waive or limit Contractor's duty to complete the Work in accordance with the Contract Documents.

(B) **Scheduling and Notification.** Contractor must cooperate with City in coordinating the inspections and testing. Contractor must submit samples of materials, at Contractor's expense, and schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must notify the Engineer no later than noon of the Working Day before any inspection or testing and must provide timely notice to the other necessary parties as specified in the Contract Documents. If Contractor schedules an inspection or test beyond regular Work hours, or on a Saturday, Sunday, or recognized City holiday, Contractor must notify the Engineer at least two Working Days in advance for approval. If approved, Contractor must reimburse City for the cost of the overtime inspection or testing. Such costs, including the City's hourly costs for required personnel, may be deducted from payments otherwise due to Contractor.

(C) **Responsibility for Costs.** City will bear the initial cost of inspection and testing to be performed by independent testing consultants retained by City, subject to the following exceptions:

- (1) Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.
- (2) Contractor will be responsible for inspection costs, at City's hourly rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.
- (3) If any portion of the Work that is subject to inspection or testing is covered or concealed by Contractor prior to the inspection or testing, Contractor will bear the cost of making that portion of the Work available for the inspection or testing required by the Contract Documents, and any associated repair or remediation costs.
- (4) Contractor is responsible for properly shoring all compaction test sites deeper than five feet below grade, as required under Section 7.15 below.
- (5) Any Work or material that is defective or fails to comply with the requirements of the Contract Documents must be promptly repaired, removed, replaced, or corrected by Contractor, at Contractor's sole expense, even if that Work or material was previously inspected or included in a progress payment.

(D) **Contractor's Obligations.** Contractor is solely responsible for any delay occasioned by remediation of defective or noncompliant Work or material. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified. Any Work done without the required inspection(s) will also be subject to rejection by City.

(E) **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.

(F) **Final Inspection.** The provisions of this Section 7.8 also apply to final inspection under Article 11, Completion and Warranty Provisions.

7.9 Project Site Conditions and Maintenance. Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all Laws pertaining to safety, air quality, and dust control. Adequate toilets must be provided, and properly maintained and serviced for all workers on the Project site, located in a suitably secluded area, subject to City's prior approval. Contractor must also, on a daily basis and at its sole cost, remove and properly dispose of the debris and waste materials from the Project site.

(A) **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws.

(B) **Dust and Debris.** Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use

the minimum necessary. Contractor must take all necessary steps to keep waste water out of streets, gutters, or storm drains. See Section 7.19, Environmental Control. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project site and any dirt deposited on public streets.

(C) **Clean up.** Before discontinuing Work in an area, Contractor must clean the area and remove all debris and waste along with the construction equipment, tools, machinery, and surplus materials.

(1) Except as otherwise specified, all excess Project materials, and the materials removed from existing improvements on the Project site with no salvage value or intended reuse by City, will be Contractor's property.

(2) Hauling trucks and other vehicles leaving the Project site must be cleaned of exterior mud or dirt before traveling on City streets. Materials and loose debris must be delivered and loaded to prevent dropping materials or debris. Contractor must immediately remove spillage from hauling on any publicly traveled way. Streets affected by Work on the Project must be kept clean by street sweeping.

(D) **Disposal.** Contractor must dispose of all Project debris and waste materials in a safe and legal manner. Contractor may not burn or bury waste materials on the Project site. Contractor will not allow any dirt, refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed of onto streets, into manholes or into the storm drain system.

(E) **Completion.** At the completion of the Work, Contractor must remove from the Project site all of its equipment, tools, surplus materials, waste materials and debris, presenting a clean and neat appearance. Before demobilizing from the Project site, Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas. Contractor must ensure that all parts of the construction are properly joined with the previously existing and adjacent improvements and conditions. Contractor must provide all cutting, fitting and patching needed to accomplish that requirement. Contractor must also repair or replace all existing improvements that are damaged or removed during the Work, both on and off the Project site, including curbs, sidewalks, driveways, fences, signs, utilities, street surfaces and structures. Repairs and replacements must be at least equal to the previously existing improvements, and the condition, finish and dimensions must match the previously existing improvements. Contractor must restore to original condition all property or items that are not designated for alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by City.

(F) **Non-Compliance.** If Contractor fails to comply with its maintenance and cleanup obligations or any City clean up order, City may, acting in its sole discretion, elect to suspend the Work until the condition(s) is corrected with no increase in the Contract Time or Contract Price, or undertake appropriate cleanup measures without further notice and deduct the cost from any amounts due or to become due to Contractor.

7.10 Instructions and Manuals. Contractor must provide to City three copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for City to easily maintain and service the materials and equipment installed for this Project.

(A) **Submittal Requirements.** All manufacturers' application or installation instructions must be provided to City at least ten days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to City for review.

(B) **Training.** Contractor or its Subcontractors must train City's personnel in the operation and maintenance of any complex equipment or systems as a condition precedent to Final Completion, if required in the Contract Documents.

7.11 As-built Drawings. Contractor and its Subcontractors must prepare and maintain at the Project site a detailed, complete and accurate as-built set of the Plans which will be used solely for the purpose of recording changes made in any portion of the original Plans in order to create accurate record drawings at the end of the Project.

(A) **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. City may withhold the estimated cost for City to have the as-built drawings prepared from payments otherwise due to Contractor, until the as-built drawings are brought up to date to the satisfaction of City. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities installed underground, in walls, floors, or otherwise concealed. Deviations from the original Plans must be shown in detail. The exact location of all main runs, whether piping, conduit, ductwork or drain lines, must be shown by dimension and elevation. The location of all buried pipelines, appurtenances, or other improvements must be represented by coordinates and by the horizontal distance from visible above-ground improvements.

(B) **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver the complete set of as-built drawings to the Engineer for review and acceptance as a condition precedent to Final Completion and Final Payment.

7.12 Existing Utilities.

(A) **General.** The Work may be performed in developed, urban areas with existing utilities, both above and below ground, including utilities identified in the Contract Documents or in other informational documents or records. Contractor must take due care to locate identified or reasonably identifiable utilities before proceeding with trenching, excavation, or any other activity that could damage or disrupt existing utilities. This may include excavation with small equipment, potholing, or hand excavation, and, if practical, using white paint or other suitable markings to delineate the area to be excavated. Except as otherwise provided herein, Contractor will be responsible for costs resulting from damage to identified or reasonably identifiable utilities due to Contractor's negligence or failure to comply with the Contract Documents, including the requirements in this Article 7.

(B) **Unidentified Utilities.** Pursuant to Government Code § 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by City in the Contract Documents, Contractor must immediately provide written notice to City and the utility. City assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project site if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor's failure to exercise reasonable care, and removing or relocating utility facilities not indicated in the Plans or Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Contractor will not be

assessed liquidated damages for delay in completion of the Work, to the extent the delay was caused by City's failure to provide for removal or relocation of the utility facilities.

7.13 Notice of Excavation. Contractor must comply with all applicable requirements in Government Code §§ 4216 through 4216.5, which are incorporated by reference herein. Government Code § 4216.2 requires that, except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert, at least two working days, but not more than 14 calendar days, before starting any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations. Contractor may not begin excavation until it has obtained and submitted to Engineer an inquiry identification number from Underground Services Alert.

7.14 Trenching and Excavations of Four Feet or More. As required by Public Contract Code § 7104, if the Work includes digging trenches or other excavations that extend deeper than four feet below the surface, the provisions in this Section apply to the Work and the Project.

(A) **Duty to Notify.** Contractor must promptly, and before the following conditions are disturbed, provide written notice to City if Contractor finds any of the following conditions:

(1) Material that Contractor believes may be a hazardous waste, as defined in § 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing Laws;

(2) Subsurface or latent physical conditions at the Project site differing from those indicated by information about the Project site made available to bidders prior to the deadline for submitting bids; or

(3) Unknown physical conditions at the Project site of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.

(B) **City Investigation.** City will promptly investigate the conditions and if City finds that the conditions materially differ from those indicated, apparent, or reasonably inferred from information about the Project site made available to bidders, or involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, City will issue a Change Order.

(C) **Disputes.** In the event that a dispute arises between City and Contractor regarding any of the conditions specified in subsection (B) above, or the terms of a Change Order issued by City, Contractor will not be excused from completing the Work within the Contract Time, but must proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by the Contract or by Laws which pertain to the resolution of disputes between Contractor and City.

7.15 Trenching of Five Feet or More. As required by Labor Code § 6705, if the Contract Price exceeds \$25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to City for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a California registered civil or structural engineer. Use of a shoring,

sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

7.16 New Utility Connections. Except as otherwise specified, City will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify City sufficiently in advance of the time needed to request service from each utility provider so that connections and services are initiated in accordance with the Project schedule.

7.17 Lines and Grades. Contractor is required to use any benchmark provided by the Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work. Contractor must also provide, preserve, and replace if necessary, all construction stakes required for the Project. All stakes or marks must be set by a California licensed surveyor or a California registered civil engineer. Contractor must notify the Engineer of any discrepancies found between Contractor's staking and grading and information provided by the Contract Documents. Upon completion, all Work must conform to the lines, elevations, and grades shown in the Plans, including any changes directed by a Change Order.

7.18 Historic or Archeological Items.

(A) **Contractor's Obligations.** Contractor must ensure that all persons performing Work at the Project site are required to immediately notify the Project Manager, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, a burial ground, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project site (collectively, "Historic or Archeological Items").

(B) **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an 85-foot radius of the find and may not resume until authorized in writing by City. If required by City, Contractor must assist in protecting or recovering the Historic or Archeological Items, with any such assistance to be compensated as Extra Work on a time and materials basis under Article 6, Contract Modification. At City's discretion, a suspension of Work required due to discovery of Historic or Archeological Items may be treated as Excusable Delay pursuant to Article 5, or as a suspension for convenience under Article 13.

7.19 Environmental Control. Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor must prevent the release of any hazardous material or hazardous waste into the soil or groundwater, and prevent the unlawful discharge of pollutants into City's storm drain system and watercourses as required below. Contractor and its Subcontractors must at all times in the performance of the Work comply with all Laws concerning pollution of waterways.

(A) **Stormwater Permit.** Contractor must comply with all applicable conditions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity ("Stormwater Permit").

(B) **Contractor's Obligations.** If required for the Work, a copy of the Stormwater Permit is on file in City's principal administrative offices, and Contractor must comply with it without adjustment of the Contract Price or the Contract Time. Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit. Contractor also must comply with all other Laws

governing discharge of stormwater, including applicable municipal stormwater management programs.

- 7.20 Noise Control.** Contractor must comply with all applicable noise control Laws. Noise control requirements apply to all equipment used for the Work or related to the Work, including trucks, transit mixers or transient equipment that may or may not be owned by Contractor.
- 7.21 Mined Materials.** Pursuant to the Surface Mining and Reclamation Act of 1975, Public Resources Code § 2710 et seq., any purchase of mined materials, such as construction aggregate, sand, gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation included on the AB 3098 List, which is available online at:
<ftp://ftp.consrv.ca.gov/pub/omr/AB3098%20List/AB3908List.pdf>.

Article 8 - Payment

- 8.1 Schedule of Values.** Prior to submitting its first application for payment, Contractor must prepare and submit to the Project Manager a schedule of values apportioned to the various divisions and phases of the Work, including mobilization and demobilization. If a Bid Schedule was submitted with Contractor's bid, the amounts in the schedule of values must be consistent with the Bid Schedule. Each line item contained in the schedule of values must be assigned a value such that the total of all items equals the Contract Price. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's bid.
- (A) **Measurements for Unit Price Work.** Materials and items of Work to be paid for on the basis of unit pricing will be measured according to the methods specified in the Contract Documents.
- (B) **Deleted or Reduced Work.** Contractor will not be compensated for Work that City has deleted or reduced in scope, except for any labor, material or equipment costs for such Work that Contractor reasonably incurred before Contractor learned that the Work could be deleted or reduced. Contractor will only be compensated for those actual, direct and documented costs incurred, and will not be entitled to any mark up for overhead or lost profits.
- 8.2 Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to the Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.
- (A) **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Project site, as well as authorized and approved Change Orders. Each payment application must be supported by the unit prices submitted with Contractor's Bid Schedule and/or schedule of values and any other substantiating data required by the Contract Documents.
- (B) **Payment of Undisputed Amounts.** City will pay the undisputed amount due within 30 days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code § 20104.50. City will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may withhold additional amounts as set forth in Section 8.3, below.

8.3 Adjustment of Payment Application. City may adjust or reject the amount requested in a payment application, including application for Final Payment, in whole or in part, if the amount requested is disputed or unsubstantiated. Contractor will be notified in writing of the basis for the modification to the amount requested. City may also deduct or withhold from payment otherwise due based upon any of the circumstances and amounts listed below. Sums withheld from payment otherwise due will be released when the basis for that withholding has been remedied and no longer exists.

(A) For Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.

(B) For loss or damage caused by Contractor or its Subcontractors arising out of or relating to performance of the Work or any failure to protect the Project site, City may deduct an amount based on the estimated cost to repair or replace.

(C) For Contractor's failure to pay its Subcontractors and suppliers when payment is due, City may withhold an amount equal to the total of past due payments and may opt to pay that amount separately via joint check pursuant to Section 8.6(B), Joint Checks.

(D) For Contractor's failure to timely correct rejected, nonconforming, or defective Work, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.

(E) For any unreleased stop notice, City may withhold 125% of the amount claimed.

(F) For Contractor's failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents, City may withhold an amount equal to five percent of the total amount requested until Contractor complies with its schedule submittal obligations.

(G) For Contractor's failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents, City may withhold or deduct an amount based on the City's cost to prepare the as-builts.

(H) For Work performed without Shop Drawings that have been accepted by City, when accepted Shop Drawings are required before proceeding with the Work, City may deduct an amount based on the estimated cost to correct unsatisfactory Work or diminution in value.

(I) For fines, payments, or penalties assessed under the Labor Code, City may deduct from payments due to Contractor as required by Laws and as directed by the Division of Labor Standards Enforcement.

(J) For any other costs or charges that may be withheld or deducted from payments to Contractor, as provided in the Contract Documents, including liquidated damages, City may withhold or deduct such amounts from payment otherwise due to Contractor.

8.4 Early Occupancy. Neither City's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of any part of the Work.

8.5 Retention. City will retain five percent of the full amount due on each progress payment (i.e., the amount due before any withholding or deductions pursuant to Section 8.3, Adjustment of Payment Application), or the percentage stated in the Notice Inviting Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work.

Contractor is not entitled to any reduction in the rate of withholding at any time, nor to release of any retention before 35 days following City's acceptance of the Project.

(A) **Substitution of Securities.** As provided by Public Contract Code § 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by City. Any escrow agreement entered into pursuant to this provision must fully comply with Public Contract Code § 22300 and will be subject to approval as to form by City's legal counsel. If City exercises its right to draw upon such securities in the event of default pursuant to section (7) of the statutory Escrow Agreement for Security Deposits in Lieu of Retention, pursuant to subdivision (f) of Public Contract Code § 22300 ("Escrow Agreement"), and if Contractor disputes that it is in default, its sole remedy is to comply with the dispute resolution procedures in Article 12 and the provisions therein. It is agreed that for purposes of this paragraph, an event of default includes City's rights pursuant to these Contract Documents to withhold or deduct sums from retention, including withholding or deduction for liquidated damages, incomplete or defective Work, stop payment notices, or backcharges. It is further agreed that if any individual authorized to give or receive written notice on behalf of a party pursuant to section (10) of the Escrow Agreement are unavailable to give or receive notice on behalf of that party due to separation from employment, retirement, death, or other circumstances, the successor or delegee of the named individual is deemed to be the individual authorized to give or receive notice pursuant to section (10) of the Escrow Agreement.

(B) **Release of Undisputed Retention.** All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld pursuant to Section 8.3, Adjustment of Payment Application, will be released as Final Payment to Contractor no sooner than 35 days following recordation of the notice of completion, and no later than 60 days following acceptance of the Project by City's governing body or authorized designee pursuant to Section 11.1(C), Acceptance, or, if the Project has not been accepted, no later than 60 days after the Project is otherwise considered complete pursuant to Public Contract Code § 7107(c).

8.6 Payment to Subcontractors and Suppliers. Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment incorporated into the Work or delivered to the Project site by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of Laws pertaining to such payments, and those of the Contract Documents and applicable subcontract or supplier contract.

(A) **Withholding for Stop Notice.** Pursuant to Civil Code § 9358, City will withhold 125% of the amount claimed by an unreleased stop notice, a portion of which may be retained by City for the costs incurred in handling the stop notice claim, including attorneys' fees and costs, as authorized by law.

(B) **Joint Checks.** City reserves the right, acting in its sole discretion, to issue joint checks made payable to Contractor and a Subcontractor or supplier, if City determines this is necessary to ensure fair and timely payment for a Subcontractor or supplier who has provided services or goods for the Project. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by the City Attorney's Office. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between City and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.

- 8.7 Final Payment.** Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final Payment. If Contractor fails to submit a timely application for Final Payment, City reserves the right to unilaterally process and issue Final Payment without an application from Contractor in order to close out the Project. For the purposes of determining the deadline for Claim submission pursuant to Article 12, the date of Final Payment is deemed to be the date that City acts to release undisputed retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment or that no undisputed funds remain available for Final Payment due to offsetting withholdings or deductions pursuant to Section 8.3, Adjustment of Payment Application. If the amount due from Contractor to City exceeds the amount of Final Payment, City retains the right to recover the balance from Contractor or its sureties.
- 8.8 Release of Claims.** City may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing City with a written waiver and release of all claims against City arising from or related to the portion of Work covered by those undisputed amounts subject to the limitations of Public Contract Code § 7100. Any disputed amounts may be specifically excluded from the release.
- 8.9 Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to City free of any claims, liens, or encumbrances upon payment to Contractor.

Article 9 - Labor Provisions

- 9.1 Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Govt. Code § 12900 et seq.), Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6, and 3077.5.
- 9.2 Labor Code Requirements.**
- (A) **Eight Hour Day.** Pursuant to Labor Code § 1810, eight hours of labor constitute a legal day's work under this Contract.
- (B) **Penalty.** Pursuant to Labor Code § 1813, Contractor will forfeit to City as a penalty, the sum of \$25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code § 1815.
- (C) **Apprentices.** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code § 1777.5, which is fully incorporated by reference.
- (D) **Notices.** Pursuant to Labor Code § 1771.4, Contractor is required to post all job site notices prescribed by Laws.

9.3 Prevailing Wages. Each worker performing Work under this Contract that is covered under Labor Code §§ 1720 or 1720.9, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City and available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Project site.

(A) **Penalties.** Pursuant to Labor Code § 1775, Contractor and any Subcontractor will forfeit to City as a penalty up to \$200.00 for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(B) **Federal Requirements.** If this Project is subject to federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the currently applicable state or federal prevailing wage rates.

9.4 Payroll Records. Contractor must comply with the provisions of Labor Code §§ 1771.4, 1776, and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for monthly electronic submission of payroll records to the DIR.

(A) **Contractor and Subcontractor Obligations.** Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct; and

(2) Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(B) **Certified Record.** A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

(C) **Enforcement.** Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion thereof, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

9.5 Labor Compliance. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

Article 10 - Safety Provisions

10.1 Safety Precautions and Programs. Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work. Contractor and its Subcontractors must at all times comply with all applicable health and safety Laws and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at any Worksite, materials and equipment stored on or off site, and property at or adjacent to any Worksite.

(A) **Reporting Requirements.** Contractor must immediately notify the City of any death, serious injury or illness resulting from Work on the Project. Contractor must immediately provide a written report to City of each recordable accident or injury occurring at any Worksite within 24 hours of the occurrence. The written report must include: (1) the name and address of the injured or deceased person; (2) the name and address of each employee of Contractor or of any Subcontractor involved in the incident; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to City.

(B) **Legal Compliance.** Contractor's safety program must comply with the applicable legal and regulatory requirements. Contractor must provide City with copies of all notices required by Laws.

(C) **Contractor's Obligations.** Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.

(D) **Remedies.** If City determines, in its sole discretion, that any part of the Work or Project site is unsafe, City may, without assuming responsibility for Contractor's safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to City's satisfaction. If Contractor fails to promptly take the required corrective measures, City may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor's compliance with City's request for corrective measures pursuant to this provision.

10.2 Hazardous Materials. Unless otherwise specified in the Contract Documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Project site that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to City. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.

10.3 Material Safety. Contractor is solely responsible for complying with § 5194 of Title 8 of the California Code of Regulations, including by providing information to Contractor's employees about any hazardous chemicals to which they may be exposed in the course of the Work. A hazard communication program and other forms of warning and training about such exposure must be used. Contractor must also maintain Safety Data Sheets ("SDS") at the Project site, as required by Laws, for materials or substances used or consumed in the performance of the Work. The SDS will be accessible and available to Contractor's employees, Subcontractors, and City.

(A) **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Project site and/or used in the performance of the Work. Contractor must notify the Engineer if a specified product or material cannot be used safely.

(B) **Labeling.** Contractor must ensure proper labeling on any material brought onto the Project site so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

10.4 Hazardous Condition. Contractor is solely responsible for determining whether a hazardous condition exists or is created during the course of the Work, involving a risk of bodily harm to any person or risk of damage to any property. If a hazardous condition exists or is created, Contractor must take all precautions necessary to address the condition and ensure that the Work progresses safely under the circumstances. Hazardous conditions may result from, but are not limited to, use of specified materials or equipment, the Work location, the Project site condition, the method of construction, or the way any Work must be performed.

10.5 Emergencies. In an emergency affecting the safety or protection of persons, Work, or property at or adjacent to any Worksite, Contractor must take reasonable and prompt actions to prevent damage, injury, or loss, without prior authorization from the City if, under the circumstances, there is inadequate time to seek prior authorization from the City.

Article 11 - Completion and Warranty Provisions

11.1 Final Completion.

(A) **Final Inspection and Punch List.** When the Work required by this Contract is fully performed, Contractor must provide written notification to City requesting final inspection. The Engineer will schedule the date and time for final inspection, which must include Contractor's primary representative for this Project and its superintendent. Based on that inspection, City will prepare a punch list of any items that are incomplete, missing, defective, incorrectly installed, or otherwise not compliant with the Contract Documents. The punch list to Contractor will specify the time by which all of the punch list items must be completed or corrected. The punch list may include City's estimated cost to complete each punch list item if Contractor fails to do so within the specified time. The omission of any non-compliant item from a punch list will not relieve Contractor from fulfilling all requirements of the Contract Documents. Contractor's failure to complete any punch list item within the time specified in the punch list will not waive or abridge its warranty obligations for any such items that must be completed by the City or by a third party retained by the City due to Contractor's failure to timely complete any such outstanding item.

(B) **Requirements for Final Completion.** Final Completion will be achieved upon completion or correction of all punch list items, as verified by City's further inspection, and upon satisfaction of all other Contract requirements, including any commissioning required under the Contract Documents and submission of all final submittals, including instructions and manuals as required under Section 7.10, and complete, final as-built drawings as required under Section 7.11, all to City's satisfaction.

(C) **Acceptance.** The Project will be considered accepted upon City Council action during a public meeting to accept the Project, unless the Engineer is authorized to accept

the Project, in which case the Project will be considered accepted upon the date of the Engineer's issuance of a written notice of acceptance. In order to avoid delay of Project close out, the City may elect, acting in its sole discretion, to accept the Project as complete subject to exceptions for punch list items that are not completed within the time specified in the punch list.

(D) **Final Payment and Release of Retention.** Final Payment and release of retention, less any sums withheld pursuant to the provisions of the Contract Documents, will not be made sooner than 35 days after recordation of the notice of completion. If Contractor fails to complete all of the punch list items within the specified time, City may withhold up to 150% of City's estimated cost to complete each of the remaining items from Final Payment and may use the withheld retention to pay for the costs to self-perform the outstanding items or to retain a third party to complete any such outstanding punch list item.

11.2 Warranty.

(A) **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. Contractor warrants that materials or items incorporated into the Work comply with the requirements and standards in the Contract Documents, including compliance with Laws, and that any Hazardous Materials encountered or used were handled as required by Laws. At City's request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor's warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

(B) **Warranty Period.** Contractor's warranty must guarantee its Work for a period of one year from the date of Project acceptance (the "Warranty Period"), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors, suppliers and manufacturers any special or extended warranties required by the Contract Documents.

(C) **Warranty Documents.** As a condition precedent to Final Completion, Contractor must supply City with all warranty and guarantee documents relevant to equipment and materials incorporated into the Work and guaranteed by their suppliers or manufacturers.

(D) **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor agrees to be co-guarantor of such Work.

(E) **Contractor's Obligations.** Upon written notice from City to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor's obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period. Work performed during the Warranty Period ("Warranty Work") will be subject to the warranty provisions in this Section 11.2 for a one-year period that begins upon completion of such Warranty Work to City's satisfaction.

(F) **City's Remedies.** If Contractor or its responsible Subcontractor fails to correct defective Work within ten days following notice by City, or sooner if required by the circumstances, City may correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor must reimburse City for its costs in accordance with subsection (H), below.

(G) **Emergency Repairs.** In cases of emergency where any delay in correcting defective Work could cause harm, loss or damage, City may immediately correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor or its surety must reimburse City for its costs in accordance with subsection (H), below.

(H) **Reimbursement.** Contractor must reimburse City for its costs to repair under subsections (F) or (G), above, within 30 days following City's submission of a demand for payment pursuant to this provision. If City is required to initiate legal action to compel Contractor's compliance with this provision, and City is the prevailing party in such action, Contractor and its surety are solely responsible for all of City's attorney's fees and legal costs expended to enforce Contractor's warranty obligations herein, in addition to any and all costs City incurs to correct the defective Work.

11.3 Use Prior to Final Completion. City reserves the right to occupy or make use of the Project, or any portions of the Project, prior to Final Completion if City has determined that the Project or portion of it is in a condition suitable for the proposed occupation or use, and that it is in its best interest to occupy or make use of the Project, or any portions of it, prior to Final Completion.

(A) **Non-Waiver.** Occupation or use of the Project, in whole or in part, prior to Final Completion will not operate as acceptance of the Work or any portion of it, nor will it operate as a waiver of any of City's rights or Contractor's duties pursuant to these Contract Documents, and will not affect nor bear on the determination of the time of substantial completion with respect to any statute of repose pertaining to the time for filing an action for construction defect.

(B) **City's Responsibility.** City will be responsible for the cost of maintenance and repairs due to normal wear and tear with respect to those portions of the Project that are being occupied or used before Final Completion. The Contract Price or the Contract Time may be adjusted pursuant to the applicable provisions of these Contract Documents if, and only to the extent that, any occupation or use under this Section actually adds to Contractor's cost or time to complete the Work within the Contract Time.

11.4 Substantial Completion. For purposes of determining "substantial completion" with respect to any statute of repose pertaining to the time for filing an action for construction defect, "substantial completion" is deemed to mean the last date that Contractor or any Subcontractor performs Work on the Project prior to City acceptance of the Project, except for warranty work performed under this Article.

Article 12 - Dispute Resolution

12.1 Claims. This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

(A) **Definition.** "Claim" means a separate demand by Contractor, submitted in writing by registered or certified mail with return receipt requested, for a change in the Contract Time, including a time extension or relief from liquidated damages, or a change in the Contract Price, when the demand has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been

rejected or disputed by City, in whole or in part. A Claim may also include that portion of a unilateral Change Order that is disputed by the Contractor.

(B) **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and City. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to City in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by City.

(C) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount and applies in addition to the provisions of Public Contract Code § 9204 and § 20104 et seq., which are incorporated by reference herein.

(D) **No Work Delay.** Notwithstanding the submission of a Claim or any other dispute between the parties related to the Project or the Contract Documents, Contractor must perform the Work and may not delay or cease Work pending resolution of a Claim or other dispute, but must continue to diligently prosecute the performance and timely completion of the Work, including the Work pertaining to the Claim or other dispute.

(E) **Informal Resolution.** Contractor will make a good faith effort to informally resolve a dispute before initiating a Claim, preferably by face-to-face meeting between authorized representatives of Contractor and City.

12.2 Claims Submission. The following requirements apply to any Claim subject to this Article:

(A) **Substantiation.** The Claim must be submitted to City in writing, clearly identified as a "Claim" submitted pursuant to this Article 12 and must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of City's written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all known or estimated labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each component of claimed cost. Any Claim for an extension of time or delay costs must be substantiated with a schedule analysis and narrative depicting and explaining claimed time impacts.

(B) **Claim Format and Content.** A Claim must be submitted in the following format:

- (1) Provide a cover letter, specifically identifying the submission as a "Claim" submitted under this Article 12 and specifying the requested remedy (e.g., amount of proposed change to Contract Price and/or change to Contract Time).
- (2) Provide a summary of each Claim, including underlying facts and the basis for entitlement, and identify each specific demand at issue, including the specific Change Order request (by number and submittal date), and the date of City's rejection of that demand, in whole or in part.
- (3) Provide a detailed explanation of each issue in dispute. For multiple issues included within a single Claim or for multiple Claims submitted concurrently, separately number and identify each individual issue or Claim, and include the following for each separate issue or Claim:

- a. A succinct statement of the matter in dispute, including Contractor's position and the basis for that position;
- b. Identify and attach all documents that substantiate the Claim, including relevant provisions of the Contract Documents, RFIs, calculations, and schedule analysis (see subsection (A), Substantiation, above);
- c. A chronology of relevant events; and
- d. Analysis and basis for claimed changes to Contract Price, Contract Time, or any other remedy requested.

(4) Provide a summary of issues and corresponding claimed damages. If, by the time of the Claim submission deadline (below), the precise amount of the requested change in the Contract Price or Contract Time is not yet known, Contractor must provide a good faith estimate, including the basis for that estimate, and must identify the date by which it is anticipated that the Claim will be updated to provide final amounts.

(5) Include the following certification, executed by Contractor's authorized representative:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Claim submittal are true and correct. Contractor warrants that this Claim submittal is comprehensive and complete as to the matters in dispute, and agrees that any costs, expenses, or delay not included herein are deemed waived."

(C) ***Submission Deadlines.***

(1) A Claim disputing rejection of a request for a change in the Contract Time or Contract Price must be submitted within 15 days following the date that City notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part. A Claim disputing the terms of a unilateral Change Order must be submitted within 15 days following the date of issuance of the unilateral Change Order. These Claim deadlines apply even if Contractor cannot yet quantify the total amount of any requested change in the Contract Time or Contract Price. If the Contractor cannot quantify those amounts, it must submit an estimate of the amounts claimed pending final determination of the requested remedy by Contractor.

(2) With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment or will be deemed waived.

(3) A Claim disputing the amount of Final Payment must be submitted within 15 days of the effective date of Final Payment, under Section 8.7, Final Payment.

(4) Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. ***Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.***

12.3 City's Response. City will respond within 45 days of receipt of the Claim with a written statement identifying which portion(s) of the Claim are disputed, unless the 45-day period is extended by mutual agreement of City and Contractor or as otherwise allowed under Public Contract Code § 9204. However, if City determines that the Claim is not adequately substantiated pursuant to Section 12.2(A), Substantiation, City may first request in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that City may have against the Claim.

(A) **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of City and Contractor. If Contractor's Claim is based on estimated amounts, Contractor has a continuing duty to update its Claim as soon as possible with information on actual amounts in order to facilitate prompt and fair resolution of the Claim.

(B) **Non-Waiver.** Any failure by City to respond within the times specified above will not be construed as acceptance of the Claim, in whole or in part, or as a waiver of any provision of these Contract Documents.

12.4 Meet and Confer. If Contractor disputes City's written response, or City fails to respond within the specified time, within 15 days of receipt of City's response or within 15 days of City's failure to respond within the applicable 45-day time period under Section 12.3, respectively, Contractor may notify City of the dispute in writing sent by registered or certified mail, return receipt requested, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to notify City of the dispute and demand an informal conference to meet and confer in writing within the specified time, Contractor's Claim will be deemed waived.

(A) **Schedule Meet and Confer.** Upon receipt of the demand to meet and confer, City will schedule the meet and confer conference to be held within 30 days, or later if needed to ensure the mutual availability of each of the individuals that each party requires to represent its interests at the meet and confer conference.

(B) **Location for Meet and Confer.** The meet and confer conference will be scheduled at a location at or near City's principal office.

(C) **Written Statement After Meet and Confer.** Within ten working days after the meet and confer has concluded, City will issue a written statement identifying which portion(s) of the Claim remain in dispute, if any.

(D) **Submission to Mediation.** If the Claim or any portion remains in dispute following the meet and confer conference, within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute, the Contractor may identify in writing disputed portion(s) of the Claim, which will be submitted for mediation, as set forth below.

12.5 Mediation and Government Code Claims.

(A) **Mediation.** Within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute following the meet and confer, City and Contractor will mutually agree to a mediator, as provided under Public Contract Code § 9204. Mediation will be scheduled to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. If there are multiple Claims in dispute, the parties may agree to schedule the mediation to address all outstanding Claims at the same time. The parties will share the costs of the mediator and mediation fees equally, but each party is otherwise solely and separately

responsible for its own costs to prepare for and participate in the mediation, including costs for its legal counsel or any other consultants.

(B) **Government Code Claims.**

(1) Timely presentation of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract. Compliance with the Claim submission requirements in this Article 12 is a condition precedent to filing a Government Code Claim.

(2) The time for filing a Government Code Claim will be tolled from the time Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied in whole or in part at the conclusion of the meet and confer process, including any period of time used by the meet and confer process. However, if the Claim is submitted to mediation, the time for filing a Government Code Claim will be tolled until conclusion of the mediation, including any continuations, if the Claim is not fully resolved by mutual agreement of the parties during the mediation or any continuation of the mediation.

12.6 Tort Claims. This Article does not apply to tort claims and nothing in this Article is intended nor will be construed to change the time periods for filing tort-based Government Code Claims.

12.7 Arbitration. It is expressly agreed, under Code of Civil Procedure § 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator's award must be supported by law and substantial evidence.

12.8 Burden of Proof and Limitations. Contractor bears the burden of proving entitlement to and the amount of any claimed damages. Contractor is not entitled to damages calculated on a total cost basis, but must prove actual damages. Contractor is not entitled to speculative, special, or consequential damages, including home office overhead or any form of overhead not directly incurred at the Project site or any other Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract. The Eichleay Formula or similar formula will not be used for any recovery under the Contract. The City will not be directly liable to any Subcontractor or supplier.

12.9 Legal Proceedings. In any legal proceeding that involves enforcement of any requirements of the Contract Documents, the finder of fact will receive detailed instructions on the meaning and operation of the Contract Documents, including conditions, limitations of liability, remedies, claim procedures, and other provisions bearing on the defenses and theories of liability. Detailed findings of fact will be requested to verify enforcement of the Contract Documents. All of the City's remedies under the Contract Documents will be construed as cumulative, and not exclusive, and the City reserves all rights to all remedies available under law or equity as to any dispute arising from or relating to the Contract Documents or performance of the Work.

12.10 Other Disputes. The procedures in this Article 12 will apply to any and all disputes or legal actions, in addition to Claims, arising from or related to this Contract, including disputes regarding suspension or early termination of the Contract, unless and only to the extent that compliance with a procedural requirement is expressly and specifically waived by City. Nothing in this Article is intended to delay suspension or termination under Article 13.

Article 13 - Suspension and Termination

13.1 Suspension for Cause. In addition to all other remedies available to City, if Contractor fails to perform or correct Work in accordance with the Contract Documents, including non-compliance with applicable environmental or health and safety Laws, City may immediately order the Work, or any portion of it, suspended until the circumstances giving rise to the suspension have been eliminated to City's satisfaction.

(A) **Notice of Suspension.** Upon receipt of City's written notice to suspend the Work, in whole or in part, except as otherwise specified in the notice of suspension, Contractor and its Subcontractors must promptly stop Work as specified in the notice of suspension; comply with directions for cleaning and securing the Worksite; and protect the completed and in-progress Work and materials. Contractor is solely responsible for any damages or loss resulting from its failure to adequately secure and protect the Project.

(B) **Resumption of Work.** Upon receipt of the City's written notice to resume the suspended Work, in whole or in part, except as otherwise specified in the notice to resume, Contractor and its Subcontractors must promptly re-mobilize and resume the Work as specified; and within ten days from the date of the notice to resume, Contractor must submit a recovery schedule, prepared in accordance with the Contract Documents, showing how Contractor will complete the Work within the Contract Time.

(C) **Failure to Comply.** Contractor will not be entitled to an increase in the Contract Time or Contract Price for a suspension occasioned by Contractor's failure to comply with the Contract Documents.

(D) **No Duty to Suspend.** City's right to suspend the Work will not give rise to a duty to suspend the Work, and City's failure to suspend the Work will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.

13.2 Suspension for Convenience. City reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for City's convenience. Upon notice by City pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work and secure the Project site as directed by City except for taking measures to protect completed or in-progress Work as directed in the suspension notice, and subject to the provisions of Section 13.1(A) and (B), above. If Contractor submits a timely request for a Change Order in compliance with Articles 5 and 6, the Contract Price and the Contract Time will be equitably adjusted by Change Order pursuant to the terms of Articles 5 and 6 to reflect the cost and delay impact occasioned by such suspension for convenience, except to the extent that any such impacts were caused by Contractor's failure to comply with the Contract Documents or the terms of the suspension notice or notice to resume. However, the Contract Time will only be extended if the suspension causes or will cause unavoidable delay in Final Completion. If Contractor disputes the terms of a Change Order issued for such equitable adjustment due to suspension for convenience, its sole recourse is to comply with the Claim procedures in Article 12.

13.3 Termination for Default. City may declare that Contractor is in default of the Contract for a material breach of or inability to fully, promptly, or satisfactorily perform its obligations under the Contract.

(A) **Default.** Events giving rise to a declaration of default include Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; Contractor's refusal or failure to make prompt

payment to its employees, Subcontractors, or suppliers or to correct defective Work or damage; Contractor's failure to comply with Laws, or orders of any public agency with jurisdiction over the Project; evidence of Contractor's bankruptcy, insolvency, or lack of financial capacity to complete the Work as required within the Contract Time; suspension, revocation, or expiration and nonrenewal of Contractor's license or DIR registration; dissolution, liquidation, reorganization, or other major change in Contractor's organization, ownership, structure, or existence as a business entity; unauthorized assignment of Contractor's rights or duties under the Contract; or any material breach of the Contract requirements.

(B) **Notice of Default and Opportunity to Cure.** Upon City's declaration that Contractor is in default due to a material breach of the Contract Documents, if City determines that the default is curable, City will afford Contractor the opportunity to cure the default within ten days of City's notice of default, or within a period of time reasonably necessary for such cure, including a shorter period of time if applicable.

(C) **Termination.** If Contractor fails to cure the default or fails to expediently take steps reasonably calculated to cure the default within the time period specified in the notice of default, City may issue written notice to Contractor and its performance bond surety of City's termination of the Contract for default.

(D) **Waiver.** Time being of the essence in the performance of the Work, if Contractor's surety fails to arrange for completion of the Work in accordance with the Performance Bond within seven calendar days from the date of the notice of termination pursuant to paragraph (C), City may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that City determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by City to complete the Work following termination, where "additional cost" means all cost in excess of the cost City would have incurred if Contractor had timely completed Work without the default and termination. In addition, City will have the right to immediate possession and use of any materials, supplies, and equipment procured for the Project and located at the Project site or any Worksite on City property for the purposes of completing the remaining Work.

(E) **Compensation.** Within 30 days of receipt of updated as-builts, all warranties, manuals, instructions, or other required documents for Work installed to date, and delivery to City of all equipment and materials for the Project for which Contractor has already been compensated, Contractor will be compensated for the Work satisfactorily performed in compliance with the Contract Documents up to the effective date of the termination pursuant to the terms of Article 8, Payment, subject to City's rights to withhold or deduct sums from payment otherwise due pursuant to Section 8.3, and excluding any costs Contractor incurs as a result of the termination, including any cancellation or restocking charges or fees due to third parties. If Contractor disputes the amount of compensation determined by City, its sole recourse is to comply with the Claim Procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of the total compensation to be paid by City.

(F) **Wrongful Termination.** If Contractor disputes the termination, its sole recourse is to comply with the Claim procedures in Article 12. If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contractor's damages will be strictly limited to the compensation provided for termination for convenience under Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including special or consequential damages, lost

opportunity costs, or lost profits, and any award of damages is subject to Section 12.8, Burden of Proof and Limitations.

13.4 Termination for Convenience. City reserves the right, acting in its sole discretion, to terminate all or part of the Contract for convenience upon written notice to Contractor.

(A) **Compensation to Contractor.** In the event of City's termination for convenience, Contractor waives any claim for damages, including for loss of anticipated profits from the Project. The following will constitute full and fair compensation to Contractor, and Contractor will not be entitled to any additional claim or compensation:

(1) **Completed Work.** The value of its Work satisfactorily performed as of the date notice of termination is received, based on Contractor's schedule of values and unpaid costs for items delivered to the Project site that were fabricated for incorporation in the Work;

(2) **Demobilization.** Demobilization costs specified in the schedule of values, or if demobilization costs were not provided in a schedule of values pursuant to Section 8.1, then based on actual, reasonable, and fully documented demobilization costs; and

(3) **Termination Markup.** Five percent of the total value of the Work performed as of the date of notice of termination, including reasonable, actual, and documented costs to comply with the direction in the notice of termination for convenience, and demobilization costs, which is deemed to cover all overhead and profit to date.

(B) **Disputes.** If Contractor disputes the amount of compensation determined by City pursuant to paragraph (A), above, its sole recourse is to comply with the Claim procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of total compensation to be paid by City.

13.5 Actions Upon Termination for Default or Convenience. The following provisions apply to any termination under this Article, whether for default or convenience, and whether in whole or in part.

(A) **General.** Upon termination, City may immediately enter upon and take possession of the Project and the Work and all tools, equipment, appliances, materials, and supplies procured or fabricated for the Project. Contractor will transfer title to and deliver all completed Work and all Work in progress to City.

(B) **Submittals.** Unless otherwise specified in the notice of termination, Contractor must immediately submit to City all designs, drawings, as-built drawings, Project records, contracts with vendors and Subcontractors, manufacturer warranties, manuals, and other such submittals or Work-related documents required under the terms of the Contract Documents, including incomplete documents or drafts.

(C) **Close Out Requirements.** Except as otherwise specified in the notice of termination, Contractor must comply with all of the following:

(1) Immediately stop the Work, except for any Work that must be completed pursuant to the notice of termination and comply with City's instructions for cessation of labor and securing the Project and any other Worksite(s).

(2) Comply with City's instructions to protect the completed Work and materials, using best efforts to minimize further costs.

(3) Contractor must not place further orders or enter into new subcontracts for materials, equipment, services or facilities, except as may be necessary to complete any portion of the Work that is not terminated.

(4) As directed in the notice, Contractor must assign to City or cancel existing subcontracts that relate to performance of the terminated Work, subject to any prior rights, if any, of the surety for Contractor's performance bond, and settle all outstanding liabilities and claims, subject to City's approval.

(5) As directed in the notice, Contractor must use its best efforts to sell any materials, supplies, or equipment intended solely for the terminated Work in a manner and at market rate prices acceptable to City.

(D) **Payment Upon Termination.** Upon completion of all termination obligations, as specified herein and in the notice of termination, Contractor will submit its request for Final Payment, including any amounts due following termination pursuant to this Article 13. Payment will be made in accordance with the provisions of Article 8, based on the portion of the Work satisfactorily completed, including the close out requirements, and consistent with the previously submitted schedule of values and unit pricing, including demobilization costs. Adjustments to Final Payment may include deductions for the cost of materials, supplies, or equipment retained by Contractor; payments received for sale of any such materials, supplies, or equipment, less re-stocking fees charged; and as otherwise specified in Section 8.3, Adjustment of Payment Application.

(E) **Continuing Obligations.** Regardless of any Contract termination, Contractor's obligations for portions of the Work already performed will continue and the provisions of the Contract Documents will remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, record maintenance, or other such rights and obligations arising prior to the termination date.

Article 14 - Miscellaneous Provisions

- 14.1 Assignment of Unfair Business Practice Claims.** Under Public Contract Code § 7103.5, Contractor and its Subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time City tenders Final Payment to Contractor, without further acknowledgement by the parties.
- 14.2 Provisions Deemed Inserted.** Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be deemed amended accordingly.
- 14.3 Waiver.** City's waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will not be effective unless it is in writing and signed by City. City's waiver of any breach, failure, right, or remedy will not be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by City.

- 14.4 Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5 Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that bids were due.
- 14.6 Survival.** The provisions that survive termination or expiration of this Contract include Contract Section 11, Notice, and subsections 12.1, 12.2, 12.3, 12.4, 12.5, and 12.6, of Section 12, General Provisions; and the following provisions in these General Conditions: Section 2.2(J), Contractor's Records, Section 2.3(C), Termination, Section 3.7, Ownership, Section 4.2, Indemnity, Article 12, Dispute Resolution, and Section 11.2, Warranty.

END OF GENERAL CONDITIONS

**City of San Rafael
SERVICE LEVEL AGREEMENT
DATED SEPTEMBER 15, 2024
WITH UNICO ENGINEERING INC.**

TASK ORDER NO. 153

**Subject title: Construction Management Services for Pickleweed Library Renovation
Task Order Amount: \$ 211,498.69**

THIS TASK ORDER is entered into by and between the City of San Rafael, a municipal corporation ("City"), and Unico Engineering Inc. ("Contractor"), and is effective on _____.

RECITALS

A. The City and Contractor have entered into a Service Level Agreement ("Contract") under which Contractor has agreed to perform certain contract services for the City; and

B. Pursuant to the terms of the Contract, the City wishes Contractor to perform certain tasks as set forth in this Task Order, which constitute the Work;

NOW, THEREFORE, City and Contractor agree as follows:

CONTRACT

1. Scope of Work. Contractor shall provide any and all of the work set forth in Exhibit A of this Task Order, as directed by the City.

Joanna Kwok shall be the Project Manager for Contractor for this Task Order. Additional contract services may be performed by other Contractor staff with prior notice and approval by City.

a. City's duties. The City will:

- (1) Determine the scope of work, as set forth in Exhibit A.
- (2) Make available work plans and specifications and other City data related to the Work, including full information as to the City's requirements.
- (3) Designate Carlos Melendez as the person at the City responsible for monitoring performance under this Task Order.

*City of San Rafael Service Level Agreement
Task Order*

b. Contractor duties. The Contractor will:

- (1) Provide and perform tasks identified in Exhibit A, Scope of Work.
- (2) Provide miscellaneous services related to the Work and not stipulated elsewhere in this Task Order, when requested by the City in writing. A Task Order Amendment is required if these additional services cannot be performed within the Task Order budget.

2. Date of completion; Work hours estimate; Cost estimate and budget; Fee schedule:

Costs are not-to-exceed \$ 211,498.69 for this Task Order. See Exhibit A, Scope of Work.

3. Authorization to proceed.

The City will give Contractor authorization to proceed with the Work specified in this Task Order only after Contractor submits updated insurance certificates and endorsements, in accordance with the Contract.

4. Service Level Agreement terms; Conflicts.

Except as expressly otherwise provided herein, all terms of the Contract shall apply to Contractor in the performance of work pursuant to this Task Order. If there is a conflict between this Task Order and the Contract, this Task Order shall control.

4. Amendment of Task Order; Conflicts.

Except as provided in Section 1(b)(2) above, this Task Order may not be modified except by an Amended Task Order executed and approved in the same manner as the Task Order.

5. Signatures.

The parties have executed this Task Order, as of the date first written above.

City of San Rafael Service Level Agreement
Task Order

CITY OF SAN RAFAEL: _____ _____, _____ Executed on: _____ APPROVED AS TO FORM: Office of the City Attorney _____ _____, _____ ATTEST: City Clerk _____ _____, _____	CONTRACTOR: _____ By: _____ Name: _____ Title: _____ [If Contractor is a corporation, second corporate officer signature required] _____ By: _____ Name: _____ Title: _____
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- Exhibits:
- A Scope of work, time of completion, work hours estimate, cost estimate and budget, and fee schedule (Contractor's current hourly rate) as approved in Service Level Agreement and subsequent yearly updates.

EXHIBIT A

SCOPE OF WORK

This is an Exhibit attached to, and made a part of the Contract by and between **Contractor** and the **City** providing for the referenced services. The Scope of Work includes:

1. **Description of the Work:**

1.1 **Description:** The City of San Rafael plans to renovate the Pickleweed Library. Funding will come from two California State Library grants. UNICO Engineering Inc. will provide construction management services for the Department of Public Works for the Pickleweed Library Renovation project.

2. **Specific Tasks:**

As part of the Scope of Work, the Contractor shall perform the following tasks:

Task 1 – Pre-Construction Services: During the first few weeks of the project, UNICO will:

- Meet with project stakeholders to clearly define project expectations, goals, team roles, responsibilities and procedures for how UNICO will accomplish those goals.
- Complete a detailed site investigation to document existing conditions.
- Review the contract documents (plans and specifications), City Standards, and applicable building codes.
- Review the Contractor's Schedule of Values.
- Review and analyze the Contractor's baseline schedule.
- Coordinate with the City and establish a project filing system to organize electronic files and hard copies for project documents.
- Schedule, coordinate, and conduct the pre-construction meeting. Meeting attendees will include staff from the City, Contractor, UNICO, and Architect. UNICO will prepare and distribute the meeting agenda and minutes.
- Develop the logs to be used to verify and document that project requirements are completed. These include: submittal log to identify required submittals and highlight time sensitive submittals; a testing and special inspections log to list required materials testing and special inspections; an issues/potential change order log to document issues/potential changes to the contract; a contract change order log to document official changes to the contract; and a closeout log to list items required to successfully close out the project.

Schedule Management

Prior to the pre-construction meeting, UNICO will request a draft baseline schedule from the Contractor. UNICO will review and analyze the draft baseline schedule for conformance with the contract documents. The review of the Contractor's baseline schedule includes a detailed review of activity logic, duration, level of detail, inclusion of long-lead procurement items, and contract restrictions. Once the draft baseline schedule is established and approved, copies will be distributed to project stakeholders.

Task 2 – Construction Management Services: Communication and Coordination:

UNICO will prepare monthly reports to document project status and pertinent project issues. Reports will be sent to the City and project stakeholders. UNICO will act as the liaison between the City, Contractor, design team, and project stakeholders to provide effective and timely communications.

UNICO will collaborate with the City, City's vendors, Library staff, and the Contractor on OFOI and OFCI items to confirm that equipment is ordered, delivered, and installed without impacting the construction schedule. UNICO will work with the City and Library staff to develop a post-construction move schedule.

UNICO will coordinate with the Contractor to verify necessary permits and inspections are obtained and scheduled with Building Department and Sanitary District.

Meetings

UNICO will organize, plan, and chair the pre-construction meeting, weekly progress meetings, and various coordination meetings as necessary to facilitate project communication and success. Weekly progress meetings will be used to coordinate and report on work progress, including the status of submittals, RFIs, change orders, potential change orders, and if applicable, safety concerns. The meetings will also be used as a tool to identify specific tasks necessary for project success and identify who will be responsible for completing those tasks. After the weekly meetings, UNICO will follow up with project team members to encourage them to complete the commitments and facilitate timely resolution of issues. UNICO will generate logs of RFIs, submittals, and proposed change orders for review at the weekly meetings.

Submittal Management

UNICO will review the specifications in detail and generate a comprehensive log of required submittals, including shop drawings. This log will be reviewed with the Contractor and submittals prioritized based on lead times and when they are needed in the field. As submittals come in, UNICO will review them for conformance with the contract documents and actual site conditions. Submittal status reports will be generated regularly, reviewed in the weekly progress meetings, and outstanding items followed-up on.

Progress Payment Requests

During the last few days of each month, UNICO will schedule a time to walk the project with the Contractor and review the information in their draft progress payment application, including their proposed percent complete of Schedule of Values line items. After agreement is reached on the quantity of work complete to date, the Contractor will transmit their pay application, along with an updated construction schedule and any necessary substantiating data, such as Conditional and Unconditional lien releases. UNICO will review this information for accuracy

and completeness. If acceptable, UNICO will then make a recommendation for the City's approval and payment. UNICO will also collect and review other monthly contract requirements at this time, such as updated project as-built plans and any required reports. On a monthly basis, UNICO will conduct an earned value analysis to confirm that the project is within budget and on schedule. UNICO will recommend actions to take if the project progress is not in agreement with the budget or schedule.

Request for Information (RFI):

When an RFI is submitted by the Contractor, UNICO will review it for completeness and verify that the necessary information, such as detail and plan references, is present. UNICO will review the contract documents and confirm that the RFI is a legitimate request, and that the information is not already identified in the contract documents. If it will help to clarify the issue, UNICO will attach a picture or sketch to assist the design team to visualize the issue/concern. Once submitted to the design team, UNICO will track the progress of RFIs and follow-up with the reviewer regularly to expedite resolution. Timely response to Contractor questions is critical to project success and claims mitigation.

Change Orders

UNICO will work closely with the City's Project Manager, design team, and the Contractor to proactively seek agreement on the cost and schedule impacts of contract change orders. UNICO will diligently observe and follow the City of San Rafael's guidelines for processing contract change orders. Typical procedures include:

- First, UNICO will verify the work involved is not part of the original contract scope.
- Once it is determined the work is outside the scope of the contract, UNICO will validate the addition is justified. The potential change orders will be logged. Potential change orders will be monitored and discussed at weekly progress meetings until they are settled.
- Once it is determined the proposed change order is justified, UNICO will perform a detailed estimate and time impact analysis, if applicable. UNICO will document the proposed change order and provide a written justification to the City to review and approve.
- UNICO will develop negotiation strategies for every proposed change order and present these findings/strategies to the City's Project Manager.
- UNICO will assist in negotiating the change orders.
- Once negotiated, UNICO will prepare the applicable change order documents, track, and route them for necessary signatures. The fully executed change orders will be logged.

Project Records

UNICO will prepare, organize, and maintain project records. UNICO will utilize Egnyte to store the project documents and allow easy access to authorized project team members. Electronic copies of RFIs, submittals, meeting minutes, change orders, correction notices, daily reports, photos, and weekly statements of working

days will be stored in Egnyte. UNICO will coordinate with the City and establish a project filing system to organize electronic files and hard copies of project documents. At project closeout, UNICO will provide the City with a digital copy of the project documents in electronic format. Hard copy files will be provided upon request.

Schedule Management

UNICO will verify the Contractor's monthly schedule update accurately reflects project status. At the weekly meetings, UNICO will utilize the Contractor's 3-week look ahead schedule for a more granular view of the overall project schedule and as a tool to provide a level of planning and coordination for the immediate future.

Construction Inspection

It is understood that inspection is required as part of this Task Order. UNICO will coordinate with the City's Building Department inspectors and perform quality assurance inspections to confirm the project is constructed in accordance with the contract documents and manufacturer's recommendations. Whenever force account work is performed, City staff will document work activities, workforce, and materials used.

UNICO will provide staff to prepare the daily reports that will record details about site conditions, visitors, Contractor personnel and subcontractors on site, applicable equipment used, work activities started, completed or in progress, activities scheduled but not started/completed, inspections and tests completed, delays, disruptions, and issues. UNICO will log and maintain project files inclusive of daily reports.

It is understood that materials testing and special inspections are not included as part of this Task Order.

Photo Log

The City will provide staff to take photos/videos of the project site throughout construction to provide visual records of the project conditions, including pre-existing conditions, construction activities/equipment, construction sequencing, unsafe project conditions requiring corrective action, and the final constructed condition. City staff will take photos of specific materials or equipment to document compliance with the contract documents and approved submittals.

Issues Management and Claims Mitigation

An issue is any occurrence that may have an impact on project cost, time, or deliverables. Issues are given a tracking number and are logged as a potential change order. Following the identification of an issue, UNICO will track it closely and document the details with photos, correspondence, and City inspector reports. The potential change order log will be printed weekly and will be discussed at the weekly meeting. Any open issues will be followed up on to resolve them as quickly as possible. UNICO will investigate and work to resolve any potential claims.

Compliance

UNICO will collect certified payroll reports from the Contractor each month as part of the monthly pay application process. UNICO will also spot-check these submissions for accuracy and completeness. UNICO will perform employee interviews to confirm that the employees are receiving the required prevailing wage. UNICO will coordinate with City staff to confirm that the Contractor posts the required posters, notices, wage determinations, etc. at the job site.

UNICO will promptly notify the Contractor, in writing, concerning any observed variances to the contract requirements.

UNICO will develop a Correction Notice form and log, to formally notify the Contractor of any scope of work that is not in compliance with the contract documents and track its correction.

UNICO will prepare weekly statements of working days to keep the Contractor on notice regarding the number of working days they have to complete the project, and the point at which liquidated damages will be assessed.

Safety

Prior to the commencement of any work, UNICO will confirm that the Contractor has submitted a copy of their safety plan. The safety plan should be comprehensive and tailored to the specifics of this project. During construction, UNICO will monitor the jobsite and identify potential safety issues. If there is an immediate safety hazard to a worker or the public, UNICO will take immediate action to halt the unsafe act or make the situation safe. If UNICO become aware that the Contractor is not following their safety plan, UNICO will bring it to their attention through verbal and written correspondence and notify the City. If the situation is not immediately rectified, UNICO will collaborate with the City on what course of action should be taken. UNICO will report any safety incidents to the appropriate parties.

Task 3 – Post-Construction Services: Project Closeout:

Well in advance of substantial completion, as various areas, rooms, or systems are progressing, UNICO will utilize our logs and check lists, to inform the Contractor as to what items are complete and what items are outstanding, including materials testing and special inspection requirements. UNICO will discuss these outstanding requirements in weekly progress meetings and track Contractor progress towards completing them.

When the scope of work is nearing substantial completion, UNICO will develop a preliminary punch list for the Contractor to begin addressing. UNICO will schedule a meeting with the design team and applicable City representatives for a formal punch list inspection. UNICO will incorporate outstanding items from the preliminary punch list along with the items from the City/design team walk into a formal punch list. UNICO will follow-up on the completion of those items by the Contractor in a timely manner.

At the conclusion of the project, UNICO will review as-built drawings for completeness. Electronic and physical hard copies of the project files will be turned over to the City for their archives.

DELIVERABLES

Contractor's deliverables under the Contract are enunciated throughout the Contract and include but are not limited to the following:

1. Project Deliverables:

1. Task 1: Preconstruction meeting agenda and minutes
2. Task 1: Electronic Project Files Index
2. Task 2: Logs, including submittal log, testing and special inspections log, issues/potential change order log, contract change order log, and closeout log.
3. Task 2: Weekly meeting agendas and minutes
4. Task 2: Processed submittals
5. Task 2: Weekly statement of working days
6. Task 2: Quantity sheets and progress payment recommendations
7. Task 2: Change orders and supporting memorandums
8. Task 2: Monthly status reports
9. Task 3: Electronic files and physical hard copies of as-built drawings and project files

METHOD OF PAYMENT

Subject to the terms and conditions of this Contract, Contractor shall be paid on a basis set forth herein by the checked boxes below:

☐ A fixed fee for the work performed

☒ An hourly rate for the work performed based on the following hourly rates:

		UNICO Engineering				
		Carlos Melendez, PE Principal in Charge	Jenna Castro, ME, PMP Construction Manager	Mason Ciari Office Engineer	Construction Inspector (PW)	
Direct Labor Rate		\$100.00	\$90.00	\$37.00	\$65.00	
Overhead Rate		149.95%				
Fee		10%				
Bill Rate		\$274.95	\$247.45	\$101.73	\$178.71	
Task #	Task Description		Hours			Totals
1	Pre-Construction Services		20	40		\$ 9,018.20
2	Construction Management Services		576	432		\$ 186,478.70
3	Post-Construction Services		40	60		\$ 16,001.80
4	Materials Testing Services					\$ -
		0	636	532	0	\$ 211,498.69

SCHEDULE

The project duration will be 240 calendar days with construction scheduled to begin in October 2025.

– END OF EXHIBIT A –