

# OAKLEY



CALIFORNIA

**PLANS AND SPECIFICATIONS  
FOR  
SENIOR CENTER RENOVATION  
PROJECT – PHASE 2  
CIP 207**

**Part II**

**October 4, 2018**

For Further Information Contact

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# Section 1

## DEFINITIONS AND TERMS

### 1-1.01 DEFINITIONS

Wherever in these Specifications and other Contract Documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

A. *Contract Documents.* The Notice to Contractors, Information for Bidders, Bid Form, Designation of Subcontractors, Agreement, Bidder's Bond, Performance Bond, Labor and Material person's Bond, Progress Schedule, General Conditions, Equal Employment Opportunity Conditions if applicable, Technical Provisions, Plans, Specifications, and such provisions of the 2010 Standard Specifications of the State of California, Department of Transportation, and Amendments are hereby incorporated by reference. The contract documents are not subject to negotiation as to their form or contents.

B. *Contractors.* The person, firm, partnership, or corporation to whom this Contract is awarded by Owner and who is subject to the terms thereof.

C. *Director of Public Works & Engineering.* The Director of Public Works & Engineering of the City of Oakley and the representative of the Director Public Works & Engineering, duly authorized and appointed by the Director of Public Works & Engineering.

D. *Engineer.* The City Engineer of the City of Oakley, and the representative of the City Engineer duly authorized and appointed by the City Engineer. In the event Owner has hired any person or corporation as an independent Contractor to act in lieu of the City Engineer, the term "Engineer" shall be deemed to include such person or corporation.

E. *Governing Body of the Owner.* The City Council of the City of Oakley.

F. *Inspector.* The Inspector employed by Owner to perform inspection during construction of the work, under the direction of the Director of Public Works & Engineering.

G. *Owner.* The City of Oakley, a municipal corporation in the State of California.

H. *Plans.* The Official Plans, working drawings or exact reproductions thereof, approved by the Governing Body of the Owner which show the location, character, dimensions and details of the work on the Project and the work to be done. The Plans are to be considered as a part of the Contract Documents, complementary to the Specifications.

I. *Project.* The entire public improvement proposed by Owner to be constructed in whole or in part, pursuant to this Contract.

J. *Specifications.* The directions, provisions, and requirements contained herein, or contained in any Specifications referred to herein, pertaining to the method and manner of performing the work on the Project, or to the quantities, or the quality of materials to be furnished under the Contract.

K. *Subcontractor.* A person, firm, partnership, or corporation having a direct contract with Contractor and not with Owner, for the performing of work or labor or the rendering of service

to Contractor for the work.

L. *Surety.* Any persons, firm, partnership, or corporation that executes as Surety on Contractor's Performance Bond or Contractor's Labor and Materialperson's Bond or Bidder's Bond.

M. *Work.* Work to be performed on the Project under this Contract, including work normally done at the site of the Project plus labor and materials.

## **1-1.02 SPECIFICATIONS**

Wherever in these Specifications the term "Standard Specifications" is used, it shall mean the 2010 State of California, Department of Transportation, Standard Specifications or the California Public Contract Code. In case of conflict between the 2010 State of California Standard Plans and Specifications and Amendments and these Specifications, these Specifications shall take precedence over and be used in lieu of such conflicting portions.

Any item not covered in these Specifications shall be performed in accordance with the appropriate section of the Standard Specifications. Whenever in the Standard Specifications the following terms are used, they shall be understood to mean and refer to the following:

A. *Department of Public Works or Department of Transportation.* The City of Oakley, Department of Public Works & Engineering.

B. *Director of Public Works & Engineering.* The City of Oakley, Director of Public Works & Engineering.

C. *Engineer.* The Engineer is defined as the Director of Public Works & Engineering, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.

D. *Laboratory.* The designated laboratory authorized by the City of Oakley to test materials and work involved in the Contract.

E. *State.* The City of Oakley.

## **1-1.03 GENERAL**

All work shall be done in conformance with the applicable provisions of the Standard Specifications except as modified herein. Payment for work, equipment and materials not specifically covered herein shall be included in the payment for related items of work. No additional payment will be made for work, equipment or materials not covered in these plans and specifications, but necessary to insure a completed project as specified. Any plan or method of work suggested by the Owner or the Engineer to Contractor but not specified or required, if adopted or followed by Contractor in whole or in part, shall be used at the risk and responsibility of Contractor; and the Owner and the Engineer shall assume no responsibility therefor and in no way be held liable for any defects in the work which may result from or be caused by use of such plans or method of work.

## **1-1.04 STATEMENT OF WORK**

Furnish all labor, equipment and materials and perform all work called for in the Contract Documents and as necessary to furnish to the City a complete project ready for use.

### **1-1.05 DRAWINGS**

Five sets of the Contract Drawings and Specifications will be furnished without charge to the Contractor to whom the contract for the work is awarded. Additional sets will be furnished to Contractor on request, at the cost of reproduction. The work shall conform to the drawings which shall form a part of these Specifications, and are available at the Office of the Director of Public Works & Engineering at 3231 Main Street, Oakley, California, 94561.

### **1-1.06 BUSINESS LICENSE**

All Contractors, whether they be general Contractors or subcontractors shall acquire a Business License in conformance with Title 3, Section 5 = 3.5.002 of the Oakley Municipal Code.

### **1-1.07 MINORITY AND WOMEN BUSINESS ENTERPRISES**

City of Oakley encourages the participation of Minority and Women Business Enterprises in the bidding process for all City contracts. Any reference using the word "his" is to be construed as meaning "his, hers or its".

### **1-1.08 PROOF OF COMPETENCY OF BIDDER**

Any bidder may be required to furnish evidence satisfactory to Owner that he/she and his/her proposed subcontractors have sufficient means and experience in the type of work called for to insure completion of the contract in a satisfactory manner.

### **1-1.09 SPECIAL NOTICE**

Bidders are required to inform themselves fully of the conditions relating to construction and labor under which the work will be or is now performed, and, so far as possible, the successful bidder must employ such methods and means in carrying out his/her work as will not cause any interruption or interference with any other Contractor.

## **Section 2**

# **PROPOSAL REQUIREMENTS AND CONDITIONS**

### **2-1.01 EXAMINATION OF PLANS, SPECIFICATIONS AND SITE WORK**

Before submitting a bid, each bidder shall carefully read the Specifications and all other Contract Documents. The bidder shall visit the site of the Project and shall fully inform himself/herself as to all existing conditions and limitations under which the work is to be performed, and he/she shall include in his/her bid a sum to cover the cost of all items necessary to perform the work as set forth in the Contract Documents. No allowance of any kind whatsoever will be made to any bidder because of lack of such examination or knowledge. The submission of a bid shall be conclusive evidence that the bidder has made such an examination.

### **2-1.02 CONTENTS OF BID**

In order to receive consideration, all bids shall be made in accordance with the following instructions:

A. Bids shall be made upon the form provided therefor, properly executed and with all items filled out; the signature of all persons signing shall be in longhand.

B. Blank spaces in the bid must be properly filled in, and the phraseology thereof must not be changed. Additions must not be made to the items mentioned therein. Any unauthorized conditions, limitations or provisions attached to a proposal may cause its rejection. Alterations by erasures or interlineation must be explained or noted in the bid over the signature of the bidder.

C. Late bids will be returned to the bidder unopened.

D. Each bid shall be addressed to the City Clerk of the City of Oakley, and shall be delivered to the office of the Clerk of the City of Oakley on or before the day and hour set for the opening of bids. The bid shall be enclosed in a sealed envelope bearing the title of the work, the name of the bidder, and the date and hour of the opening. It is the sole responsibility of the bidder to see that the bid is received in proper time.

### **2-1.03 WITHDRAWAL OF BID**

Any bidder may withdraw his/her bid, either personally or by a written request, at any time prior to the scheduled time for opening of bids.

#### **2-1.03.A WITHDRAWAL OF BIDS AFTER OPENING**

Any request for withdrawal of bid due to mistake must comply with requirements of the Public Contract Code.

#### **2-1.03.B BIDDERS INTERESTED IN MORE THAN ONE BID**

No person, firm or corporation shall be allowed to make or file or be interested in more than 1 bid for the same work, unless alternate bids are called for. A person, firm or corporation submitting a sub-proposal to a bidder, or who has quoted prices on materials to a bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders.



## **2-1.04 SUBMISSION OF BIDS; AGREEMENT TO ASSIGN**

In accordance with Government Code §4552, the bidder shall conform to the following requirements. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, he/she/it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under §4 of the Clayton Act (15 U.S.C. Sec. 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 purchase of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

## **2-1.05 LIST OF SUBCONTRACTORS**

Bidders must submit a list of their proposed subcontractors and license number in compliance with §§4100-4113 of the Public Contract Code of the State of California and any amendments thereof. Forms for this designation are furnished in *Plans & Specification*, Part II of the Contract Documents.

## **2-1.06 INSURANCE**

At or prior to the delivery of the signed Agreement, Contractor shall deliver to Owner the policies of insurance or insurance certificates as are required by the General Conditions. All policies or certificates of insurance shall be approved by the Finance Director of the City of Oakley before the successful bidder may proceed with the work. Failure or refusal to furnish insurance policies or certificates in the form satisfactory to the Finance Director of the City of Oakley shall subject the bidder to penalties for delay in commencement of the Work or the Owner may treat a failure to provide insurance documentation in the same manner and with the same consequences as if Contractor had refused or failed to execute the underlying contract.

## **2-1.07 BIDDER'S BOND**

Each bid shall be accompanied by cash, a certified or cashier's check, or a bidder's bond in the sum of not less than 10% of the total aggregate of the bid, and said checks or bond shall be made payable to the order of the City of Oakley (herein after referred to as "Owner") as defined in Section 1-1.01 of these Specifications. Cash and certified or cashier's checks shall not be accepted unless accompanied by a waiver of all interest on the amount paid to the City. In case the successful bidder fails to file satisfactory bonds or provide the insurance required by the Contract Documents, or refuses to enter into a contract within the specified time, he/she shall be liable for any difference by which the cost of procuring the work exceeds the amount of his/her bid and the bond or the amount of cash or check shall be available to offset such difference. If the bid is not accepted by Owner within 90 calendar days after the date set for the opening of bids, or if the bidder to whom the contract is awarded executes and delivers to Owner the required Contract Documents and insurance, the cash or the amount of the certified or cashier's check without interest shall be returned to the bidder.

## **2-1.08 GUARANTEE OF MATERIALS AND EQUIPMENT**

All materials and equipment furnished and the work performed under these Specifications and/or drawings, shall be guaranteed in writing for a period of 1 year from the date of final acceptance against defective material, design and workmanship. In addition, the Contractor shall guarantee in writing that the system as a whole shall be free of defects for a period of 1 year from the date of final acceptance, the system shall operate perfectly, and all apparatus shall perform in accordance with their individual Specifications.

## **Section 3**

# **AWARD AND EXECUTION OF CONTRACT**

### **3-1.01            AWARD OR REJECTION OF BIDS**

The Contract, if awarded, will be awarded to the lowest responsible bidder whose proposal complies with all the requirements prescribed and is subject to Owner's right to reject any or all bids and to waive any informality in the bids or the bidding.

### **3-1.02            PERFORMANCE BOND AND LABOR AND MATERIALS BOND**

At or prior to the delivery of the signed Agreement, Contractor shall deliver to Owner the Performance Bond and Labor and Materialperson's Bond as are required by Section 2 of these Specifications. All bonds shall be on forms provided by Owner, and each shall be in an amount equal to 100% of the contract price. Contractor shall also provide, at the time of the execution of the agreement or contract for work, and at his own expense, a separate surety bond in an amount equal to at least fifty percent (50%) of the contract price as security for the payment of all persons performing labor and furnishing materials in connection with said agreement. Sureties on each of said bonds shall be satisfactory to the City Attorney.

All bonds shall be approved by the City Attorney of the City of Oakley before the successful bidder may proceed with the Work. Failure or refusal to furnish bonds in the form satisfactory to the Director of Public Works & Engineering of the City of Oakley shall subject the bidder to penalties for delay in commencement of the Work or revocation of the Award of Contract.

Pursuant to California Public Contract Code §22300, the Contractor will be permitted, at its request and sole expense, to substitute securities for any monies withheld by the City to ensure performance under the contract. Said securities will be deposited either with the City or with the state or federally chartered bank as escrow agent. Securities eligible for this substitution are those listed in California Government Code §16430 or bank or savings and loan certificate of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other mutually agreed to by Contractor and the Owner. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

### **3-1.03            EXECUTION OF AGREEMENT**

The form of agreement which the successful bidder, as Contractor, will be required to execute is included in the Contract Documents and must be carefully examined by each bidder. The bidder to whom the Contract is awarded by Owner shall, within 10 calendar days after *Notice of Award*, execute and deliver to Owner 2 original Agreements.

### **3-1.04            NOTIFICATION BY CONTRACTOR**

A. The Contractor shall notify the Director of Public Works & Engineering and the project inspector at least 48 hours prior to commencing work and shall comply with any Notifications or approvals mentioned in Part III of these Specifications.

B. Immediately after the award of Contract by the City of Oakley and where applicable

and required by the Plans and Specifications, the Contractor shall notify the following agencies:

**CPN Pipeline Corp**

Chris Delaney  
*Engineer*  
[chrisd@calpine.com](mailto:chrisd@calpine.com)  
(707) 374-1516

**U.S.A. Cable Locator**

(Notify two weeks prior)  
Telephone: (800) 227-2600

**Pacific Gas and Electric**

Rex Meneses  
*Project Manager*  
[R3My@pge.com](mailto:R3My@pge.com)  
(925) 779-7783

**Sefnco/Comcast**

Chris Perry  
*Permit Coordinator*  
[cperry@sefnco.com](mailto:cperry@sefnco.com)  
(925) 783-4877

**AT&T**

Kevin Bluth  
*Engineer*  
[kb8478@att.com](mailto:kb8478@att.com)  
(925) 328-6820

**Ironhouse Sanitary District**

Chad Davisson  
*District Engineer*  
[davisson@isd.us.com](mailto:davisson@isd.us.com)  
(925) 625-2279

**Contra Costa Water District**

Dino Angelosante  
*Real Property Specialist*  
[dangelo@ccwater.com](mailto:dangelo@ccwater.com)  
(925) 688-8076

**Diablo Water District**

Mike Yeraka  
*General Manager*  
[mikegm1@aol.com](mailto:mikegm1@aol.com)  
(925) 625-3798

C. Contractor shall notify residents and business owners adjacent to the Work, by method approved by the Director of Public Works & Engineering, not sooner than 14 days and not later than 3 days prior to beginning said work.

## **Section 4**

# **SCOPE OF WORK**

### **4-1.01 LOCATION OF WORK**

The City reserves the right to add or delete from quantities of work during the project and to add or delete locations as defined in Section 9-1.01 of these Specifications. Locations of work for this project are set out in *Plans & Specifications*, Part II and incorporated herein.

### **4-1.02 CHANGES TO THE WORK**

The bidder's attention is directed to the provisions of Section 4 of the Standard Specifications and the following modifications, all of which are applicable to this Contract:

A. Owner, without invalidating the Contract, may order additions to or deductions from the Work, the Contract Sum being adjusted accordingly. Any claim for extension of time cause thereby shall be adjusted at the time of ordering such change. See Section 9-1.01A of these Specifications regarding measurement and payment for increased or decreased quantities.

B. Any alteration or alterations made in the *Plans & Specifications* which are a part of this Contract, or any provision of this Contract shall not operate to release any surety or sureties from liability on any bond or bonds attached hereto and made a part hereof, and consent to make such alterations is hereby given, and the sureties to said bonds hereby waive the provisions of Civil Code §2819.

C. In giving instructions, the Engineer shall have authority to issue written change orders. Except in an emergency endangering life and property, no extra work or change shall be made unless in pursuance of such written order and no claim for an addition to the Contract Sum shall be valid unless the additional work was so ordered.

D. Prior to any Work being done, any change order that is in excess of the original Contract amount, additional time, and contingency, will not become effective until approved by the City.

E. Any change order exceeding the amount of the approved budget is invalid unless and until a budget adjustment has been approved by the City Manager or the City Council.

F. Unit prices in any change order shall be the same as those unit prices in the original Contract.

### **4-1.03 PROJECT APPEARANCE**

The Contractor shall maintain a neat appearance to the work. Trash and construction waste shall be contained in approved waste receptacles.

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

#### **4-1.04 INSPECTION**

The Engineer and designees shall at all times have access to the work during its construction and shall be furnished with every reasonable facility for ascertaining that the materials and the workmanship are in accordance with the requirements and intentions of the Contract Documents. All work done and all materials furnished shall be subject to their inspection.

The inspection of the work or materials shall not relieve the Contractor of any of his obligations to perform the work as prescribed. Work and materials not meeting such requirements shall be made good and unsuitable work or materials may be rejected, notwithstanding that such work or materials have been previously inspected by the Engineer or that payment therefore has been included in a progress estimate.

#### **4-1.05 CONSTRUCTION STAKING**

Necessary bench marks and controlling lines for the work are provided in the construction drawings. The Contractor shall engage the services of a Professional Land Surveyor (PLS), currently registered in the State of California, to layout and construct all parts of the work accurately to the lines and elevations indicated by the drawings. The Contractor shall check the lines, dimensions, and elevations of each unit of work as it is completed to insure the proper installation of subsequent improvements. Should any discrepancies be found when these checks and rechecks are made, Contractor shall report them immediately to the City of Oakley's representative. Contractor shall use all reasonable precautions to preserve lines and grades.

All distances and measurements that are given will be made in a horizontal plane. Grades are given from the top of stakes or nails unless otherwise noted on the plans.

The Contractor shall preserve all stakes and points set for lines, grades or measurements of the work in their proper places until authorized in writing to remove them by the City of Oakley's representative. The contractor shall pay for all expenses incurred in replacing stakes that have been removed without proper authority..

Measurement and Payment for all items of work, including Professional Land Surveyor costs, shall be considered as included in the price paid for other items of work and no additional compensation will be allowed therefore.

#### **4-1.06 FINAL PROJECT CLEAN-UP**

Before final acceptance the contractor shall clean all areas of the project that were occupied during construction and in connection with the work. Contractor shall remove all, but not limited to, U.S.A markings, equipment, garbage, excess materials, temporary signs, storage containers etc. Full compensation for final project cleaning up shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefore.

#### **4-1.07 NOTIFICATION OF CHANGE IN CONDITION**

Pursuant to Public Contracts Code §7104, when trenches or other excavations must be dug pursuant to this Contract that extend deeper than 4 feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the Owner in writing of any:

- A. Material that the Contractor believes may be material that is hazardous waste, as

defined in Health & Safety Code §25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or,

B. Subsurface or latent physical conditions at the site differing from those indicated; or,

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

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

In the event a dispute arises between the Owner and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all work to be performed under the Contract Documents. The Contractor shall retain any and all rights provided either by the Contract Documents or by law which pertain to the resolution of disputes and protects between the contracting parties.

## **Section 5 CONTROL OF WORK**

### **5-1.01 CONTROL OF WORK**

The bidder's attention is directed to the provisions of Section 5 of the Standard Specifications, all of which are applicable to this Contract.

### **5-1.02 INTERPRETATION OF DRAWINGS AND DOCUMENTS PRIOR TO BIDDING**

If any person contemplating submitting a bid for the construction of the Project is in doubt as to the true meaning of any part of the Plans, Specifications, or other Contract Documents, or finds discrepancies in, or omissions from the Plans or Specifications, he/she may submit to Owner a written request for an interpretation or correction thereof not later than 5 working days before the date bids will be opened. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the Contract Documents will be made only by addendum and will be mailed or delivered to each person receiving a set of such documents. Owner will not be responsible for any other explanation or interpretation of the Contract Documents.

## **Section 6**

# **CONTROL OF MATERIALS**

### **6-1.01 CONTROL OF MATERIALS**

The bidder's attention is directed to the provisions of Section 6 of the Standard Specifications and the following modifications, all of which are applicable to this Contract. The City of Oakley will provide materials testing.

### **6-1.02 RECORDS**

The Contractor shall maintain cost accounting records for the contract pertaining to, and in such a manner as to provide a clear distinction between, the following five categories of costs of work during the life of the contract:

- A. Direct costs of contract item work.
- B. Direct costs of changes in character in conformance with Section 4-1.05, "Changes and Extra Work," of the Standard Specifications.
- C. Direct costs of work not required by the contract and performed for others.
- D. Direct costs of work performed under a notice of potential claim in conformance with the provisions in Section 5-1.43, "Potential Claim and Dispute Resolution," of the Standard Specifications.
- E. Indirect costs of overhead.

Cost accounting records shall include the information specified for daily extra work reports and Section 5-1.27, "Records," of the Standard Specifications. The requirements for furnishing the Engineer completed daily extra work reports shall only apply to work paid for on a force account basis.



## **Section 7**

# **LEGAL RELATIONS AND RESPONSIBILITY**

### **7-1.01 WAGES**

Workers employed in the work must be paid at rates at least equal to the then current prevailing wage scale as determined by the State Director of the Department of Industrial Relations. A copy is usually on file in the Office of the Director of Public Works & Engineering.

Pursuant to California Labor Code §1770, any Contractor who is awarded a public works project and intends to use a craft of classification not shown on the general prevailing wage determinations, may be required to pay the wage rate of that craft of classification most closely related to it as shown in the general determinations effective at the time of the calls for bids.

Statutory provisions for penalties for failure to pay prevailing wages and for failure to comply with state wage and hour laws will be enforced. Eight hours of labor constitutes a day's work. The Contractor must comply with the statutory requirements relating to certified copies of payroll records, including the maintenance of the records, their certification and their availability for inspection.

### **7-1.02 ADDITIONAL SURETIES**

If at any time during the continuance of the Contract the Sureties, or any of them, shall, in the opinion of Owner, become irresponsible, Owner shall have the right to require additional and sufficient Sureties which Contractor shall furnish to the satisfaction of Owner within 10 working days after notice.

### **7-1.03 LEGAL RELATIONS AND RESPONSIBILITY**

The bidder's attention is directed to the provisions of Section 7 of the Standard Specifications and the following modifications, all of which are applicable to this Contract, with the exception that the City shall not pay for any of the requirements covered by this section, the cost of which, if any, shall be considered as included in the bid items.

A. *Notices.* Any notice from one party to the other under this Contract shall be in writing and shall be dated and signed by the party giving such notice, or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatever unless served in the following manner:

1. If the notice is given to Owner, it must be by personal delivery thereof to the Director of Public Works & Engineering or by depositing the same in the United States mails, enclosed in a sealed envelope, addressed to Owner for the attention of said Director of Public Works & Engineering, 3231 Main Street, Oakley, California 94561, postage prepaid and registered;

2. If the notice is given to Contractor, it must be by personal delivery thereof to Contractor, or to Contractor's foreman at the site of the work, or by depositing the same in the United States mails, enclosed in a sealed envelope addressed to Contractor at Contractor's regular place of business or at such other address as may have been established for the conduct of the

work, postage prepaid and registered; or

3. If the notice is given to the Surety or any other person, by personal delivery to such Surety or by depositing the same in the United States mails, enclosed in a sealed envelope, addressed to such Surety or person at the address of such Surety or person last communicated by him to the party giving the notice, postage prepaid and registered; and

4. The effective date of such notice(s) shall be the date personal delivery is made or the date shown on the return receipt of the registered mailed notice.

B. *Entire Contract.* No verbal agreement or conversation with any officer, agent or employee of Owner, either before, during or after the execution of this Contract, shall affect or modify any of the terms or obligations contained in the Contract Documents, nor shall such verbal agreement or conversation entitle Contractor to any additional payment whatsoever under the terms of this Contract.

C. *Failure to Complete the Work on Time (Liquidated Damages).* If the Work is not completed by Contractor in the time specified herein above, or within any period of extension as above authorized, it is understood that Owner will suffer damage; and it being impracticable and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to Owner, as fixed and liquidated damages, and not as a penalty, the sum as stated in the Special Conditions, and Contractor and Contractor's Surety shall be liable for the amount thereof; provided, however, that Contractor shall not be charged liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (including, but not restricted to, Acts of God or of the public enemy, acts of the Government, acts of the Owner, fires, floods, epidemics, quarantine restrictions, strikes and freight embargoes).

Contractor shall, within 10 calendar days from the beginning of any such delay, notify Owner in writing of the cause of the delay and the amount of time extension requested, if any; whereupon Owner shall ascertain the facts and the extent of the delay and extend the time for completing the Work when, in its judgment and for the amount of time, if any, the findings of fact justify such an extension. The Director of Public Works & Engineering' determination shall be final and binding on the parties hereto.

#### **7-1.04 EMPLOYMENT OF APPRENTICES**

A. Attention is directed to the provisions of Labor Code §§1777.5 and 1777.6 concerning the employment of apprentices by the Contractor or any subcontractor under Contractor. Section 1777.5 only does not apply to contracts of general Contractors or specialty Contractors not bidding for work through a general or prime contractor involving less than \$30,000 or 20 working days.

B. Section 1777.5, requires the Contractor or subcontractor employing tradepersons in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project, and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeypersons that will be used in the performance of the contract. Section 1777.5 also requires submission of specified award information to the committee.

The ratio of apprentices to journeypersons in such cases shall not be less than 1 to 5, except

that the joint committee may grant a certificate, subject to the approval of the Administrations of Apprenticeship, exempting a Contractor from the 1 to 5 ratio when it finds that any one of the following conditions are met;

1. In the event unemployment for the previous 3 month period in such area exceeds an average of 15%, or
2. In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or
3. If there is a showing that the apprenticeable craft or trade is replacing at least 1/13th of its journeyman annually through apprenticeship training, either on a statewide basis, or on a local basis, or
4. If assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize apprentice's life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

C. The Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1 to 5 ratio upon proper showing by the Contractor that it employs apprentices in a specific apprenticeable craft or trade in the state on all its contracts on an annual average if not less than 1 apprentice to each 5 journeymen.

D. The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if Contractor employs registered apprentices or journeymen in any apprenticeable trade on such contracts, and if other Contractors in the area of the public works site are making such contributions.

E. The Contractor and any subcontractor under Contractor shall comply with the requirements of §§1777.5 and 1777.6 in the employment of apprentices.

F. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

G. Responsibility for compliance with this section and this section's reference to the Standard Specifications lies with the Contractor.

#### **7-1.06 PUBLIC WORKS CONTRACTS; ASSIGNMENT TO AWARDING BODY**

In accordance with California Public Contract Code §7103.5, the Contractor and subcontractors shall conform to the following requirements. The Contractor and its subcontractors offer and agree to assign to the Owner all rights, title, and interest in and to all causes of action it may have under §4 of the Clayton Act (15 U.S.C. Sec. 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 public works Contract or its subcontracts. This assignment shall be made and become effective at the time the Owner tenders final payment to the Contractor, without further acknowledgment by the parties.

## 7-1-07 UNFAIR BUSINESS PRACTICE CLAIMS

Pursuant to Public Contract Code § 7103.5, the Contractor agrees to assign all unfair business practices claims under the Clayton Act and the Cartwright Act to the City of Oakley.

## 7-1.08 TRAFFIC CONTROL PLAN AND DEVICES

The Contractor shall supply, place, and maintain all necessary traffic control devices during construction in accordance with the applicable requirements of the Standard Specifications.

## 7-1.09 INSURANCE

Bidders' attention is directed to the insurance requirements below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the contract.

### Specific Insurance Requirements and Required Policy Limits

#### CONSTRUCTION CONTRACTS

##### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$5,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit (i.e., \$10,000,000)
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Builder's Risk (Course of Construction)** insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Surety Bonds** as described below.
6. **Professional Liability** (if Design/Build), with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
7. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Contractor shall procure and maintain for the duration of the contract, and if Contractor has a claims-made policy, Contractor shall maintain for two years thereafter, insurance against

claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

### ***Deductibles and Self-Insured Retentions***

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

### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 forms if later revisions used).
2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide notice will be provided to City in the event that the policy is terminated. Contractor shall immediately notify City of any insurance cancellation or termination and shall provide replacement insurance policy documentation to the City.

### ***Builder's Risk (Course of Construction) Insurance***

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the City as a loss payee** as their interest may appear. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

### ***Claims Made Policies***

If any coverage required is written on a claims-made coverage form:

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

purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.

4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

### ***Acceptability of Insurers***

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

### ***Waiver of Subrogation***

**Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Worker's Compensation policy shall be endorsed with a waiver of subrogation** in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

### ***Verification of Coverage***

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

### ***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 10 10 01 and CG 20 37 10 01.

### ***Surety Bonds***

Contractor shall provide the following Surety Bonds:

1. Bid bond
2. Performance bond
3. Payment bond
4. Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

### ***Special Risks or Circumstances***

City reserves right to modify these requirements, including limits, based on the nature of the risk, prior

experience, insurer, coverage, or other circumstances.

#### **7-1.10 CONTRACT DOCUMENTS ON SITE**

Contractor shall maintain on the job site an official set of Contract Documents, available at all times to the Director of Public Works & Engineering, Inspector, or their representatives.

#### **7-1.11 COORDINATION OF WORK WITH OTHER CONTRACTS**

Contractor must ascertain to Contractor's own satisfaction the scope of the Work and the nature of any other Contracts that have been or may be awarded by Owner in the prosecution of the Work, to the end that Contractor may perform this Contract in the light of such other Contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy of the site of the work. Contractor shall not cause any unnecessary hindrance or delay to any other Contractor working on any project which encompasses the Work. If the performance of any Contract for the work is likely to be interfered with by the simultaneous execution of some other Contract or Contracts, Owner shall decide which Contractor shall cease work temporarily and which Contractor shall continue or whether the work can be coordinated so that the Contractors may proceed simultaneously. Owner shall not be responsible for any damage suffered or extra costs incurred by Contractor resulting directly or indirectly from the award or performance or accepted performance of any other Contract or Contracts on the Work or caused by any decision or omission of Owner respecting the order of precedence in the performance of the Contracts awarded for the completion of the Work.

Owner reserves the right to do the Work with its own forces or to let other Contracts for work on or contiguous to the Work set forth in the *Plans & Specifications*.

#### **7-1.12 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

From and after the award of the Contract and during the course of the work on the project, the Contractor shall comply with the following Equal Employment Opportunity Conditions. Contractor adopts and accepts as its operating policy the following statement:

"It is the policy of this company to assure that applicants are employed and that employees are treated during employment without regard to their race, religion, sex, color, or national origin. Such action shall include employment, upgrading, demotion, transfer, recruitment and recruitment advertising, termination, pay, and selection for training, including apprenticeship."

#### **7-1.12.A EQUAL EMPLOYMENT OPPORTUNITY OFFICER**

Contractor shall designate and make known to the Director of Public Works & Engineering an Equal Employment Opportunity Officer capable of administering and promoting an active Contractor program of equal opportunity who will be assigned adequate authority and responsibility to do so.

#### **7-1.12.B DISSEMINATION OF POLICY**

All members of Contractor's organization with authority to hire, supervise, promote, and terminate employees, or who recommend such action, shall be made fully cognizant of and shall implement the Contractor's Equal Employment Opportunity policy: The following actions shall be taken as a minimum:

A. Periodic meetings of supervisory personnel shall be conducted before start of work and at least once every 3 months for the purpose of reviewing and explaining the Contractor's Equal Employment Opportunity Policy and its implementation. The meetings shall be conducted by the Equal Employment Opportunity Officer or other knowledgeable company officials.

B. All new supervisory employees shall be indoctrinated as to the Contractor's Equal Employment Opportunity obligations within 30 calendar days following their reporting for duty with the Contractor.

C. The Equal Employment Opportunity Officer or appropriate company official will instruct all employees engaged in recruitment and hiring as to the methods followed by the Contractor in recruiting and hiring qualified employees.

#### **7-1.12.C RECRUITMENT**

A. When advertising for employees, the Contractor shall include in all advertisements for employees the notation *An Equal Opportunity Employer*. It shall insert all such advertisements in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

B. If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, in those case where the Contractor is not precluded therefor by a valid collective bargaining agreement, systematic and direct recruitment shall be conducted through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Contractor shall, through its Equal Employment Opportunity Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.

C. If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, the Contractor shall encourage present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants shall be provided to such employees.

#### **7-1.12.D PERSONNEL ACTIONS**

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

A. The Contractor shall conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

B. The Contractor shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.



C. The Contractor shall periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor shall promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

D. The Contractor shall investigate all complaints of alleged discrimination made to the Contractor in connection with its obligations under this contract, shall attempt to resolve such complaints, and shall take appropriate corrective action. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor shall inform every complainant of all of his/her avenues of appeal.

#### **7-1.12.E TRAINING AND PROMOTION**

If the Contractor does not restrict individuals who are hired as employees exclusively to those who are related by blood or marriage to persons possessing an ownership interest in the Contractor's business, programs designed to increase the skills of all employees and applicants for employment shall be promoted as follows:

A. Consistent with its manpower requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, such as pre-apprenticeship, apprenticeship, and/or on-the-job training programs for the geographical area of contract performance.

B. The Contractor shall advise employees and applicants for employment of available training programs and entrance requirements for each.

C. The Contractor shall periodically review the training and promotion potential of employees and shall encourage eligible employees to apply for such training and promotion.

#### **7-1.12.F UNIONS**

If the Contractor relies in whole or in part upon unions as a source of Contractor's work force, the Contractor shall use its best efforts to incorporate an Equal Employment Opportunity clause into all union agreements which defines responsibilities for non-discrimination in hiring, referral, up-grading and training, and otherwise implements an affirmative anti-discrimination program in terms of the union's specific areas of skill and geography, to the end that all qualified workers will be available and given an equal opportunity for employment, and such unions will be contractually bound to refer applicants without regard to their race, color, religion, sex or national origin.

In the event a union is unable to refer applicants as requested by the Contractor within the time limit set forth within the union agreement, the Contractor shall, through its recruitment procedures, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified persons.

#### **7-1.12.G SUBCONTRACTING**

The Contractor shall use its best efforts to assure subcontractor compliance with their Equal Employment Opportunity obligations.

#### **7-1.12.H DEBARRED CONTRACTORS AND SUBCONTRACTORS**

Pursuant to Public Contract code § 6109, contractors and subcontractors who are ineligible pursuant to Labor Code §§ 1777.1 and 1777.7 are prohibited from work on the project.

### **7-1.12.I NOTICES AND POSTERS**

Contractor shall make known its Equal Employment Opportunity responsibilities under this Contract by the following methods:

- A. Executed copies of the Contractor's *Fair Employment Practices Statement* shall be:
  - 1. Conspicuously posted in all areas where job applicants and potential employees appear for purposes of gaining employment by the Contractor;
  - 2. Conspicuously posted on all employee bulletin boards and in other areas where employees of the Contractor congregate; and,
  - 3. Transmitted to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, and to all other sources or employee referrals, including schools and employment agencies.
- B. Posters containing the following wording shall be conspicuously posted in all areas where job applicants and potential employees appear for purposes of gaining employment by the Contractor: "(NAME OF CONTRACTOR)" is an Equal Employment Employer."
- C. The Contractor's Equal Employment Opportunity policy, as described in these Specifications, Section 7-1.10, and shall be distributed in written form to all employees.

### **7-1.12.J FAIR EMPLOYMENT PRACTICES STATEMENT**

The Contractor shall execute the following Fair Employment Practices Statement:

"Fair Employment Practices Statement": (Name of Contractor) is an Equal Employment Opportunity Employer, as such has adopted the policy and will take affirmative action to employment without regard to their race, color, religion, ancestry or national origin. On (Date), (Name of Contractor) was awarded a public works contract by the City of Oakley, a municipal corporation situated in the County of Santa Clara, State of California, for the work of (Name of Contract). Under said Contract (Name of Contractor) has agreed to comply with those Equal Employment Opportunity Conditions described in Section 7 of the Contract Documents for said project, and has agreed, among other things, that damages will be paid to the City in event it is found that the requirements of said Conditions have not been satisfied.

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

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

### **7-1.12.K RECORDS**

The Contractor shall keep such records as are necessary to determine compliance with its Equal Employment Opportunity obligations under this Contract. Such records shall be retained for a period of 2 years following completion of the project. Such records show:

- A. The number of minority and non-minority group members employed in each work classification on the project.

B. The efforts and progress being made in cooperation with unions to increase minority group employment opportunities. (Applicable only to Contractors who rely in whole or in part on Unions as a source of their work force).

C. The efforts and progress being made in locating, hiring, training, qualifying, and upgrading employees.

The above-described records, together with the Contractor's records of employment, employment advertisements, application forms, and other pertinent data shall, upon request, be opened to inspection and copying by the Director of Public Works & Engineering or the Director of Public Works & Engineering authorized representative, or any other agency of the State of California designated by the Director of Public Works & Engineering, for purposes of investigating whether the Contractor has complied with the Equal Employment Opportunity conditions of this Contract.

#### **7-1.12.L REPORTS**

Between the date of the award of the Contract and the date of the commencement of work on the project, the Contractor shall in conformity and compliance with the directions of the Director of Public Works & Engineering, submit to the Director of Public Works & Engineering a basic compliance report which shall include the following:

A. The name, business address and telephone number of the Contractor's Equal Employment Opportunity Officer.

B. An executed copy of the Contractor's Fair Employment Practices Statement.

C. A description of the Contractor's sources of potential employees, and the identity of the person or persons who have responsibility for determining who the Contractor will hire and whether or not to hire.

D. Such evidence as is required by the Director of Public Works & Engineering, showing that the Contractor has notified all supervisors, foremen, and other personnel officers, in writing, of the content of the Contractor's Equal Employment Opportunity policy.

E. Such evidence as is required by the Director of Public Works & Engineering showing that the Contractor has transmitted its *Statement of Fair Employment Practices* to all sources of employee referrals.

F. Such evidence as is required by the Director of Public Works & Engineering showing that the Contractor has posted bulletins, posters, and the *Fair Employment Practices Statement* in the manner required by these Equal Employment Opportunity Conditions.

#### **7-1.12.M BREACH OF EQUAL EMPLOYMENT CONDITIONS**

In the event the Director of Public Works & Engineering, as a result of supervising the Contractor's performance under the Contract or after investigating a complaint by a third party, finds that the Contractor is or has been in violation of its agreement to comply with these Equal Employment Opportunity Conditions, notice of such violations shall be filed with the Director of Public Works & Engineering and given to the Contractor by depositing same in the United States mail, postage prepaid, addressed to the last known business address of the Contractor, with return receipt requested. Not later than 15 calendar days after the filing of said notice with the Director of Public

Works & Engineering, a hearing shall be held by the City Council for the purpose of ascertaining whether the charges contained in the notice are true, and, if true, whether the Contractor has failed to make a reasonable and substantial effort to comply with these Equal Employment Opportunity Conditions. Notice of the time and place of said hearing shall be given the Contractor not less than 5 days prior thereto in the same manner as the notice of violations is given. During said hearing, the City Council shall receive and consider any evidence offered by the Director of Public Works & Engineering, the Contractor, and any third party. At the conclusion of said hearing, the City Council shall determine the matter and its determination shall be final.

If after the hearing above described the City Council determines that the Contractor has failed to comply with these Equal Employment Opportunity Conditions, and has failed to make a reasonable and substantial effort to comply with said conditions, the Contractor shall be deemed in material breach of the Contract. It is understood that the Owner will have suffered damage by virtue of said breach; and it being impractical and unfeasible to determine the amount of actual damage, it is agreed that the Contractor shall pay to Owner, as fixed and liquidated damages, and not as a penalty, the sum of \$50.00 for each calendar day during which the Contractor is found to have been in noncompliance. Such monies may be recovered from the Contractor and its Surety. The Owner may deduct any such damages from monies due the Contractor.

#### **7-1.12.N DISQUALIFICATION FROM FUTURE CONTRACTS**

A finding by the City Council that the Contractor has failed to comply with these Equal Employment Opportunity Conditions and has failed to make a reasonable and substantial effort to so comply, or a finding of willful violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act, or similar provisions of Federal law or Executive Order, in the performance of work on the project shall be deemed a basis for determining the Contractor to be not a "responsible bidder" as to future contracts for which the Contractor may submit bids. A finding of willful violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act shall be deemed to have occurred upon receipt by the Owner of written notice from the California Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated said Fair Employment Practices Act and has issued an order under Government Code §12970, or obtained judgment and order of enforcement under Government Code §12973.

#### **7-1.12.O OTHER REMEDIES**

Nothing contained in these Equal Employment Opportunity Conditions shall be construed in any manner or fashion so as to prevent the Owner from pursuing any other remedies that may be available at law or in equity.

#### **7-1.13 EQUIPMENT AND MATERIAL REPLACEMENT**

A. The Contractor shall replace at Contractor's cost and expense any piece of equipment, or part thereof, or any material furnished under these Specifications, which fails because of defective material or workmanship, within 1 year following completion and acceptance of the Work.

B. All decisions regarding acceptable equipment or installation shall be made by the Director of Public Works & Engineering, and the Director of Public Works & Engineering decision shall be final.

#### **7-1.14 TRAFFIC CONTROL PLAN**

Attention is directed to Sections 7-1.03, "Public Convenience," 7-1.04, "Public Safety," and 12, "Temporary Traffic Control," of the Standard Specifications and to the provisions in "Public Safety" of these special provisions.

The Contractor shall prepare and submit a Traffic Control Plan (TCP) to Engineer for approval. TCP shall allow for the required work to be completed within the allowable working days provided and be consistent with the proposed construction schedule. The Contractor shall also provide and furnish all flaggers, guards, and traffic control devices and access to all side streets and driveways at all times during construction. Work shall not proceed without the Engineers advanced approval of the TCP.

#### **7-1.15 PUBLIC SAFETY - NOISE**

It shall be the Contractor's responsibility to keep noise pollution due to construction activities as low as possible. In no case shall noise levels produced by the Contractor exceed either of the following maximums:

- A. No individual piece of equipment shall produce a noise level exceeding 86dBA at a distance of 25 feet.
- B. The noise level at no point outside of the property line or temporary construction area shall not exceed 86dBA. No equipment violating these standards will be allowed to operate.

In no case shall the Contractor's operations violate the noise ordinance (Chapter 9) of the City Code.

#### **7-1.16 PRESERVATION OF PROPERTY**

Attention is directed to Section 5-1.36, "Property and Facility Preservation," and 5-1.37, "Maintenance and Protection," and 5-1.39 "Damage Repair and Restoration," of the Standard Specifications and these Special Provisions.

All existing private and public improvements that conflicts or is damaged by reason of the Contractor's operation shall be removed and restored to original or better condition in new locations at the Contractor's expense as shown on the plans or as approved in advance by the Engineer.

#### **7-1.17 COOPERATION**

Attention is directed to Section 5-1.20, "Coordination with Other Entities," and Section 8-1.04, "Nonhighway Facilities," of the Standard Specifications and these special provisions.

#### **7-1.18 WATERING**

All construction water must be metered and paid for by the Contractor and a hydrant meter may be picked up at DWD's District office located at 2107 Main Street in Oakley. The hydrant meter requires a \$500 deposit at pick up. The Contractor will be required to obtain the hydrant meter through his or her own means, at his or her own expense, and at no additional cost to the City.

### **7-1.19 DUST CONTROL**

Dust control shall conform to the provisions in Section 14-9.03, "Dust Control," of the Standard Specifications and these Special Provisions. The Contractor is advised that residential housing exists adjacent to the work site and the Contractor shall control all dust such that the residential area is not adversely affected.

### **7-1.20 WATER POLLUTION PREVENTION**

Contractor shall be responsible for ensuring that all work conforms to the provisions in Section 13, "Water Pollution Control," of the Standard Specifications and these special provisions. All operations shall be in compliance with the provisions of the Clean Water Act, Regional Water Quality Control Board, and the City of Oakley Storm Water Ordinance and policies with regard to protection of the storm water system from any pollutants. The Contractor is required to secure all necessary permits.

### **7-1.21 COMPENSATION**

Full compensation for conforming to the requirements of this Section 7 – Legal Relations and Responsibility shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefore, except that this provision does not constitute a waiver, alteration, or limitation of the applicability of Section 7102 of the Public Contracts Code.

## **Section 8**

# **PROSECUTION AND PROGRESS**

### **8-1.01          PROGRESS SCHEDULE**

The bidder's attention is directed to the provisions of Section 8 of the Standard Specifications, and *Information for Bidders*, Section I of these Specifications, all of which are applicable to this Contract, except that it shall be the bidder's responsibility to contact the utility companies and to determine for itself what, if any utility construction, removal, alteration or relocation work might delay or otherwise affect its operations under this Contract, and the Contractor shall not be entitled to any compensation for such delay or effect, except that time extensions may be granted, at the option of the Director of Public Works & Engineering, as provided for in the Standard Specifications.

Prior to beginning work, the Contractor shall submit to the Director of Public Works & Engineering for approval a detailed construction schedule for accomplishing the Work within the time allowed.

The detailed construction schedule shall include evidence of a capable work force, availability of construction materials and ability to prosecute the Work diligently to completion.

As a minimum, the construction schedule shall identify all major tasks necessary to complete the Work, shall indicate when each such task will be started and how many working days will be used in completing it, shall indicate the time relationship among the activities, and shall indicate the amount of each Contract item that will be completed after each 10% increment of Contract time has elapsed.

Whenever performance falls behind the approved construction schedule rates, the Contractor shall, by the next day, submit to the Director of Public Works & Engineering for approval, a revised construction schedule indicating how the remaining work will be completed within the remaining time.

The Contractor shall also submit to the Director of Public Works & Engineering each Friday a detailed plan and schedule for the proposed construction during the following week.

If and when the Director of Public Works & Engineering determines that the Contractor will exceed the Contract time allowance, plus approved time extensions, the Director of Public Works & Engineering shall suspend further payments due the Contractor until such time as the revised construction schedule is approved and the Contractor demonstrates satisfactory progress in accordance with the approved revised schedule.

### **8-1.02          START OF WORK AND TIME OF COMPLETION**

Contractor shall mobilize within the time frame set forth in the Notice to Proceed. Entire contract shall be completed within the time set forth in the Notice after Contractor's receipt of said Notice.

### **8-1.03          SUBMITTALS**

The following submittals shall be presented to the Engineer at the pre-construction conference, or as soon as practicable thereafter, and will be required before work can begin. Submittals shall be submitted in a timely manner, as specified in the contract documents.

The Contractor is required to provide, but is not limited to, the following submittals within 14 days of the Notice to Proceed:

1. "Progress Schedule", using working days format. Attention is directed to "Progress Schedule" of these Special Provisions.
2. An emergency contact list with phone number for at least 3 representatives who can be reached after hours if required.
3. Statement that the order for the traffic signal equipment and landscaping materials has been received and accepted by the vendor.
4. "Traffic Control Plan". Attention is directed to "Maintaining Traffic" of these Special Provisions.
5. A list naming each official (with title) who is authorized to sign contract change orders, daily extra work reports, and the final pay estimate.
6. Materials Submittals - Three copies of all the materials which are to be used on the project, their source, and the name(s) and address(es) of the supplier(s). Please identify each material by contract item number and name.
8. All water submittals need to be submitted to and approved by Diablo Water District before installation.
9. All sewer submittals need to be submitted to and approved by Ironhouse Sanitary District before installation.
7. Statement from the contractor designating the Water Pollution Control Manager, indicating his/her qualification, and all submittals as required by the Storm Water Pollution Prevention Plan, including but not limited to:
  - A. Site Inspection Checklist
  - B. Amendments to the SWPPP / SWPPP Updates
  - C. BMP Inspection Report
  - D. Points of Contact – Attachment E of the SWPPP
8. Lead Compliance Plan, attention is directed to "Remove Paint Traffic Stripe and Paint Pavement Markings" located in the Section entitled "Existing Highway Facilities" of these Special Provisions.

The Contractor shall provide the following the following submittals in a timely manner:

9. Certified Payroll Records conforming to Section 7-1.02K(3) "Certified Payroll Records" of the Standard Specifications.
10. As-Built Drawings, per these Special Provisions.
11. Any other submittals and/or approvals required by the State of California Department of Transportation Standard Specifications and these Special Provisions.



## **8-1.04 UTILITIES AND NON HIGHWAY FACILITIES**

Attention is directed to Section 5-1.36D, "Nonhighway Facilities," of the Standard Specifications and these Special Provisions.

## **8-1.05 LIQUIDATED DAMAGES**

Liquidated damages will be assessed in the amount stated in the "Notice to Contractors" in Part I of these specifications for each calendar day any work remains incomplete beyond the time fixed above for completion.

## **8-1.06 ADJUSTMENT AND PRESERVATION OF UTILITIES**

This section is supplemental to the Standard Specifications. In case of conflict, these conditions shall govern insofar as applicable.

**It shall be the sole responsibility of the Contractor to pothole and verify the exact locations and depths of all utilities prior to making borings or excavations. Power poles and overhead wires shall be protected. Call Underground Service Alert (USA) at 1-800-227-2600 prior to any digging.**

Contractor shall notify Director of Public Works & Engineering of Contractor's findings in writing where possible conflicts may exist.

**The Contractor shall bear full responsibility for all damages and cost of repairs to existing utilities and surface improvements that are to remain or not in direct conflict.** If any utilities or improvements, including irrigation systems, are damaged during the course of construction, all expenses, or whatever nature, arising from the restoration of improvements to its original conditions shall be borne by the Contractor, and no additional compensation shall be allowed therefor.

Any damaged, broken or cracked utility boxes must be brought to the attention of the Public Works Inspector prior to construction or the Contractor shall assume liability for the damaged boxes.

Unless otherwise indicated on the drawings or specified herein, the Contractor shall maintain in service all water, gas, and sewer lines and any lighting, power, and telephone surface and sub-surface structures of any nature that may be affected by the work.

If the Contractor fails to maintain and protect such facilities, the City of Oakley reserves the right, if requested by the owners of the utilities, to permit the Owner to move or maintain the utilities at the Contractor's expense.

Should it become necessary in the performance of the Work to disconnect or re-route any underground utility due to a direct conflict with the new work, Contractor shall inform respective utility company involved.

## **8-1.07 WORKING HOURS**

No work shall be done before 7:30 a.m. or after 5:30 p.m. Work is prohibited on Saturday, Sunday and legal holidays unless otherwise noted. Work outside of the allowable working hours or on any of the prohibited working days must be approved by the Engineer in writing by 5:00 pm the

Wednesday prior to commencement of work. Legal holidays for the City of Oakley within the anticipated construction dates are:

Labor Day	September 3, 2018
Independence Day	July 4, 2018
Veteran's Day	November 12, 2018
Thanksgiving	November 22, 2018
	November 23, 2018
Christmas Eve	December 24, 2018
Christmas Day	December 25, 2018
New Year's Eve	December 31, 2018
New Year's Day	January 1, 2019

### **8-1.08 SUPERVISION**

The Contractor shall have a qualified superintendent on the job site at all times when work is in progress. Contractor shall submit Superintendents name and resume of experience to the Director Public Works & Engineering for approval at pre-construction meeting.

### **8-1.09 PRE-CONSTRUCTION CONFERENCE**

The Contractor shall arrange for a pre-construction conference meeting with the Director of Public Works & Engineering. This meeting shall be held at least 1 week before the Contractor intends to start construction.

At the pre-construction conference, the Contractor shall provide the Director of Public Works & Engineering with the name(s) and telephone number(s) of Contractor's personnel who can be reached and who can respond during non-working hours in the event of an emergency or other contingency requiring the Contractor's immediate attention.

### **8-1.10 COMPENSATION**

Full compensation for conforming to the requirements of this Section 8 – Prosecution and Progress shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefore, except that this provision does not constitute a waiver, alteration, or limitation of the applicability of Section 7102 of the Public Contracts Code.

## Section 9 MEASUREMENT AND PAYMENT

### 9-1.01 MEASUREMENT AND PAYMENT

A. *Payment for Increased or Decreased Quantities.* Should there be any variance between the estimated amount of the work to be done and the actual amount of authorized work performed, the provisions of Section 9-1.06 of the Standard Specifications, which provide for an adjustment of the unit price by reason of overruns or underruns in excess of 25% of the Director of Public Works & Engineering estimate, shall apply.

It is the Contractor's responsibility to continually analyze and apply the estimated quantities provided in the Contract Documents and to use the knowledge gained from site visits, construction, and professional experience, to update the estimated quantities as the work progresses. If and when the Contractor reaches 90% of the estimated quantities of materials required for any portion of the work as specified in the *Plans & Specifications* and has any reasonable belief that the Contractor will be required to exceed those estimated quantities by more than 10%, the Contractor shall provide written notice to the Owner of the possibility and the estimated quantities required to complete the work. If the Contractor fails to provide that written notice before delivering materials in excess of the originally estimated quantities, the Contractor shall not be entitled to any additional compensation or payment for the additional work or materials needed for the additional materials above 110%, but nevertheless shall be required to complete the Work.

B. *Progress Payments.* On or before the 20<sup>th</sup> day of each month, Contractor shall prepare and forward to Owner an estimate, in writing, of the total amount of the work completed in place, and the value thereof as of the 15<sup>th</sup> day of each month.

Owner shall retain 5% of such estimated value of the Work completed in place, and shall pay to Contractor, while carrying on the work, the balance not retained, as aforesaid, after deducting therefrom all previous payments, and all sums to be kept or retained under the provisions of this Contract. No such estimate or payment shall be construed to be an acceptance of any defective work or improper materials.

Work completed in place, as estimated, shall be an estimate only, and no inaccuracy or error in said estimates shall operate to release Contractor or any Surety from damages arising from such work or from enforcing each and every provision of this Contract, and Owner shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment estimates processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction concerning the work or any portion thereof given by Owner or the Director of Public Works & Engineering shall remain uncomplished. In addition to the amount which Owner may retain, as provided herein above, Owner may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor as in its judgment may be necessary to cover:

5. Payments which may be past due and payable for just claims against Contractor or any subcontractor for labor or materials furnished in or about the performance of the Work on the Project under this Contract;

6. For defective work not remedied;

7. For failure of Contractor to make proper payments to any of Contractor's subcontractors;
8. A reasonable doubt that Contractor will complete the Work within the agreed time limits;
9. Costs to Owner resulting from failure of Contractor to complete the Work within the proper time;
10. Damage to other work on property;
11. Potential liquidated damages.

Whenever Owner shall, in accordance herewith, withhold any monies otherwise due Contractor, written notice of the amount withheld and the reasons therefor shall be given Contractor, and when Contractor shall remove the grounds for such withholding, Owner will promptly pay Contractor the amount so withheld.

C. *Progress Payment Requests.* Pursuant to Public Contracts Code §20104.50, the Owner will promptly process all requests for progress payments pursuant to this Contract. As to any undisputed payments that are made more than 30 days after receipt of an undisputed and properly submitted payment request from the Contractor, the Owner will pay interest equivalent to the legal rate set forth in Code of Civil Procedure §685.10.

D. *As-Built Drawings.* The Contractor shall maintain two (2) sets of "As-Built" information of changes, located by station, offset and elevation and as directed by the Engineer on a set of the project drawings. The prints will be maintained and kept on-site and be accessible to the Engineer. Attention is directed to the possibility of progress payments being withheld until satisfactory review by the Engineer. Upon completion of all work, the Contractor shall submit one (1) set of reproducible mylar "As-Built" plans to the Engineer. (1) set each of "As-Built" plans in PDF version to Diablo Water District and Ironhouse Sanitary District. Final payment will not be made until this requirement is met.

E. *Acceptance of the Work and Final Payment*

1. The final payment for the Work done under this Contract shall be made 60-calendar days after acceptance of the Work by Owner.

2. Owner shall deduct from the final payment for the Work done under this Contract any unpaid fees for business licenses required in conformance with Section 1-1.06 of these Specifications.

3. Upon receipt of written notice from the Contractor that the Work is ready for final inspection and acceptance, the Director of Public Works & Engineering shall promptly make such inspection, and when the Director of Public Works & Engineering finds the Work acceptable under this Contract and this Contract fully performed, the Director of Public Works & Engineering shall promptly issue a final certificate to Governing Body or Owner, stating that the Work provided for in this Contract has been completed and is accepted by the Director of Public Works & Engineering under the terms and conditions thereof.

4. Acceptance of the Work will be made by the Governing Body of Owner only upon filing with said Governing Body of a certificate by the Director of Public Works & Engineering showing the Work has been given a final inspection and approval by Director of Public Works & Engineering and that Contractor has submitted satisfactory evidence to the Director of Public Works & Engineering that all payrolls, material bills and other indebtedness connected with said work have been paid. The acceptance will be made only by action of the Governing Body of Owner to regular session.

5. If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of Contractor, and Director of Public Works & Engineering so certifies, Owner shall, upon certificate of the Director of Public Works & Engineering, and without terminating this Contract, make payment of the balance due for that portion of the Work completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

6. The acceptance by Contractor of said final payment shall constitute a waiver of all claims against Owner arising under this Contract.

*Submission of Requests for Payment / Invoices.* Contractor shall submit all original requests for payments or invoices directly to the Owner as follows: City of Oakley Public Works & Engineering Department, Attn: Christine Keller, 3231 Main Street, Oakley, California 94651.

*Void Contract Provisions.* Payment of undisputed contract amounts by Owner are contingent upon the Contractor furnishing the Owner with a release of all claims against the Owner arising by virtue of the public works contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release.

*Damages.* Any provision in the Contract which limits the Owner's liability to an extension of time for delay for which the Owner is responsible and which delay is unreasonable under contemplation of the circumstances involved, and not within the parties' control, shall not be construed to preclude the recovery of damages by the Contractor or subcontractor. This section shall not be construed to void any provision in this Contract which requires notice of delays, provides for arbitration or other procedure for settlement, or provides for liquidated damages.