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Tacoma Rail

## **PROJECT MANUAL**

### **Sand Filter Upgrades**

**SPECIFICATION NO.:**  
**TR24-0109F**

**PROJECT NO.:**  
**RAL-00127**

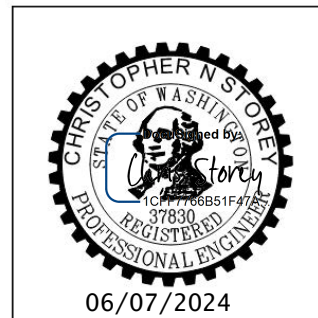
City of Tacoma  
Tacoma Rail

**PROJECT MANUAL**

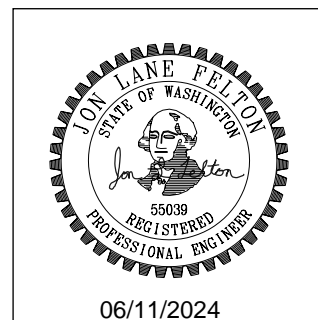
**SAND FILTER UPGRADES**

**SPECIFICATION NUMBER TR24-0109F**

Chris Storey, Project Manager, P.E.  
Public Works Department  
Engineering Division  
747 Market Street Room 533  
Tacoma, WA 98402  
Division 0



Jon Felton, P.E.  
KPFF Consulting Engineers  
2407 N 31<sup>st</sup> Street, Suite 100  
Tacoma, WA 98407  
Division 1, 11





**City of Tacoma  
Tacoma Rail**

**REQUEST FOR BIDS TR24-0109F  
Sand Filter Upgrades**

**Submittal Deadline: 11:00 a.m., Pacific Time, Tuesday, July 9, 2024**

Submittals must be received by the City’s Procurement and Payables Division prior to 11:00 a.m. Pacific Time.

For electronic submittals, the City of Tacoma will designate the time of receipt recorded by our email, [sendbid@cityoftacoma.org](mailto:sendbid@cityoftacoma.org), as the official time of receipt. This clock will be used as the official time of receipt of all parts of electronic bid submittals. For in person submittals, the City of Tacoma will designate the time of receipt recorded by the timestamp located at the lobby security desk, as the official time of receipt. Late submittals will be returned unopened and rejected as non-responsive.

**Submittal Delivery:** Sealed submittals will be received as follows:

<p><b>By Email:</b>  <a href="mailto:sendbid@cityoftacoma.org">sendbid@cityoftacoma.org</a>  Maximum file size: 35 MB. Multiple emails may be sent for each submittal</p>	<p><b>In Person:</b>  Tacoma Public Utilities Administration Building North,  Main Floor, Lobby Security Desk  3628 South 35<sup>th</sup> Street  Tacoma, WA 98409  Monday – Friday 8:00 am to 4:30 pm</p>
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**Bid Opening:** Submittals must be received by the City’s Procurement and Payables Division prior to 11:00 a.m. Pacific Time. Sealed submittals in response to a RFB will be opened Tuesday’s at 11:15 a.m. by a purchasing representative and read aloud during a public bid opening held at the Tacoma Public Utilities Administrative Building North, 3628 S. 35<sup>th</sup> Street, Tacoma, WA 98409, conference room M-1, located on the main floor. They will also be held virtually Tuesday’s at 11:15 a.m. Attend [via this link](#) or call 1 (253) 215 8782. Submittals in response to an RFP, RFQ or RFI will be recorded as received. As soon as possible, after 1:00 PM, on the day of submittal deadline, preliminary results will be posted to [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org).

**Solicitation Documents:** An electronic copy of the complete solicitation documents may be viewed and obtained by accessing the City of Tacoma Purchasing website at [www.TacomaPurchasing.org](http://www.TacomaPurchasing.org).

- [Register for the Bid Holders List](#) to receive notices of addenda, questions and answers and related updates.
- Click here to see a [list of vendors registered for this solicitation](#).

**Pre-Proposal Meeting:** A pre-proposal meeting will not be held.

**Project Scope:** Upgrading/replacing the filtering system on an existing Tacoma Rail sand tower.

**Estimate:** \$230,000

**Paid Sick Leave:** The City of Tacoma requires all employers to provide paid sick leave in accordance with State of Washington law.

**Americans with Disabilities Act (ADA Information):** The City of Tacoma, in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and activities. Specification materials can be made available in an alternate format by emailing the contact listed below in the *Additional Information* section.

**Title VI Information:**

“The City of Tacoma” in accordance with provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. sections 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises

will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin in consideration of award.

**Additional Information:** Requests for information regarding the specifications may be obtained by contacting Sara Bird by email to [SBird@cityoftacoma.org](mailto:SBird@cityoftacoma.org).

**Protest Policy:** City of Tacoma protest policy, located at [www.tacomapurchasing.org](http://www.tacomapurchasing.org), specifies procedures for protests submitted prior to and after submittal deadline.



**Meeting sites are accessible to persons with disabilities. Reasonable accommodations for persons with disabilities can be arranged with 48 hours advance notice by calling 253-502-8468.**

## **SPECIAL REMINDER TO ALL BIDDERS**

**HEALTH & SAFETY:** Be sure to comply with all City of Tacoma health and safety requirements.

**PLEASE NOTE:** Be sure you have complied with all specifications and requirements and have signed all required documents.

**YOUR ATTENTION IS PARTICULARLY CALLED** to the following forms, which must be executed in full and submitted with your bid response:

1. **BID PROPOSAL:** The unit prices bid must be shown in the space provided. Check your computations for omissions and errors.
2. **SIGNATURE PAGE:** To be filled in and executed by a duly authorized officer or representative of the bidding entity. If the bidder is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.
3. **BID BOND:** The Bid Bond must be executed by the person legally authorized to sign the bid, and must be properly signed by the representatives of the surety company unless the bid is accompanied by a certified check. If Bid Bond is furnished, the form furnished by the City must be followed; no variations from the language thereof will be accepted. The amount of the Bid Bond must be not less than 5% of the total amount bid.
4. **CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES:** Bidder shall complete this form in its entirety to ensure compliance with state legislation (SHB 2017).
5. **STATE RESPONSIBILITY AND RECIPROCAL BID PREFERENCE INFORMATION:** Bidder shall complete this form in its entirety to ensure compliance with state legislation (SHB 2010).

### **POST AWARD FORMS EXECUTED UPON AWARD:**

- A. **CONTRACT:** Must be executed by the successful bidder.
- B. **PAYMENT BOND TO THE CITY OF TACOMA:** Must be executed by the successful bidder and his/her surety company.
- C. **PERFORMANCE BOND TO THE CITY OF TACOMA:** Must be executed by the successful bidder and his/her surety company.
- D. **CERTIFICATE OF INSURANCE:** Shall be submitted with all required endorsements.
- E. **CONTRACTORS WORK HAZARD ANALYSIS REPORT**
- F. **GENERAL RELEASE.**

**CODE OF ETHICS:** The successful bidder agrees that its violation of the City's Code of Ethics contained in TMC Chapter 1.46 shall constitute a breach of the contract subjecting the contract to termination.

**CITY OF TACOMA  
FINANCE/PURCHASING DIVISION  
SPECIAL NOTICE TO BIDDERS**

Public works and improvement projects for the City of Tacoma are subject to Washington state law and Tacoma Municipal Code, including, but not limited to the following:

**I. STATE OF WASHINGTON**

**A. RESPONSIBILITY CRITERIA – STATE OF WASHINGTON**

In order to be considered a responsible bidder the bidder must meet the following mandatory state responsibility criteria contained in RCW 39.04.350:

1. Have a current certificate of registration as a contractor in compliance with chapters 18.27 RCW, 18.106 RCW, 70.87 RCW, 19.28 RCW, which must have been in effect **at the time of bid submittal**;
2. Have a current Washington Unified Business Identifier (UBI) number;
3. If applicable:
  - a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;
  - b. Have a Washington Employment Security Department number, as required in Title 50 RCW;
  - c. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW and;
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unlicensed or unregistered contractors) or 39.12.065(3) (prevailing wage).
5. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW and must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection.

**B. RECIPROCAL PREFERENCE FOR RESIDENT CONTRACTORS:**

Effective March 30, 2012, RCW 39.04.380 imposes a reciprocal preference for resident contractors. Any bid received from a non-resident contractor from a state that provides an in-state percentage bidding preference is subject application of a comparable percentage disadvantage.

A non-resident contractor from a state that provides an in-state percentage bidding preference means a contractor that:

1. Is from a state that provides a percentage bid preference to its resident contractors bidding on public works projects, and
2. Does not have a physical office located in Washington at the time of bidding on the City of Tacoma public works project.

The state of residence for a non-resident contractor is the state in which the contractor was incorporated, or if not a corporation, the state in which the contractor's business entity was formed.

The City of Tacoma will evaluate all non-resident contractors for an out of state bidder preference. If the state of the non-resident contractor provides an in state contractor preference, a comparable percentage disadvantage will be applied to the non-resident contractor's bid prior to contract award. The responsive and lowest and best responsible bidder after application of any non-resident disadvantage will be awarded the contract.

The reciprocal preference evaluation does not apply to public works procured pursuant to RCW 39.04.155, RCW 39.04.280, federally funded competitive solicitations where such agencies prohibit the application of bid preferences, or any other procurement exempt from competitive bidding.

Bidders must provide the City of Tacoma with their state of incorporation or the state in which the business entity was formed and include whether the bidder has a physical office located in Washington.

The bidder shall submit documentation demonstrating compliance with above criteria on the enclosed State Responsibility and Reciprocal Bidder Information form.

### **C. SUBCONTRACTOR RESPONSIBILITY**

1. The Contractor shall include the language of this subcontractor responsibility section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier.
2. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
  - a. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
  - b. Have a current Washington Unified Business Identifier (UBI) number;
  - c. If applicable, have:
    - a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;
    - b. A Washington Employment Security Department number, as required in Title 50 RCW;
    - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
    - d. An electrical contractor license, if required by Chapter 19.28 RCW;
    - e. An elevator contractor license, if required by Chapter 70.87 RCW and;
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 (unlicensed or unregistered contractors) or 39.12.065(3) (prevailing wage).

## **II. CITY OF TACOMA**

### **A. SUPPLEMENTAL RESPONSIBILITY CRITERIA – CITY OF TACOMA:**

In order to be considered a responsible bidder, the prospective bidder shall have all of the following qualifications set forth in Tacoma Municipal Code 1.06.262:

1. Adequate financial resources or the ability to secure such resources;
2. The necessary experience, stability, organization and technical qualifications to perform the proposed contract;
3. The ability to comply with the required performance schedule, taking into consideration all existing business commitments;
4. A satisfactory record of performance, integrity, judgment and skills; and
5. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
  - a. Bidder Responsibility. Bidders shall not be in violation of 39.04.350 RCW Bidder Responsibility Criteria - Supplemental Criteria.

In addition to the mandatory bidder responsibility criteria listed immediately above, the City may, in addition to price, consider any or all of the following criteria contained in Tacoma Municipal Code Chapter 1.06.262 in determining bidder responsibility:

1. The ability, capacity, experience, stability, technical qualifications and skill of the respondent to perform the contract;
2. Whether the respondent can perform the contract within the time specified, without delay or interference;
3. Integrity, reputation, character, judgment, experience, and efficiency of the respondents, including past compliance with the City's Ethics Code;
4. Quality of performance of previous contracts;
5. Previous and existing compliance with laws and ordinances relating to contracts or services;
6. Sufficiency of the respondent's financial resources;
7. Quality, availability, and adaptability of the supplies, purchased services or public works to the particular use required;
8. Ability of the respondent to provide future maintenance and service on a timely basis;
9. Payment terms and prompt pay discounts;
10. The number and scope of conditions attached to the submittal;
11. Compliance with all applicable City requirements, including but not limited to the City's Ethics Code and its Equity in Contracting and Local Employment and Apprenticeship Training programs;
12. Other qualification criteria set forth in the specification or advertisement that the appropriate department or division head determines to be in the best interests of the City.

The City may require bidders to furnish information, sworn or certified to be true, to demonstrate compliance with the City responsibility criteria set forth above. If the city manager or director of utilities is not satisfied with the sufficiency of the information provided, or if the prospective respondent does not substantially meet all responsibility requirements, any submittal from such respondent must be disregarded.



## **B. ADDITIONAL SUPPLEMENTAL CRITERIA – NOT APPLICABLE**

## **C. MODIFICATIONS TO SUPPLEMENTAL CRITERIA**

Potential bidders may request modifications to the City's **supplemental criteria** by submitting a written request to the Purchasing Division via email to [bids@cityoftacoma.org](mailto:bids@cityoftacoma.org) no later than 5:00 p.m. Pacific Time, three days prior to the submittal deadline. Please include the Specification No. and Title when submitting such requests. Requests must include justification for why certain criteria should be modified. Requests received after this date and time will not be considered.

The City will respond to a timely submitted request prior to the bid opening date. Changes to the supplemental criteria, if warranted, will be issued by addendum to the solicitation documents and posted to the City's website for the attention of all prospective bidders.

## **D. DETERMINATION OF BIDDER RESPONSIBILITY**

If the City determines the bidder does not meet the criteria above and is therefore not a responsible bidder, the City shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees, the bidder may appeal the determination in a manner consistent with the City's Protest Policy. Appeals are coordinated by the Purchasing Division heard by the Procurement and Payables Division manager for contracts less than or equal to \$500,000 and by Contracts and Awards Board for contracts greater than \$500,000.

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# **BID PERIOD FORMS**

The following forms shall be used during the bidding process to request clarifications and request substitutions. These forms are not required to be submitted with the Bid.

- Bidder Question Form
- Substitution Request Form

# BIDDER QUESTION FORM

Sand Filter Upgrades  
SPECIFICATION NO.: TR24-0109F

Prospective bidders must submit questions or clarifications in writing on this form allowing time for a written reply to reach all prospective bidders before the submission of the bids. Bidder questions shall be submitted on this form via e-mail to:

*Sara Bird, Senior Buyer.*  
E-mail address: [SBird@cityoftacoma.org](mailto:SBird@cityoftacoma.org)

All e-mails must be received by **Noon on Thursday, June 27, 2024**. Where changes in the project documents are required, an addendum will be issued to everyone on the plan holder's list and posted on [www.tacomapurchasing.org](http://www.tacomapurchasing.org).

I have the following question(s): \_\_\_\_\_

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Submitted by:

\_\_\_\_\_

Name

\_\_\_\_\_

Representing

\_\_\_\_\_

Address

\_\_\_\_\_

Fax Number

\_\_\_\_\_

Phone Number

# SUBSTITUTION REQUEST FORM

Sand Filter Upgrades  
SPECIFICATION NO.: TR24-0109F

Prospective bidders may request substitutions in writing on this form. Substitutions shall be submitted on this form via e-mail to:

Sara Bird, Senior Buyer.  
E-mail address: [SBird@cityoftacoma.org](mailto:SBird@cityoftacoma.org)

All e-mails must be received by **Noon on Thursday, June 27, 2024**. Where changes in the project documents are required, an addendum will be issued to everyone on the plan holder's list and posted on [www.tacomapurchasing.org](http://www.tacomapurchasing.org).

## Submitted By

Signature \_\_\_\_\_

Company \_\_\_\_\_

Mailing Address \_\_\_\_\_

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

Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Please check if there are attachments

1. We hereby submit for your consideration the following product instead of the specified item for the above project:

<u>Section</u>	<u>Page</u>	<u>Line/Paragraph</u>	<u>Specified Item</u>
_____	_____	_____	_____

2. Proposed Substitution. \_\_\_\_\_

3. Reason for Substitution. \_\_\_\_\_

4. Attach complete technical data, catalog cuts, drawings, samples, etc. Exact models and description of products shall be noted with any deviation noted.

5. Include complete information on changes to Drawings, and/or Specifications which proposed substitution will require for its proper installation. \_\_\_\_\_

6. Does the substitute affect dimensions shown on Drawings? \_\_\_\_\_

6a. If so, how? \_\_\_\_\_

7. Describe the effect substitution has on other trades. \_\_\_\_\_

8. Describe differences between proposed substitution and specified item. \_\_\_\_\_

9. Manufacturer's warranties of the proposed and specified items are:  Same  Different (explain on attachment)

The undersigned states that the function, appearance and quality are equivalent or superior to the specified item. The undersigned agrees to pay for changes to the building and systems design, including engineering and detailing costs caused by the requested substitution.

# **SUBSTITUTION REQUEST FORM**

Sand Filter Upgrades  
SPECIFICATION NO.: TR24-0109F

## **For Reviewer**

- Approved for Bidding subject to review and approval of Submittals (and as noted below)     Rejected - Inadequate Information  
 Not Accepted     Received Too Late

By \_\_\_\_\_ Date \_\_\_\_\_

## **Remarks**

# **PROPOSAL FORMS**

The following forms must be completed in their entirety and submitted with the bid. Bidders must use the forms provided. Do not modify or substitute forms. Failure to complete and submit all the forms in this section may result in the bid being declared unresponsive and rejected.

1. BID PROPOSAL
2. SIGNATURE PAGE
3. BID BOND
4. CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES
5. STATE RESPONSIBILITY AND RECIPROCAL BID PREFERENCE INFORMATION



**SAND FILTER UPGRADES  
SPECIFICATION NO.: TR24-0109F**

**BID PROPOSAL**

**City of Tacoma  
Tacoma Rail**

**Name of Firm:** \_\_\_\_\_  
(Write in company name)

In compliance with the contract documents, the following bid proposal is submitted:

**BASE BID:**

Lump sum base bid is inclusive of the Scope of Work described in the Contract Documents; but exclusive of Alternate Bids.

<b>BASE BID:</b>	\$ _____
<b><u>ALLOWANCES (PER SECTION 01 23 00):</u></b>	\$ <u>10,000</u>
<b>SUBTOTAL BASE BID AMOUNT:</b>	\$ _____
<b><u>WA STATE SALES TAX @ 10.3%:</u></b>	\$ _____
<b>GRAND TOTAL:</b>	\$ _____

**BID ALTERNATES:** (do not include Washington State Sales Tax)

The undersigned proposes to modify the contract requirements and scope of work as defined in the Contract Documents and as described in Section 01 2300 of the Project Manual, for the following amounts to be added to the Base Bid. The Owner reserves the right to accept or reject any or alternates within (90) days of the bid date.

**Additive Alternate No. AA-1,**  
**THERE ARE NO ADDITIVE ALTERNATES** \$ \_\_\_\_\_

**SAND FILTER UPGRADES  
SPECIFICATION NO.: TR24-0109F**

**B I D P R O P O S A L**

**INTENT AND AFFIDAVIT OF WAGES PAID:**

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In compliance with 296-127 WAC the Contractor shall pay all fees associated with the Intent and Affidavit of Wages Paid to the Department of Labor and Industries. These costs shall be included in the base bid.

**CITY OF TACOMA PROGRAMS:**

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The City of Tacoma's Equity In Contracting (EIC) Program will be utilized on this project. The City has established a EIC Utilization Goal of 0%. There is no Local Employment & Apprenticeship Program (LEAP) Goal for the project.

**TIME FOR COMPLETION:**

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The undersigned hereby agrees to substantially complete all the work under the Base Bid (and accepted alternates and/or unit prices) within **60** calendar days after the Notice to Proceed.

**LIQUIDATED DAMAGES:**

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The undersigned agrees to pay the Owner as liquidated damages the sum of \$1,000 for each consecutive calendar day beyond the SUBSTANTIAL COMPLETION date. Liquidated damages shall be deducted from the contract by change order.

**SAND FILTER UPGRADES  
SPECIFICATION NO.: TR24-0109F**

**B I D P R O P O S A L**

**SUSTAINABILITY:**

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1) Have you incorporated sustainability into your everyday business practices? **Yes / No**

**Please Describe:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2) Have you taken measures to minimize impacts to the environment in the delivery of proposed goods and services? **Yes / No**

**Please Describe:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

3) Will you be incorporating and implementing sustainable practices during the construction of this project? **Yes / No**

**Please Describe:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURE PAGE**

**CITY OF TACOMA  
Tacoma Rail**

All submittals must be in ink or typewritten, executed by a duly authorized officer or representative of the bidding/proposing entity, and received and time stamped as directed in the **Request for Bids page near the beginning of the specification**. If the bidder/proposer is a subsidiary or doing business on behalf of another entity, so state, and provide the firm name under which business is hereby transacted.

**REQUEST FOR BIDS SPECIFICATION NO. TR24-0109F  
Sand Filter Upgrades**

The undersigned bidder/proposer hereby agrees to execute the proposed contract and furnish all materials, labor, tools, equipment and all other facilities and services in accordance with these specifications.

The bidder/proposer agrees, by submitting a bid/proposal under these specifications, that in the event any litigation should arise concerning the submission of bids/proposals or the award of contract under this specification, Request for Bids, Request for Proposals or Request for Qualifications, the venue of such action or litigation shall be in the Superior Court of the State of Washington, in and for the County of Pierce.

**Non-Collusion Declaration**

*The undersigned bidder/proposer hereby certifies under penalty of perjury that this bid/proposal is genuine and not a sham or collusive bid/proposal, or made in the interests or on behalf of any person or entity not herein named; and that said bidder/proposer has not directly or indirectly induced or solicited any contractor or supplier on the above work to put in a sham bid/proposal or any person or entity to refrain from submitting a bid/proposal; and that said bidder/proposer has not, in any manner, sought by collusion to secure to itself an advantage over any other contractor(s) or person(s).*

\_\_\_\_\_  
Bidder/Proposer's Registered Name

\_\_\_\_\_  
Signature of Person Authorized to Enter Date  
into Contracts for Bidder/Proposer

\_\_\_\_\_  
Address

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

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

\_\_\_\_\_  
(Area Code) Telephone Number / Fax Number

\_\_\_\_\_  
Authorized Signatory E-Mail Address

\_\_\_\_\_  
State Business License Number  
in WA, also known as UBI (Unified Business Identifier) Number

\_\_\_\_\_  
E.I.No. / Federal Social Security Number Used on Quarterly  
Federal Tax Return, U.S. Treasury Dept. Form 941

\_\_\_\_\_  
State Contractor's License Number  
(See Ch. 18.27, R.C.W.)

\_\_\_\_\_  
E-Mail Address for Communications

Addendum acknowledgement #1 \_\_\_\_\_ #2 \_\_\_\_\_ #3 \_\_\_\_\_ #4 \_\_\_\_\_ #5 \_\_\_\_\_

***THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITTAL.***

Herewith find deposit in the form of a cashier's check in the amount of \$ \_\_\_\_\_ which amount is not less than 5-percent of the total bid.

SIGN HERE \_\_\_\_\_

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## BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety, are held and firmly bound unto the City of Tacoma, as Obligee, in the penal sum of \_\_\_\_\_ dollars, for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

The condition of this obligation is such that if the Obligee shall make any award to the Principal for

according to the terms of the proposal or bid made by the Principal therefor, and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of said proposal or bid and award and shall give bond for faithful performance thereof, with Surety or Sureties approved by the Obligee; or if the Principal shall, in case of failure to do so, pay and forfeit to the Obligee the penal amount of the deposit specified in the call for bids, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect and the Surety shall forthwith pay and forfeit to the Obligee, as penalty and liquidated damages, the amount of this bond.

SIGNED, SEALED AND DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL:

SURETY:

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

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

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\_\_\_\_\_, 20\_\_\_\_\_

Received return of deposit in the sum of \$ \_\_\_\_\_

\_\_\_\_\_



City of Tacoma

## Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (**June 13, 2024**), that the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

\_\_\_\_\_  
Bidder

\_\_\_\_\_  
Signature of Authorized Official\*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
City

\_\_\_\_\_  
State

**Check One:**

Individual

Partnership

Joint Venture

Corporation

State of Incorporation, or if not a corporation, the state where business entity was formed:

\_\_\_\_\_

If a co-partnership, give firm name under which business is transacted:

\_\_\_\_\_

*\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

Specification No. \_\_\_\_\_

Name of Bidder: \_\_\_\_\_

## State Responsibility and Reciprocal Bid Preference Information

Certificate of registration as a contractor  
(Must be in effect at the time of bid submittal):

Number: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Current Washington Unified Business Identifier  
(UBI) Number:

Number: \_\_\_\_\_

Do you have industrial insurance (workers' compensation)  
Coverage nor your employees working in Washington?

- Yes       No  
 Not Applicable

Washington Employment Security Department Number

Number: \_\_\_\_\_

Not Applicable

Washington Department of Revenue state excise tax  
Registration number:

Number: \_\_\_\_\_

Not Applicable

Have you been disqualified from bidding any public  
works contracts under RCW 39.06.010 or 39.12.065(3)?

- Yes       No

If yes, provide an explanation of your  
disqualification on a separate page.

Do you have a physical office located in the state of  
Washington?

- Yes       No

If incorporated, in what state were you incorporated?

State: \_\_\_\_\_  Not Incorporated

If not incorporated, in what state was your business  
entity formed?

State: \_\_\_\_\_

Have you completed the training required by RCW  
39.04.350, or are you on the list of exempt businesses  
maintained by the Department of Labor and Industries?

- Yes       No

# **CONTRACT FORMS (POST AWARD)**

1. **CONTRACT**
2. **INSURANCE REQUIREMENTS**
3. **PERFORMANCE BOND TO THE CITY OF TACOMA**
4. **PAYMENT BOND TO THE CITY OF TACOMA**
5. **CONTRACTORS WORK HAZARD ANALYSIS REPORT**
6. **GENERAL RELEASE TO THE CITY OF TACOMA**



## CONTRACT

Resolution No.  
Contract No.

This Contract is made and entered into effective as of [Month], [Day], [Year] (“Effective Date”) by and between the City of Tacoma, a Municipal Corporation of the State of Washington (“City”), and [supplier name as it appears in Ariba, including dbas or trade names] (“Contractor”).

That in consideration of the mutual promises and obligations hereinafter set forth the Parties hereto agree as follows:

- I. Contractor shall fully execute and diligently and completely perform all work and provide all services and deliverables described herein and in the items listed below each of which are fully incorporated herein and which collectively are referred to as “Contract Documents”:

---

  1. Specification No. [Spec Number] [ Spec Title] together with all authorized addenda.
  2. Contractor’s submittal [or specifically described portions thereof] dated [Enter Submittal Date] submitted in response to Specification No. [Spec Number] [Spec Title].
  3. Describe with specific detail and list separately any other documents that will make up the contract (fee schedule, work schedule, authorized personnel, etc.) or any other additional items mutually intended to be binding upon the parties.

---
- II. If federal funds will be used to fund, pay or reimburse all or a portion of the services provided under the Contract, the terms and conditions set forth at this Appendix A are incorporated into and made part of this Contract and CONTRACTOR will comply with all applicable provisions of Appendix A and with all applicable federal laws, regulations, executive orders, policies, procedures, and directives in the performance of this Contract.  
  
If CONTRACTOR’s receipt of federal funds under this Contract is as a sub-recipient, a fully completed Appendix B, “Sub-recipient Information and Requirements” is incorporated into and made part of this Contract.
- III. In the event of a conflict or inconsistency between the terms and conditions contained in this document entitled Contract and any terms and conditions contained the above referenced Contract Documents the following order of precedence applies with the first listed item being the most controlling and the last listed item the least controlling:
  1. Contract, inclusive of Appendices A and B.
  2. List remaining Contract Documents in applicable controlling order.
- IV. The Contract terminates on xxxxx, and may be renewed for xxxxxxxx
- V. The total price to be paid by City for Contractor’s full and complete performance hereunder, including during any authorized renewal terms, may not exceed:  
\$[Dollar Amount], plus any applicable taxes.
- VI. Contractor agrees to accept as full payment hereunder the amounts specified herein and in Contract Documents, and the City agrees to make payments at the times and in the manner and upon the terms and conditions specified. Except as may be otherwise provided herein or in Contract Documents Contractor shall provide and bear the expense of all equipment, work and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work and providing the services and deliverables required by this Contract.
- VII. The City’s preferred method of payment is by ePayables (Payment Plus), followed by credit card (aka procurement card), then Electronic Funds Transfer (EFT) by Automated Clearing House (ACH), then check or other cash equivalent. CONTRACTOR may be required to have the capability of accepting the City’s ePayables or credit card methods of payment. The City of Tacoma will not accept price changes or pay additional fees when ePayables (Payment Plus) or credit card is used. The City, in its sole discretion, will determine the method of payment for this Contract.

VIII. Failure by City to identify a deficiency in the insurance documentation provided by Contractor or failure of City to demand verification of coverage or compliance by Contractor with the insurance requirements contained in the Contract Documents shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

IX. Contractor and for its heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the requirements contained herein and in Contract Documents.

It is further provided that no liability shall attach to City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF, the Parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable.

CITY OF TACOMA:  
Signature:

CONTRACTOR:  
Signature:

Name:

Name:

Title:

Title:

(City of Tacoma use only - blank lines are intentional)

Director of Finance: \_\_\_\_\_

Deputy/City Attorney (approved as to form): \_\_\_\_\_

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

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

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

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

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

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

**APPENDIX A  
FEDERAL FUNDING**

## 1. Termination for Breach

CITY may terminate this Contract in the event of any material breach of any of the terms and conditions of this Contract if CONTRACTOR's breach continues in effect after written notice of breach and 30 days to cure such breach and fails to cure such breach.

## 2. Prevailing Wages

1. If federal, state, local, or any applicable law requires CONTRACTOR to pay prevailing wages in connection with this Contract, and CONTRACTOR is so notified by the CITY, then CONTRACTOR shall pay applicable prevailing wages and otherwise comply with the Washington State Prevailing Wage Act (RCW 39.12) in the performance of this Contract.
2. If applicable, a Schedule of Prevailing Wage Rates and/or the current prevailing wage determination made by the Secretary of Labor for the locality or localities where the Contract will be performed is made of part of the Contract by this reference. If prevailing wages apply to the Contract, CONTRACTOR and its subcontractors shall:
  - i. Be bound by and perform all transactions regarding the Contract relating to prevailing wages and the usual fringe benefits in compliance with the provisions of Chapter 39.12 RCW, as amended, the Washington State Prevailing Wage Act and/or the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable, including the federal requirement to pay wages not less than once a week.
  - ii. Ensure that no worker, laborer or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule and/or specified in a wage determination made by the Secretary of Labor (unless specifically preempted by federal law, the higher of the Washington state prevailing wage or federal Davis-Bacon rate of wage must be paid.
  - iii. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington and/or the federal Department of Labor, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages and/or other or additional documentation required by applicable federal law, must be submitted by CONTRACTOR and its subcontractors to the CITY, in the manner requested by the CITY, prior to any payment by the CITY hereunder, and an Affidavit of Wages Paid and/or other or additional documentation required by federal law must be received or verified by the CITY prior to final Contract payment.

## 3. COPELAND ANTI-KICKBACK ACT

For Contracts subject to Davis Bacon Act the following clauses will be incorporated into the Contract:

- A. CONTRACTOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
- B. CONTRACTOR or subcontractor shall insert in any subcontracts the clause above and such other clauses federal agencies may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts.

The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these Contract clauses.

- C. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **4. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this Contract, CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. If the CONTRACTOR does over \$10,000 in business a year that is funded, paid or reimbursed with federal funds, CONTRACTOR will take specific and affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- A. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- D. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further federally funded contracts in accordance with procedures

authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

## **5. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

- A. Overtime requirements. Neither CONTRACTOR or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (3)(A) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (3)(A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (3)(A) of this section.
- C. Withholding for unpaid wages and liquidated damages. The CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal

contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or sub-contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (3)(B) of this section.

- D. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (3)(A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (3)(A) through (D) of this section.

#### **6. CLEAN AIR ACT**

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funds.

#### **7. FEDERAL WATER POLLUTION CONTROL ACT**

- A. CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the appropriate federal agency.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funding.

#### **8. DEBARMENT AND SUSPENSION**

- A. This Contract is a Covered Transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the CONTRACTOR is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier Covered Transaction it enters into.

- C. This certification is a material representation of fact relied upon by the CITY. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. CONTRACTOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of this Contract and to include a provision requiring such compliance in its lower tier covered transactions.

## **9. BYRD ANTI-LOBBYING AMENDMENT**

- A. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification with CITY. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the CITY.
- B. If applicable, CONTRACTOR must sign and submit to the CITY the certification required by Appendix A to 44 CFR Part 18 contained at Appendix A-1 to this Contract.

## **10. PROCUREMENT OF RECOVERED MATERIALS**

- A. In the performance of this Contract, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**APPENDIX A-1**

**APPENDIX A to 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING  
Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap.38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date



**APPENDIX B—Sub-recipient information and requirements**

Pursuant to 2 CFR 200.332(a)(1) Federal Award Identification

(i) Agency Name (must match the name associated with its unique entity identifier)		(ii) Unique Entity Identifier <i>(i.e., DUNS)</i>	City of Tacoma Number for This Agreement
(iii) Federal Award Identification Number (FAIN)	(iv) Federal Award Date	(v) Federal Period of Performance Start and End Date	(vi) Federal Budget Period Start and End Date
(vii) Amount of Federal Funds <i>Obligated</i> to the agency <i>by this action</i> : \$	(viii) Total Amount of Federal Funds <i>Obligated</i> to the agency	(ix) Total Amount of the Federal Award <i>Committed</i> to the agency \$	
(x) Federal Award Project Description:  CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS– City of Tacoma			
(xi) Federal Awarding Agency:  DEPARTMENT OF THE TREASURY	Pass-Through Entity:  City of Tacoma	Awarding Official Name and Contact Information:	
(xii) Assistance Listing Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listing number at time of disbursement)			(xiii) Identification of Whether the Award is R&D
(xiv) Indirect Cost Rate for the Federal Award	Award Payment Method (lump sum payment or reimbursement)  REIMBURSEMENT		



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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This Insurance Requirements shall serve as an attachment and/or exhibit form to the Contract. The Agency entering a Contract with City of Tacoma, whether designated as a Supplier, Contractor, Vendor, Proposer, Bidder, Respondent, Seller, Merchant, Service Provider, or otherwise referred to as "Contractor".

## 1. GENERAL REQUIREMENTS

The following General Requirements apply to Contractor and to Subcontractor(s) performing services and/or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following insurance requirements:

- 1.1. Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the City of Tacoma.
- 1.2. Contractor shall keep in force during the entire term of the Contract, at no expense to the City of Tacoma, the insurance coverage and limits of liability listed below and for Thirty (30) calendar days after completion of all work required by the Contract, unless otherwise provided herein.
- 1.3. Liability insurance policies, except for Professional Liability and Workers' Compensation, shall:
  - 1.3.1. Name the City of Tacoma and its officers, elected officials, employees, and agents as **additional insured**
  - 1.3.2. Be considered primary and non-contributory for all claims with any insurance or self-insurance or limits of liability maintained by the City of Tacoma
  - 1.3.3. Contain a "Waiver of Subrogation" clause in favor of City of Tacoma
  - 1.3.4. Include a "Separation of Insureds" clause that applies coverage separately to each insured and additional insured
  - 1.3.5. Name the "City of Tacoma" on certificates of insurance and endorsements and not a specific person or department
  - 1.3.6. Be for both ongoing and completed operations using Insurance Services Office (ISO) form CG 20 10 04 13 and CG 20 37 04 13 or the equivalent
  - 1.3.7. Be satisfied by a single primary limit or by a combination of a primary policy and a separate excess umbrella
- 1.4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements below. Verification of coverage shall include:
  - 1.4.1. An ACORD certificate or equivalent
  - 1.4.2. Copies of requested endorsements
- 1.5. Contractor shall provide to City of Tacoma Procurement & Payable Division, prior to the execution of the Contract, Certificate(s) of Insurance and endorsements from the insurer certifying the coverage of all insurance required herein. Contract or Permit number and the City of Tacoma Department must be shown on the Certificate of Insurance.
- 1.6. A renewal Certificate of Insurance shall be provided electronically prior to coverage



# CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

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expiration via email sent annually to [coi@cityoftacoma.org](mailto:coi@cityoftacoma.org).

- 1.7. Contractor shall send a notice of cancellation or non-renewal of this required insurance within Thirty (30) calendar days to [coi@cityoftacoma.org](mailto:coi@cityoftacoma.org).
- 1.8. "Claims-Made" coverages, except for pollution coverage, shall be maintained for a minimum of three years following the expiration or earlier termination of the Contract. Pollution coverage shall be maintained for six years following the expiration of the Contract. The retroactive date shall be prior to or coincident with the effective date of the Contract.
- 1.9. Each insurance policy must be written by companies licensed or authorized (or issued as surplus line by Washington surplus line broker) in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best key rating guide.
- 1.10. Contractor shall not allow any insurance to be cancelled, voided, suspended, or reduced in coverage/limits, or lapse during any term of this Contract. Otherwise, it shall constitute a material breach of the Contract.
- 1.11. Contractor shall be responsible for the payment of all premiums, deductibles and self-insured retentions, and shall indemnify and hold the City of Tacoma harmless to the extent such a deductible or self-insured retained limit may apply to the City of Tacoma as an additional insured. Any deductible or self-insured retained limits in excess of Twenty Five Thousand Dollars (\$25,000) must be disclosed and approved by City of Tacoma Risk Manager and shown on the Certificate of Insurance.
- 1.12. City of Tacoma reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services changes.
- 1.13. All costs for insurance are included in the initial Contract and no additional payment will be made by City of Tacoma to Contractor.
- 1.14. Insurance coverages specified in this Contract are not intended and will not be interpreted to limit the responsibility or liability of Contractor or Subcontractor(s).
- 1.15. Failure by City of Tacoma to identify a deficiency in the insurance documentation or to verify coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 1.16. If Contractor is a government agency or self-insured for any of the above insurance requirements, Contractor shall be liable for any self-insured retention or deductible portion of any claim for which insurance is required. A certification of self-insurance shall be attached and incorporated by reference and shall constitute compliance with this Section.

## 2. SUBCONTRACTORS



# CITY OF TACOMA

## INSURANCE REQUIREMENTS FOR CONTRACTS

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It is Contractor's responsibility to ensure that each subcontractor obtain and maintain adequate liability insurance coverage that applies to the service provided. Contractor shall provide evidence of such insurance upon City of Tacoma's request. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

### 3. REQUIRED INSURANCE AND LIMITS

The insurance policies shall provide the minimum coverages and limits set forth below. Providing coverage in these stated minimum limits shall not be construed to relieve Contractor from liability in excess of such limits.

#### 3.1 Commercial General Liability Insurance

Contractor shall maintain Commercial General Liability Insurance policy with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. This policy shall be written on ISO form CG 00 01 04 13 or its equivalent and shall include product liability especially when a Contract is solely for purchasing supplies. It includes Products and Completed Operations for three years following the completion of work related to performing construction services. It shall be endorsed to include: A per project aggregate policy limit (using ISO form CG 25 03 05 09 or equivalent endorsement)

#### 3.2 Commercial (Business) Automobile Liability Insurance

Contractor shall maintain Commercial Automobile Liability policy with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury and property damage and bodily injury and property damage coverage for owned (if any), non-owned, hired, or leased vehicles. Commercial Automobile Liability Insurance shall be written using ISO form CA 00 01 or equivalent. Contractor must also maintain MCS 90 and CA 99 48 endorsements or equivalent if "Pollutants" are to be transported unless in-transit Pollution coverage is covered under required Contractor's Pollution Liability Insurance.

#### 3.3 Workers' Compensation

Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington, as well as any other similar coverage required for this work by applicable federal laws of other states. Contractor must comply with their domicile State Industrial Insurance laws if it is outside the State of Washington.

#### 3.4 Employers' Liability Insurance

Contractor shall maintain Employers' Liability coverage with limits not less than One Million Dollars (\$1,000,000) each employee, One Million Dollars (\$1,000,000) each accident, and One Million Dollars (\$1,000,000) policy limit.

#### 3.5 Other Insurance

Other insurance may be deemed appropriate to cover risks and exposures related to the scope of work or changes to the scope of work required by City of Tacoma. The costs of such necessary and appropriate Insurance coverage shall be borne by Contractor.



# PERFORMANCE BOND TO THE CITY OF TACOMA

Resolution No.  
Bond No.

That we, the undersigned,

as principal, and

as a surety, are jointly and severally held and firmly bound to the CITY OF TACOMA, in the penal sum of

\$ \_\_\_\_\_, for the payment whereof Contractor and Surety bind themselves,

their executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

This obligation is entered into in pursuance of the statutes of the State of Washington, the Ordinances of the City of Tacoma.

WHEREAS, under and pursuant to the City Charter and general ordinances of the City of Tacoma, the said City has or is about to enter with the above bounden principal, a contract, providing for

Specification No. \_\_\_\_\_

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

Contract No. \_\_\_\_\_

(which contract is referenced to herein and is made a part hereof as though attached hereto), and

WHEREAS, the said principal has accepted, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth.

This statutory performance bond shall become null and void, if and when the principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increase.

If the City shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgement, shall pay all costs and attorney's fees incurred by the City in enforcement of its rights hereunder. Venue for any action arising out of in in connection with this bond shall be in Pierce County, Washington.

Surety companies executing bonds must be authorized to transact business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Department of the Treasury.

One original bond shall be executed, and signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed power of attorney for the office executing on behalf of the surety.

Principal: Enter Vendor Legal Name

\_\_\_\_\_

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

Surety:

\_\_\_\_\_

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

Agent's Name: \_\_\_\_\_

Agent's Address: \_\_\_\_\_



# PAYMENT BOND TO THE CITY OF TACOMA

Resolution No.  
Bond No.

That we, the undersigned,

as principal, and

as a surety, are jointly and severally held and firmly bound to the CITY OF TACOMA, in the penal sum of,

\$ \_\_\_\_\_, for the payment whereof Contractor and Surety bind themselves,

their executors, administrators, legal representatives, successors and assigns, jointly and severally, firmly by these presents.

This obligation is entered into in pursuance of the statutes of the State of Washington, the Ordinances of the City of Tacoma.

WHEREAS, under and pursuant to the City Charter and general ordinances of the City of Tacoma, the said City has or is about to enter with the above bounden principal, a contract, providing for

Specification No. \_\_\_\_\_

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

Contract No. \_\_\_\_\_

(which contract is referenced to herein and is made a part hereof as though attached hereto), and

WHEREAS, the said principal has accepted, the said contract, and undertake to perform the work therein provided for in the manner and within the time set forth.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28, including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract shall in any way affect its obligation on this bond, and waives notice of any changes, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

No suit or action shall be commenced hereunder by any claimant unless claimant shall have given the written notices to the City, and where required, the Contractor, in accordance with RCW 39.08.030.

The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of claims which may be properly filed in accordance with RCW 39.08 whether or not suit is commenced under and against this bond.

If any claimant shall commence suit and obtain judgment against the Surety for recovery hereunder, then the Surety, in addition to such judgment and attorney fees as provided by RCW 39.08.030, shall also pay such costs and attorney fees as may be incurred by the City as a result of such suit. Venue for any action arising out of or in connection with this bond shall be in Pierce County, WA.

Surety companies executing bonds must be authorized to transact business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Department of the Treasury.

Resolution No.  
Bond No.  
Specification No.  
Contract No.

One original bond shall be executed, and be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed power of attorney for the office executing on behalf of the surety.

Principal: Enter Vendor Legal Name

\_\_\_\_\_

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

Surety:

\_\_\_\_\_

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

Agent's Name: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

SAMPLE

**CITY OF TACOMA**  
**CONTRACTOR'S WORK HAZARD ANALYSIS REPORT**  
for

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(Project Name)

The contractor and his/her subcontractors shall thoroughly review the scope of work described in the proposed project drawings and specifications. Following the review, the contractor will be responsible to indicate below any known or potential safety issues or phases of construction that may require specific safety procedures as identified by WISHA or OSHA regulations, and/or prudent construction practices; i.e., shoring, fall protection, scaffolding, hazardous materials, etc.

Failure to list and comply with safety requirements will be cause for disqualification from future City of Tacoma contracts. A copy of this report shall be posted at the job site at all times.

If, during the course of construction, other safety requirements are identified, they will be added to this report as an addendum. The contractor will be required to adhere to the recommended actions and/or controls identified in the addendum.

SAFETY ISSUES/CONCERNS*	HAZARDS	RECOMMENDED ACTION AND/OR CONTROLS
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

\*USE A SEPARATE SHEET IF MORE ROOM IS NEEDED

\_\_\_\_\_  
Contractor Name and Title                      Date

\_\_\_\_\_  
Job Site Superintendent                      Date

\_\_\_\_\_  
Company Officer Signature





City of Tacoma

City of Tacoma Contract No.: \_\_\_\_\_ Specification No.: \_\_\_\_\_

## General Release to the City of Tacoma

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The undersigned, named as the Contractor in a certain agreement between contractor name and the City of Tacoma, dated \_\_\_\_\_, 20\_\_\_\_, hereby releases the City of Tacoma, its departmental officers, employees, and agents, from any and all claim or claims known or unknown, in any manner whatsoever, arising out of, or in connection with, or relating to said contract, excepting only the equity of the undersigned in the amount now retained by the City of Tacoma under said contract, to-wit: the sum of \$\_\_\_\_\_.

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

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

\_\_\_\_\_  
Contractor Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Type or Print Signature Name

**WASHINGTON STATE**  
**PREVAILING WAGE RATES**

## PREVAILING WAGE RATES

This project requires prevailing wages under [39.12 RCW](#). Any worker, laborer, or mechanic employed in the performance of any part of the work shall be paid not less than the applicable prevailing rate of wage.

The project site is located in Pierce County.

The effective date for prevailing wages on this project will be the **submittal deadline** with these exceptions:

- a. If the project is not awarded within six months of the submittal deadline, the award date is the effective date.
- b. If the project is not awarded pursuant to a competitive solicitation, the date the contract is executed is the effective date.
- c. Janitorial contracts follow WAC 296-127-023.

Except for janitorial contracts, these rates shall apply for the duration of the contract unless otherwise noted in the solicitation.

Look up prevailing rates of pay, benefits, and overtime codes from this link:

<https://secure.lni.wa.gov/wagelookup/>

## REQUIRED FILINGS

The contractor and all subcontractors covered under [39.12 RCW](#) shall submit to the Department of Labor and Industries (L&I) for work provided under this contract:

1. A Statement of Intent to Pay Prevailing Wages must be filed with and approved by L&I upon award of contract.
2. An Affidavit of Wages Paid must be filed with and approved by L&I upon job completion.

Payments cannot be released by the City until verification of these filings are received by the engineer. Additional information regarding these filings can be obtained by calling the Department of Labor & Industries, Prevailing Wage at 360-902-5335, <https://www.lni.wa.gov/> or by visiting their MY L&I account.

# **CITY PROGRAMS**

**EQUITY IN CONTRACTING PROGRAM**  
**(EIC)**

**EIC - Equity in Contracting - TMC 1.07.040**

**NO EIC REQUIREMENTS FOR THIS SOLICITATION.** However, the City of Tacoma is committed to equality in contracting for under-utilized small, minority and women-owned businesses and we encourage you to locate these firms by visiting the Washington State Office of Minority and Women's Business Enterprises - [Washington State Office of Minority & Women's Business Enterprises Certification Management System \(diversitycompliance.com\)](http://WashingtonStateOfficeofMinority&Women'sBusinessEnterprisesCertificationManagementSystem.com)

## CHAPTER 1.07 EQUITY IN CONTRACTING

### Sections:

1.07.010	Policy and purpose.
1.07.020	Definitions.
1.07.030	Discrimination prohibited.
1.07.040	Program administration.
1.07.050	Certification.
1.07.060	Program requirements.
1.07.070	Evaluation of submittals.
1.07.080	Contract compliance.
1.07.090	Program monitoring.
1.07.100	Enforcement.
1.07.110	Remedies.
1.07.120	Unlawful acts.
1.07.130	Severability.
1.07.140	Review of program.

### **1.07.010 Policy and purpose.**

It is the policy of the City of Tacoma that citizens be afforded an opportunity for full participation in our free enterprise system and that historically underutilized business enterprises shall have an equitable opportunity to participate in the performance of City contracts. The City finds that in its contracting for supplies, services and public works, there has been historical underutilization of small and minority-owned businesses located in certain geographically and economically disfavored locations and that this underutilization has had a deleterious impact on the economic well-being of the City. The purpose of this chapter is to remedy the effects of such underutilization through use of narrowly tailored contracting requirements to increase opportunities for historically underutilized businesses to participate in City contracts. It is the goal of this chapter to facilitate a substantial procurement, education, and mentorship program designed to promote equitable participation by historically underutilized businesses in the provision of supplies, services, and public works to the City. It is not the purpose of this chapter to provide any person or entity with any right, privilege, or claim, not shared by the public, generally, and this chapter shall not be construed to do so. This chapter is adopted in accordance with Chapter 35.22 RCW and RCW 49.60.400.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 27867 Ex. A; passed Dec. 15, 2009)

### **1.07.020 Definitions.**

Terms used in this chapter shall have the following meanings unless defined elsewhere in the Tacoma Municipal Code (“TMC”), or unless the context in which they are used clearly indicates a different meaning.

- A. “Bid” means an offer submitted by a Respondent to furnish Supplies, Services, and/or Public Works in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.
- B. “Bidder” means an entity or individual who submits a Bid, Proposal or Quote. See also “Respondent.”
- C. “City” means all Departments, Divisions and agencies of the City of Tacoma.
- D. “Contract” means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City. A “Contract” as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A “Contract” does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.
- E. “Contractor” means any Person that presents a Submittal to the City, enters into a Contract with the City, and/or performs all or any part of a Contract awarded by the City, for the provision of Public Works, or Non-Public Works and Improvements, Supplies or Services.

F. “Goals” means the annual level of participation by MWBEs and SBEs in City Contracts as established in this chapter, the Program Regulations, or as necessary to comply with applicable federal and state nondiscrimination laws and regulations. Goals for individual Contracts may be adjusted as provided for in this chapter and shall not be construed as a minimum for any particular Contract or for any particular geographical area.

G. “MWBE Certified business” (or “MWBEs”) means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department Program Manager.

H. “SBE Certified Business” (or “SBEs”) means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department-SBE Program Manager.

I. “SBE Program Manager” means the individual appointed, from time to time, by the City’s Community and Economic Development Director to administer the Program Regulations.

J. “Program Regulations” shall mean the written regulations and procedures adopted pursuant to this chapter for procurement of Supplies, Services and Public Works.

K. “Non-Public Works and Improvements” means all competitively solicited procurement of Supplies and/or Services by the City not solicited as Public Works.

L. “Person” means individuals, companies, corporations, partnerships, associations, cooperatives, any other legally recognized business entity, legal representative, trustee, or receivers.

M. “Proposal” means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in competitive solicitations issued by the City.

N. “Public Works (or “Public Works and Improvements”)” means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein. This term includes all Supplies, materials, tools, and equipment to be furnished in accordance with the Contract for such work, construction, alteration, repair, or improvement.

O. “Quote” means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

P. “Respondent” means any entity or Person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for quotes or other request for information, as such terms are defined in Section 1.06.251 TMC. This term includes any such entity or Person whether designated as a supplier, seller, vendor, proposer, Bidder, Contractor, consultant, merchant, or service provider that; (1) assumes a contractual responsibility to the City for provision of Supplies, Services, and/or Public Works; (2) is recognized by its industry as a provider of such Supplies, Services, and/or Public works; (3) has facilities similar to those commonly used by Persons engaged in the same or similar business; and/or (4) distributes, delivers, sells, or services a product or performs a Commercially Useful Function.

Q. “Services” means non-Public Works and Improvements services and includes professional services, personal services, and purchased services, as such terms are defined in Section 1.06.251 TMC and/or the City’s Purchasing Policy Manual.

R. “Submittal” means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information, as such terms are defined in Section 1.06.251 TMC.

S. “Supplies” means materials, Supplies, and other products that are procured by the City through a competitive process for either Public Works procurement or Non-Public Works and Improvements procurement unless an approved waiver has been granted by the appropriate authority.

T. “Tacoma Public Utilities Service Area” means any ZIP code in which Tacoma Public Utilities maintains infrastructure or provides retail services.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.030 Discrimination prohibited.**

A. No person that is engaged in the construction of public works for the City, engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services to the City, shall discriminate against any other person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of



any sensory, mental or physical disability in employment. Such discrimination includes the unfair treatment or denial of normal privileges to a person as manifested in employment upgrades, demotions, transfers, layoffs, termination, rates of pay, recruitment of employees, or advertisement for employment.

B. The violation of the terms of RCW 49.60 or Chapter 1.29 TMC by any person that is engaged in the construction of public works for the City, is engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services shall result in the rebuttable presumption that the terms of this chapter have also been violated. Such violation may result in termination of any City contract the violator may have with the City and/or the violator's ineligibility for further City Contracts.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.040 Program administration.**

A. The Community and Economic Development Director, or their designated Program Manager, shall be responsible for administering this chapter and obtaining compliance with respect to contracts entered into by the City and/or its contractors. It shall be the duty of the Director to pursue the objectives of this chapter by conference, conciliation, persuasion, investigation, or enforcement action, as may be necessary under the circumstances. The Director is authorized to implement an administrative and compliance program to meet these responsibilities and objectives.

B. The Director is hereby authorized to adopt and to amend administrative rules and regulations known as the Program Regulations, to properly implement and administer the provisions of this chapter. The Program Regulations shall be in conformance with City of Tacoma policies and state and federal laws and be designed to encourage achievement of the MWBE and SBE goals set forth herein. The Program Regulations shall become effective following public notice and an opportunity to comment by the public.

C. The Program Regulations adopted pursuant to this section are for the administrative and procedural guidance of the officers and employees of the City and are further expressions of the public policy of the City. The Program Regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties, and such provisions shall not be used as the basis for a lawsuit in any court of competent jurisdiction challenging the award of any contract by the City.

(Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.050 Certification.**

A. The Program Manager shall approve a business as a Certified Business if all of the following criteria are satisfied:

1. The business is certified as a SBE, MBE, WBE, or MWBE through the state of Washington's Office of Minority & Women Business Enterprises; and
2. The company can demonstrate that it also meets at least one of the following additional requirements:
  - a. The personal residence of the owner is located within the City of Tacoma or Tacoma Public Utilities Service Area, or
  - b. The company's business offices are located in any county of the Tacoma Public Utilities Service Area or any county adjacent to Pierce County, or
  - c. When the work is performed outside of Pierce County, the company's business offices may be located in an adjacent county in which the work is performed, or
  - d. Such additional information as the Program Manager or designee may require.

When another governmental entity has an equivalent business classification process, the City may enter into an interlocal cooperative agreement for mutual recognition of certifications.

B. Appeals. The applicant may appeal any certification determination by the Program Manager under this chapter to the Director. The appeal must be made in writing and must set forth the specific reasons for the appeal. The Director shall make a decision on the appeal request within a reasonable time, which decision shall be final unless further appeal is made to the Hearing Examiner. In that event, the Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to that appeal proceeding.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28274 Ex. A; passed Dec. 16, 2014; Ord. 28147 Ex. A; passed May 7, 2013; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 28110 Ex. B; passed Dec. 4, 2012; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.060 Program requirements.**

A. The program shall meet the following requirements:

1. Establishment of Annual Goals. The Program Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of MWBEs and SBEs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of MWBEs and SBEs in City contracts shall be based on the number of qualified MWBEs and SBEs operating within the Tacoma Public Utilities Service Area. The dollar value of all contracts awarded by the City to MWBEs and SBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable goal.

2. Application of Annual Goals to Contracts. The Program Manager shall consult with City departments/divisions to establish department/division specific goals for competitively solicited contracts in accordance with this chapter and the Program Regulations.

B. Waivers. City departments/divisions or the Program Manager may request to waive one or more of the requirements of this chapter as they apply to a particular contract or contracts. Waivers may be granted in any one or more of the following circumstances:

1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.

2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.

3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.

4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.

5. Lack of certified contractors: An insufficient number of qualified contractors exist to create utilization opportunities.

6. Best interests of the City: Waiver of goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

C. Review of Waivers. A waiver determination by the finance purchasing manager may be reviewed by the Board of Contracts and Awards (C&A Board). The C&A Board may also review a request to reduce or waive the utilization requirements based on Not Practicable or Best Interests of the City circumstances. The C&A Board shall determine whether compliance with such requirements would impose unwarranted economic burden on, or risk to, the City of Tacoma as compared with the degree to which the purposes and policies of this chapter would be furthered by requiring compliance. If the determination of the C&A Board does not resolve the matter, a final determination shall be made by the City Council or Public Utility Board, as the case may be.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.070 Evaluation of submittals.**

A. All submittals for a supplies, services, or public works and improvements contracts shall be evaluated for attainment of the MWBE and SBE requirements established for that contract in accordance with this chapter and the Program Regulations.

B. The determination of MWBE and SBE usage and the calculation of MWBE or SBE requirements per this section shall include the following considerations:

1. General. The dollar value of the contract awarded by the City to a MWBE or SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the respective goal.

2. Supplies. A public works and improvements contractor may receive credit toward attainment of the MWBE and/or SBE requirement(s) for expenditures for supplies obtained from an MWBE or SBE; provided such MWBE or SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the MWBE or SBE goal for the amount of the commission paid to a MWBE or SBE resulting from a supplies contract with the City; provided the MWBE or SBE performs a commercially useful function in the process.

3. Services and Public Works subcontracts. Any bid by a certified MWBE and/or SBE or a bidder that utilizes a certified MWBE and/or SBE shall receive credit toward requirement attainment based on the percentage of MWBE and/or SBE usage demonstrated in the bid. A contractor that utilizes an MWBE and/or SBE subcontractor to provide services or public works

shall receive a credit toward the contractor's attainment of the respective requirement based on the value of the subcontract with that firm.

4. Brokers, Fronts, or Similar Pass-Through Arrangements. MWBEs and/or SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the Program Regulations) shall not count toward the requirement attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

C. Evaluation of competitively solicited submittals for public works and improvements and for services when a requirement has been established for the contract to be awarded shall be as follows:

1. When contract award is based on price. The lowest priced bid submitted by a responsive and responsible bidder will be reviewed to determine if it meets the requirement. An MWBE and/or SBE firm may self-count utilization on such bids if they will perform the work for the scope the requirement is based upon.

a. If the low bidder meets the requirements, the bid shall be presumed the lowest and best responsible bid for contract award.

b. any bidder that does not meet the MWBE and/or SBE requirements shall be considered a non-responsible bidder unless the bidder receives a waiver from the Program Manager or C&A Board.

2. When contract award is based on qualifications or other performance criteria in addition to price. Solicitations shall utilize a scoring system that promotes participation by certified contractors. The Program Regulations may establish further requirements and procedures for final selection and contract award, including:

a. Evaluation of solicitations for Architectural and Engineering (A&E) services;

b. Evaluation and selection of submittals in response to requests for proposals; and

c. Selection of contractors from pre-qualified roster(s).

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.080 Contract compliance.**

A. The contractor awarded a contract based on MWBE or SBE participation shall, during the term of the contract, comply with the requirements established in said contract. To ensure compliance with this requirement following contract award, the following provisions apply:

1. Any substitutions for or failure to utilize MWBE or SBEs projected to be used must be approved in advance by the Program Manager. Substitution of one MWBE or SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original MWBE or SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.

2. Where it is shown that no other MWBE or SBE is available as a substitute and that failure to secure participation by the MWBE or SBE identified in the solicitation is not the fault of the respondent, substitution with a non-MWBE or non-SBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.

3. If the Program Manager determines that the contractor has not reasonably and actively pursued the use of replacement MWBEs or SBEs, such contractor shall be deemed to be in non-compliance.

B. Record Keeping. All contracts shall require contractors to maintain relevant records and information necessary to document compliance with this chapter and the contractor's utilization of MWBEs or SBEs, and shall include the right of the City to inspect such records.

(Ord. 28625 Ex. A; passed Nov. 5, 2019; Ord. 28141 Ex. A; passed Mar. 26, 2013; Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.090 Program monitoring.**

A. An Advisory Committee shall monitor compliance with all provisions of this chapter and the related Regulations. The Program Manager shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to eliminate the effects of under utilization in City contracting, unless such provisions are supported by a Disparity Study. The Program Manager shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

B. The Program Manager shall submit an annual report to the Community and Economic Development Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document MWBE and SBE utilization

levels, waivers, proposed modifications to the program, and such other matters as may be specified in the Program Regulations.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.100 Enforcement.**

The Director, or designee, may investigate the employment practices of contractors to determine whether or not the requirements of this chapter have been violated. Such investigation shall be conducted in accordance with the procedures established in the Program Regulations.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.110 Remedies.**

A. Upon receipt of a determination of contractor violation by the Program Manager, the City Manager or Director of Utilities, as appropriate, may take the following actions, singly or together, as appropriate:

1. Forfeit the contractor's bid bond and/or performance bond;
2. Publish notice of the contractor's noncompliance;
3. Cancel, terminate, or suspend the contractor's contract, or portion thereof;
4. Withhold funds due contractor until compliance is achieved; and/or
5. Recommend appropriate action including, but not limited to, disqualification of eligibility for future contract awards by the City (debarment) per Section 1.06.279 TMC;

B. Prior to exercise of any of the foregoing remedies, the City shall provide written notice to the contractor specifying the violation and the City's intent to exercise such remedy or remedies. The notice shall provide that each specified remedy becomes effective within ten business days of receipt unless the contractor appeals said action to the Hearing Examiner pursuant to Chapter 1.23 TMC.

C. When non-compliance with this chapter or the Program Regulations has occurred, the Program Manager and the department/division responsible for enforcement of the contract may allow continuation of the contract upon the contractor's development of a plan for compliance acceptable to the Director.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.120 Unlawful acts.**

It shall be unlawful for any Person to willfully prevent or attempt to prevent, by intimidation, threats, coercion, or otherwise, any Person from complying with the provisions of this chapter.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.130 Severability.**

If any section of this chapter or its application to any Person or circumstance is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other Persons or circumstances, shall not be affected.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

**1.07.140 Review of program.**

This chapter shall be in effect through and until December 31, 2024, unless the City Council shall determine at an earlier date that the requirements of this chapter are no longer necessary. If this chapter has not been repealed by July 1, 2024, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of MWBEs and/or SBEs remain true in the relevant market and whether, and for how long, some or all of the requirements of this chapter should remain in effect.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

# **GENERAL CONDITIONS AND OTHER CONTRACT TERMS & CONDITIONS**

1. GENERAL PROVISIONS
2. MODIFICATIONS TO THE GENERAL CONDITIONS,  
AS MODIFIED BY THE CITY OF TACOMA
3. 00 72 00 GENERAL CONDITIONS FOR WASHINGTON STATE  
FACILITY CONSTRUCTION

# GENERAL PROVISIONS

(Revised December 15, 2020)

## SECTION I - BIDDING REQUIREMENTS

SECTION I REQUIREMENTS ARE BINDING ON ALL RESPONDENTS.

### 1.01 USE AND COMPLETION OF CITY PROPOSAL SHEETS

#### A. Respondent's Proposal

Each Respondent must bid exactly as specified on the Proposal sheets. All proposals must remain open for acceptance by the City for a period of at least 60 calendar days from the date of opening of the bids.

#### B. Alterations of Proposals Not Allowed

Proposals that are incomplete or conditioned in any way contain alternatives or items not called for in the General Provisions and Specifications, or not in conformity with law may be rejected as being nonresponsive. The City cannot legally accept any proposal containing a substantial deviation from these Specifications.

#### C. Filling Out City Proposal Sheets

All proposals must be completed using the proposal sheets and forms included with this specification, and the prices must be stated in figures either written in ink or typewritten. No proposal having erasures or interlineations will be accepted unless initialed by the Respondent in ink.

### 1.02 CLARIFICATION OF PROPOSAL FOR RESPONDENT

If a prospective Respondent has any questions concerning any part of the Proposal, he/she may submit a written request for answer of his/her questions. Any interpretation of the Proposal will be made by an Addendum duly issued and mailed or delivered to each prospective Respondent. Such addendum must be acknowledged in the proposal. The City of Tacoma will not be responsible for any other explanation or interpretation of the bid documents.

### 1.03 RESPONDENT'S BOND OR CERTIFIED CHECK

Each bid for construction must be accompanied either by a certified or cashier's check for 5 percent of the total amount bid, including tax, payable to the City Treasurer, or an approved bid bond, by a surety company authorized to do business in the State of Washington, for 5 percent of the total amount bid. The person legally authorized to sign the bid must sign all bid bonds. The approved bid bond form attached to these Specifications should be used: no substantial variations from the language thereof will be accepted.

If a bid bond is used, the 5 percent may be shown either in dollars and cents, or the bid bond may be filled in as follows, "5 percent of the total amount of the accompanying proposal."

The check of the successful Respondent will be returned after award of the Contract, acceptance of the Payment and Performance Bond and City's receipt of the signed Contract. The checks of all other Respondents will be returned immediately upon the award of the Contract. Bid bonds will not be returned.

### 1.04 DELIVERY OF PROPOSALS TO THE CITY'S PURCHASING OFFICE

- A. Proposal packages must be received by the City's Procurement and Payables Division in SAP Ariba (unless another form of delivery is stated), prior to the scheduled time and date stated in the Solicitation.
- B. Supplier is solely responsible for timely delivery of its Submittal.
- C. Submittals received after the time stated in the solicitation will not be accepted.
- D. For purposes of determining whether a Submittal has been timely received in SAP Ariba, the City's Procurement and Payables Division will rely on the submittal clock in SAP Ariba.

## **1.05 LICENSES/PERMITS**

- A.** Suppliers, if applicable, must have a Washington state business license at the time of Submittal and throughout the term of the Contract. Failure to include a Washington state business license may be grounds for rejection of the Submittal or cancellation of contract award. Information regarding Washington state business licenses may be obtained at <http://bls.dor.wa.gov>.
- B.** Upon award, it is the responsibility of the Supplier to register with the City of Tacoma's Tax and License Division, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, 253-591-5252, [https://www.cityoftacoma.org/government/city\\_departments/finance/tax\\_and\\_license/](https://www.cityoftacoma.org/government/city_departments/finance/tax_and_license/). Supplier shall obtain a business license as is required by Tacoma Municipal Code Subtitle 6C.20.
- C.** During the term of the Contract, Supplier, at its expense, shall obtain and keep in force any and all necessary licenses and permits.

## **1.06 CONTRACTOR'S STATE REGISTRATION NUMBER**

Contractors for construction or public works construction are required to be licensed by the state. If the provisions of Chapter 18.27 of the Revised Code of Washington apply to the Respondent, then the Respondent's Washington State Contractor's Registration No. must accompany the bid.

## **1.07 BID IS NONCOLLUSIVE**

The Respondent represents by the submission of the Proposal that the prices in this Bid are neither directly nor indirectly the result of any formal or informal agreement with another Respondent.

## **1.08 EVALUATION OF BID**

### **A. Price, Experience, Delivery Time and Responsibility**

In the evaluation of bids, the Respondent's experience, delivery time, quality of performance or product, conformance to the specifications and responsibility in performing other contracts (including satisfying all safety requirements) may be considered in addition to price. In addition, the bid evaluation factors set forth in City Code Section 1.06.262 may be considered by the City. Respondents who are inexperienced or who fail to properly perform other contracts may have their bids rejected for such cause.

### **B. Prequalified Electrical Contractor**

Certain types of electrical construction require special expertise, experience, and prequalification of the Contractor (or subcontractor) by the City. In such cases, the Respondent must be prequalified or the Respondent must subcontract with a City prequalified electrical contractor for the specialty work.

### **C. Insertions of Material Conflicting with Specifications**

Only material inserted by the Respondent to meet requirements of the Specifications will be considered. Any other material inserted by the Respondent will be disregarded as being nonresponsive and may be grounds for rejection of the Respondent's Proposal.

### **D. Correction of Ambiguities and Obvious Errors**

The City reserves the right to correct obvious errors in the Respondent's proposal. In this regard, if the unit price does not compute to the extended total price, the unit price shall govern.

## **1.09 WITHDRAWAL OF BID**

### **A. Prior to Bid Opening**

Any Respondent may withdraw his/her Proposal prior to the scheduled bid opening time by delivering a written notice to the City's Procurement and Payables Office. The notice may be submitted in person or by mail; however, it must be received by the City's Procurement and Payables Office prior to the time of bid opening.

### **B. After Bid Opening**

No Respondent will be permitted to withdraw his/her Proposal after the time of bid opening, as set forth in the Call for Bids, and before the actual award of the Contract, unless the award of Contract is delayed more than sixty (60) calendar days after the date set for bid opening. If a delay of more than 60 calendar days does occur, then the Respondent must submit written notice withdrawing his/her Proposal to the Purchasing Manager.

## **1.10 OPENING OF BIDS**

At the time and place set for the opening of bids, all Proposals, unless previously withdrawn, will be publicly opened and read aloud, irrespective of any irregularities or informalities in such Proposal.

## **1.11 CITY COUNCIL/PUBLIC UTILITY BOARD FINAL DETERMINATION**

The City Council or Public Utility Board of the City of Tacoma shall be the final judge as to which is the lowest and best bid in the interest of the City of Tacoma. The City reserves the right to reject any and all bids, waive minor deviations or informalities, and if necessary, call for new bids.

## **1.12 RESPONDENT'S REFUSAL TO ENTER INTO CONTRACT**

Any Respondent who refuses to enter into a Contract after it has been awarded to the Respondent will be in breach of the agreement to enter the Contract and the Respondent's certified or cashier's check or bid bond shall be forfeited.

## **1.13 TAXES**

### **A. Include In Proposal All Taxes**

Respondent shall include in his/her Proposal all applicable local, city, state, and federal taxes. It is the Respondent's obligation to state on his/her Proposal sheet the correct percentage and total applicable Washington State and local sales tax. The total cost to the City including all applicable taxes may be the basis for determining the low Respondent.

### **B. Federal Excise Tax**

The City of Tacoma is exempt from federal excise tax. Where applicable, the City shall furnish a Federal Excise Tax Exemption certificate.

### **C. City of Tacoma Business and Occupation Tax**

Sub-Title 6A of the City of Tacoma Municipal Code (TMC) provides that transactions with the City of Tacoma, may be subject to the City of Tacoma's Business and Occupation Tax. It is the responsibility of the Respondent awarded the Contract to register with the City of Tacoma's Department of Tax and License, 733 South Market Street, Room 21, Tacoma, WA 98402-3768, telephone 253-591-5252. The City's Business and Occupation Tax amount shall not be shown separately but shall be included in the unit and/or lump sum prices bid.

## **1.14 FIRM PRICES/ESCALATION**

Except as specifically allowed by the Special Provisions, only firm prices will be accepted.

## **1.15 AWARD**

### **A. Construction and/or Labor Contracts**

Unless specifically noted in the Special Provisions or Proposal sheets, all construction and/or labor contracts will be awarded to only one Respondent.

### **B. Supply/Equipment Contracts**

The City reserves the right to award an equipment or supply contract for any or all items to one or more Respondents as the interests of the City will be best satisfied.

## **1.16 INCREASE OR DECREASE IN QUANTITIES**

The City of Tacoma reserves the right to increase or decrease the quantities of any items under this Contract and pay according to the unit prices quoted in the Proposal (with no adjustments for anticipated profit).

## **1.17 EXTENSION OF CONTRACT**

Contracts resulting from this specification shall be subject to extension by mutual agreement per the same prices, terms and conditions.



## 1.18 PAYMENT TERMS

- A. Prices will be considered as net 30 calendar days if no cash discount is shown. Payment discount periods of twenty (20) calendar days or more if offered in the submittal, will be considered in determining the apparent lowest responsible submittal. Discounts will be analyzed in context of their overall cumulative effect. Invoices will not be processed for payment nor will the period of cash discount commence until receipt of a properly completed invoice and until all invoiced items are received and satisfactory performance of the Contractor has been attained. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.
- B. ePayable/Credit Card Acceptance. Submittals offering ePayable/Credit card acceptance may be compared against submittals offering a prompt payment discount to evaluate the overall cumulative effect of the discount against the advantage to the City of the ePayable/Credit card acceptance, and may be considered in determining the apparent lowest responsible submittal.

## 1.19 PAYMENT METHOD – EPAYABLES – CREDIT CARD ACCEPTANCE – EFT/ACH ACCEPTANCE

- A. Payment methods include:
  - EPayables (Payment Plus). This is payment made via a virtual, single use VISA card number provided by the City's commercial card provider. Suppliers accepting this option will receive "due immediately" payment terms. Two options for acceptance are available to suppliers. Both are accompanied by an emailed advice containing complete payment details:
    - Straight-through processing (buyer initiated). Immediate, exact payments directly deposited to supplier accounts by the City's provider bank; the supplier does not need to know card account details.
    - Supplier retrieves card account through the secure, on-line portal provided via email notifications sent by the City's commercial card provider.
  - Credit card. Tacoma's VISA procurement card program is supported by standard bank credit suppliers and requires that merchants abide by the VISA merchant operating rules. It provides "due immediately" payment terms.
    - Suppliers must be PCI-DSS compliant (secure credit card data management) and federal FACTA (sensitive card data display) compliant.
    - Suppliers must be set up by their card processing equipment provider (merchant acquirer) as a minimum of a Level II merchant with the ability to pass along tax, shipping and merchant references information.
  - Electronic Funds Transfer (EFT) by Automated Clearing House (ACH). Standard terms are net 30 for this payment method.
  - Check or other cash equivalent. Standard terms are net 30 for this payment method.
- B. The City's preferred method of payment is by ePayables (Payment Plus) followed by credit card (aka procurement card). Suppliers may be required to have the capability of accepting the City's ePayables or credit card methods of payment. **The City of Tacoma will not accept price changes or pay additional fees when ePayables (Payment Plus) or credit card is used.**
- C. The City, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract.

## 1.20 COOPERATIVE PURCHASING

The Washington State Interlocal Cooperative Act RCW 39.34 provides that other governmental agencies may purchase goods and services on this solicitation or contract in accordance with the terms and prices indicated therein if all parties are agreeable.

## 1.21 PUBLIC DISCLOSURE: PROPRIETARY OR CONFIDENTIAL INFORMATION

- A. Respondent's Submittals, all documents and records comprising any Contract awarded to Respondent, and all other documents and records provided to the City by Respondent are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, City may be required, upon request, to disclose the Contract and documents or records related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies; and Respondent has complied with the requirements to Respondent has complied with the requirements to mark records considered confidential or proprietary

as such requirements are stated below, City agrees to provide Respondent 10 days written notice of impending release. Should legal action thereafter be initiated by Respondent to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by Respondent, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. City shall not be liable for any release where notice was provided and Respondent took no action to oppose the release of information.

**B.** If Respondent provides City with records or information that Respondent considers confidential or proprietary, Respondent must mark all applicable pages or sections of said record(s) as "Confidential" or "Proprietary." Further, in the case of records or information submitted in response to a Request for Proposals, an index must be provided indicating the affected pages or sections and locations of all such material identified Confidential or Proprietary. Information not included in the required index will not be reviewed for confidentiality or as proprietary before release. If Supplier fails to so mark or index Submittals and related records, then the City, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and Respondent expressly waives its right to allege any kind of civil action or claim against the City pertaining to the release of said record(s). Submission of materials in response to City's Solicitation shall constitute assent by Respondent to the foregoing procedure and Respondent shall have no claim against the City on account of actions taken pursuant to such procedure.

## **1.22 FEDERAL AID PROJECTS**

The City of Tacoma in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR, part 26, will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

## **SECTION II - CONTRACT REQUIREMENTS**

### **2.01 CONTRACTOR'S RESPONSIBILITY**

#### **A. Contract Documents**

The Respondent to whom the Contract is awarded, hereinafter called the Contractor, shall enter into a Contract with the City of Tacoma, , within 10 days after receipt from the City of Tacoma of a properly prepared Contract. In addition, the Contractor will do all things required to promptly perform this Contract pursuant to the terms of this Contract. Certain contracts for supplies, goods or equipment may use the City Purchase Order in place of a formal contract document.

#### **B. Surety Bonds**

Except as modified by the Special Provisions, the Respondent to whom the Contract is awarded shall provide a payment and performance bond, including power of attorney, for 100 percent of the amount of his/her bid (including sales taxes), to insure complete performance of the Contract including the guarantee. The bonds must be executed by a surety company licensed to do business in the State of Washington. For a supply-type contract, a cashier's check or cash may be substituted for the bonds; however, this cash or cashier's check must remain with the City through the guarantee period and any interest on said amount shall accrue to the City.

#### **C. Independent Contractor**

Contractor is an independent contractor; no personnel furnished by the Contractor shall be deemed under any circumstances to be the agent or servant of the City. Contractor shall be fully responsible for all acts or omissions of Subcontractors and its and their suppliers and of persons employed by them, and shall be specifically responsible for sufficient and competent supervision and inspection to assure compliance in every respect with the Contract. There shall be no contractual relationship between any Subcontractors or supplier and the City arising out of or by virtue of this agreement. No provision of the Contract is intended or is to be construed to be for the benefit of any third party.

## **2.02 CONFLICTS IN SPECIFICATIONS**

Anything mentioned in the Specifications and not shown on the Drawings and anything on the Drawings and not mentioned in the Specifications shall be of like effect and shall be understood to be shown and/or mentioned in both. In case of differences between Drawings and Specifications, the Specifications shall govern. In addition, in the event of any conflict between these General Provisions, the Special Provisions, the Technical Provisions and/or the Proposal pages, the following order of precedence shall control:

1. Proposal pages prevail if they conflict with the General, Special or Technical Provisions.
2. Special Provisions prevail if they conflict with the General Provisions and/or Technical Provisions.
3. Technical Provisions prevail if they are in conflict with the General Provisions.

In case of discrepancy of figures between Drawings, Specifications or both, the matter shall immediately be submitted to the Engineer for determination. Failure to submit the discrepancy issue to the Engineer shall result in the Contractor's actions being at his/her own risk and expense. The Engineer shall furnish from time to time such detailed drawings and other information as he/she may consider necessary.

## **2.03 INSPECTION**

### **A. Of the Work**

All materials furnished and work done shall be subject to inspection.

The Inspector administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of this Contract. All material or work approved and later found to be defective shall be replaced without cost to the City of Tacoma.

### **B. Inspector's Authority**

The inspector shall have power to reject materials or workmanship which do not fulfill the requirements of these Specifications, but in case of dispute the Contractor may appeal to the Director or Superintendent, whose decision shall be final. The word "Director" means the Director of the City of Tacoma General Government department that is administering the contract. The word "Superintendent" means the Superintendent of the City of Tacoma, Department of Public Utilities Division that is administering the contract.

The Contract shall be carried out under the general control of the representative of the particular City Department or Division administering the Contract, who may exercise such control over the conduct of the work as may be necessary, in his or her opinion, to safeguard the interest of the City of Tacoma. The Contractor shall comply with all orders and instructions given by the representative of the particular Department or Division administering the Contract in accordance with the terms of the Contract.

Provided, that for the purposes of construction contracts, such control shall only apply (a) to the extent necessary to ensure compliance with the provisions of this contract, and (b) to the extent necessary to fulfill any nondelegable duty of the City for the benefit of third parties not engaged in promoting the activity of this contract.

Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

## **2.04 FEDERAL, STATE AND MUNICIPAL REGULATIONS**

All federal, state, municipal and/or local regulations shall be satisfied in the performance of all portions of this Contract. The Contractor shall be solely responsible for all violations of the law from any cause in connection with work performed under this Contract.

## **2.05 INDEMNIFICATION**

### **A. Indemnification**

Contractor acknowledges that pursuant to the terms of this agreement, Contractor is solely and totally responsible for the safety of all persons and property in the performance of this Contract. To the greatest extent allowed by law, Contractor assumes the risk of all damages, loss, cost, penalties and expense and agrees to indemnify, defend and hold harmless the City of Tacoma, from and against any and all liability which may accrue to or be sustained by the City of Tacoma on account of any claim, suit or legal action made or brought against the City of Tacoma for the death of or injury to persons (including Contractor's or subcontractor's employees) or damage to property involving Contractor, or subcontractor(s) and their employees or agents, arising out of and in connection with or incident to the performance of the Contract including if the City is found to have a nondelegable duty to see that work is performed with requisite care, except for injuries or damages caused by the sole negligence of the City. In this regard, Contractor recognizes that Contractor is waiving immunity under industrial Insurance Law, Title 51 RCW. This indemnification extends to the officials, officers and employees of the City and also includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of the City of Tacoma. In addition, within the context of competitive bidding laws, it is agreed that this indemnification has been mutually negotiated. Provided however, this provision is intended to be applicable to the parties to this agreement and it shall not be interpreted to allow a Contractor's employee to have a claim or cause of action against Contractor.

### **B. Limitation of Liability for Primarily Supply-Type Contracts**

In all contracts where the total cost of the supply of materials and/or equipment constitute at least 70 percent of the total contract price (as determined by the City), the City agrees that it will not hold the contractor, supplier or manufacturer liable for consequential damages for that part of the contract related to the manufacture and/or design of the equipment, materials or supplies.

## **2.06 CONTRACTOR'S INSURANCE**

**A.** During the course and performance of a Contract, Contractor will provide proof and maintain the insurance coverage in the amounts and in the manner specified in the City of Tacoma Insurance Requirements as is applicable to the services, products, and deliverables provided under the Contract. The City of Tacoma Insurance Requirements document, if issued, is fully incorporated into the Contract by reference.

**B.** Failure by City to identify a deficiency in the insurance documentation provided by Contractor or failure of City to demand verification of coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

## **2.07 ASSIGNMENT AND SUBLETTING OF CONTRACT**

### **C. Assignment**

The Contract shall not be assigned except with the consent of the Superintendent or his/her designee.

Requests for assignment of this contract must be in writing with the written consent of the surety, and the request must show the proposed person or organization to which the contract is assigned is capable, experienced and equipped to perform such work. The proposed substitute person or organization may be required to submit to the City information as to his/her experience, financial ability and give statements covering tools, equipment, organization, plans and methods to fulfill any portion of the Contract prior to approval of assignment.

### **D. Subletting**

The Contract shall not be sublet except with the written consent of the Superintendent or his/her designee. In the event that a prequalified electrical contractor is necessary to perform certain portions of the work, such work may be subcontracted with a City prequalified electrical contractor for the type of work involved.

Requests for subletting of this Contract must be in writing with the written consent of the Surety, and the request must show the proposed person or organization to which the Contract is sublet is capable, experienced and equipped to perform such work. The proposed substitute person or organization may be required to submit to the City information as to his experience, financial ability and give statements covering tools, equipment, organization, plans and methods to fulfill any portion of the Contract prior to approval of subletting.

The written consent approving the subletting of the Contract shall not be construed to relieve the Contractor of his/her responsibility for the fulfillment of the Contract. The Subcontractor shall be considered to be the agent of the Contractor and the Contractor agrees to be responsible for all the materials, work and indebtedness incurred by the agent.

A subcontractor shall not sublet any portion of a subcontract for work with the City without the written consent of the City.

## **2.08 DELAY**

### **E. Extension of Time**

With the written approval of the Superintendent or his/her designee, the Contractor may be granted additional time for completion of the work required under this Contract, if, in the Superintendent's opinion the additional time requested arises from unavoidable delay.

### **F. Unavoidable Delay**

Unavoidable delays in the prosecution of the work shall include only delays from causes beyond the control of the Contractor and which he/she could not have avoided by the exercise of due care, prudence, foresight and diligence. Delay caused by persons other than the Contractor, Subcontractors or their employees will be considered unavoidable delays insofar as they necessarily interfere with the Contractor's completion of the work, and such delays are not part of this Contract.

Unavoidable delay will not include delays caused by weather conditions, surveys, measurements, inspections and submitting plans to the Engineer of the particular Division involved in administering this Contract.

## **2.09 GUARANTEE**

### **A. Guarantee for Construction, Labor or Services Contract**

Neither the final certificate of payment or any provision in the Contract Documents, nor partial or entire occupancy of the premises by the City, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The City will give notice of observed defects with reasonable promptness.

If it has been discovered, before payment is required under the terms of the Contract, that there is a failure to comply with any of the terms and provisions of this Contract, the City has the right and may withhold payment.

In case of a failure of any part of the work, materials, labor and equipment furnished by the Contract or to fully meet all of the requirements of the Contract, the Contractor shall make such changes as may be necessary to fully meet all of the specifications and requirements of this Contract. Such changes shall be made at the Contractor's sole cost and expense without delay and with the least practicable inconvenience to the City of Tacoma. Rejected material and equipment shall be removed from the City's property by and at the expense of the Contractor.

### **B. Guarantee for Supply Contracts**

Unless a longer period is specified, the supplier and/or manufacturer of the supplies, materials and/or equipment furnished pursuant to this Contract agrees to correct any defect or failure of the supplies, materials and/or equipment which occurs within one year from the date of: (1) test energization if electrical or mechanical equipment; (2) commencement of use if supplies or materials, provided, however, said guarantee period shall not extend beyond eighteen months after date of receipt by the City. All of the costs (including shipping, dismantling and reinstallation) of repairs and/or corrections of defective or failed equipment, supplies and/or material is the responsibility of the supplier and/or manufacturer.

When the supplier is not the manufacturer of the item of equipment, supplier agrees to be responsible for this guarantee and supplier is not relieved by a manufacturer's guarantee.

### **C. Guarantee Period Extension**

The Contract guarantee period shall be suspended from the time a significant defect is first documented by the City until the work or equipment is repaired or replaced by Contractor and accepted by the City. In addition, in the event less than ninety (90) days remain on the guarantee period (after recalculating), the guarantee period shall be extended to allow for at least ninety (90) days from the date the work or equipment is repaired or replaced and accepted by the City.

### **2.10 DEDUCTIONS FOR UNCORRECTED WORK**

If the City of Tacoma deems it expedient to correct work not done in accordance with the terms of this Contract, an equitable deduction from the Contract price shall be made.

### **2.11 CITY OF TACOMA'S RIGHT TO TERMINATE CONTRACT**

#### **A. Termination for Convenience**

1. Supplies. The City may terminate a Contract for supplies at any time upon prior written notice to Contractor. Upon the effective date of termination specified in such notice, and payment by the City, all conforming supplies, materials, or equipment previously furnished hereunder shall become its property.

2. Services. The City may terminate a Contract for services at any time, with or without cause, by giving 10-business day's written notice to Supplier. In the event of termination, all finished and unfinished work prepared by Supplier pursuant to the Contract shall be provided to the City. In the event City terminates the Contract due to the City's own reasons and without cause due to Supplier's actions or omissions, the City shall pay Supplier the amount due for actual work and services necessarily performed under the Contract up to the effective date of termination, not to exceed the total compensation set forth in the Contract.

#### **B. Termination for Cause**

1. The City may terminate a Contract for either services or supplies in the event of any material breach of any of the terms and conditions of the Contract if the Contractor's breach continues in effect after written notice of breach and 30 days to cure such breach and fails to cure such breach

2. Bankruptcy. If the Contractor should be adjudged as bankrupt, or makes a general assignment for the benefit of creditors, or a receiver should be appointed on account of his/her insolvency, or if he/she or any of his/her subcontractors should violate any of the provisions of the Contract, or if the work is not being properly and diligently performed, the City of Tacoma may serve written notice upon the Contractor and Surety, executing the Payment and Performance Bond, of its intention to terminate the Contract; such notice will contain the reasons for termination of the Contract, and unless within 10 days after the serving of such notice, such violation shall cease and an arrangement satisfactory to the City of Tacoma for correction thereof shall be made, the Contract shall, upon the expiration of said 10 days, cease and terminate and all rights of the Contractor hereunder shall be forfeited. In the event the Contract is terminated for cause, Contractor shall not be entitled to any lost profits resulting therefrom.

3. Notice. In the event of any such termination for cause, the City of Tacoma shall immediately send (by regular mail or other method) written notice thereof to the Surety and the Contractor. Upon such termination the Surety shall have the right to take over and perform the Contract, provided however, the Surety must provide written notice to the City of its intent to complete the work within 15 calendar days of its receipt of the original written notice (from the City) of the intent to terminate. Upon termination and if the Surety does not perform the work, the City of Tacoma may take over the work and prosecute the same to completion by any method it may deem advisable, for the account of and at the expense of the Contractor, and the Contractor and the Surety shall be liable to the City of Tacoma for all cost occasioned to the City of Tacoma thereby. The City of Tacoma may without liability for doing so, take possession of and utilize in completing the work, such materials, equipment, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

**2.12 LIENS**

In the event that there are any liens on file against the City of Tacoma, the City of Tacoma shall be entitled to withhold final or progress payments to the extent deemed necessary by the City of Tacoma to properly protect the outstanding lien claimants until proper releases have been filed with the City Clerk.

**2.13 LEGAL DISPUTES**

**A. General**

Washington law shall govern the interpretation of the Contract. The state or federal courts located in Pierce County Washington shall be the sole venue of any mediation, arbitration, or litigation arising out of the Contract.

Respondents providing submittals from outside the legal jurisdiction of the United States of America will be subject to Tacoma’s City Attorney’s Office (CAO) opinion as to the viability of possible litigation pursuant to a contract resulting from this Specification. If it is the opinion of the CAO that any possible litigation would be beyond reasonable cost and/or enforcement, the submittal may be excluded from evaluation.

**B. Attorney Fees**

For contracts up to \$250,000, which become the subject of litigation or arbitration, the substantially prevailing party may be entitled to reasonable attorney fees, as provided in RCW 39.04.240. Provided, however, the attorney fee hourly rate for the City of Tacoma’s assistant city attorneys is agreed to be \$150 per hour or the same as the hourly rate for Contractor’s legal counsel, whichever is greater.

**2.14 DELIVERY**

Prices must be quoted F.O.B. destination, freight prepaid and allowed with risk of loss during transit remaining with Contractor/Supplier (unless otherwise stated in these Specifications) to the designated address set forth in these Specifications.

Deliveries shall be between 9:00 a.m. and 3:30 p.m.; Monday through Friday only (except legal holidays of the City of Tacoma).

Legal holidays of the City of Tacoma are:

New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday of November
Day after Thanksgiving	4th Friday of November
Christmas Day	December 25

When any of these holidays occur on Saturday or Sunday, the preceding Friday or the following Monday, respectively, is a legal holiday for the City of Tacoma.

**2.15 PACKING SLIPS AND INVOICES**

**A.** Packing slips and shipping notices shall be sent to the specific City Division or Department receiving the item(s) at the address stated in City’s Solicitation or as otherwise stated in the Contract and include complete description of items, contents of items if crated or cased, quantity, shipping point, carrier, bill of lading number and City of Tacoma purchase order.

**B.** Each invoice shall show City of Tacoma purchase order number, release number if applicable, quantity, unit of measure, item description, unit price and extended price for each line if applicable, services and deliverables provided if applicable. Line totals shall be summed to give a grand total to which sales tax shall be added, if applicable.

1. For transactions conducted in SAP Ariba, invoices shall be submitted through Ariba.
2. For invoices paid by ACH or by check, unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to [accountspayable@cityoftacoma.org](mailto:accountspayable@cityoftacoma.org).

3. For invoices paid by credit card, invoices shall also display the last name of the cardholder and last four digits (only) of the card number (e.g., Jones/6311). Unless stated otherwise, invoices shall be electronically submitted by email with corresponding PO number listed in the subject line to (do not combine different POs into one invoice or charge) to [pcardadmin@cityoftacoma.org](mailto:pcardadmin@cityoftacoma.org).

## **2.16 APPROVED EQUALS**

**A.** Unless an item is indicated as "No substitute", special brands, when named, are intended to describe the standard of quality, performance or use desired. Equal items will be considered by the City, provided that the respondent specifies the brand and model, and provides all descriptive literature, independent test results, product samples, local servicing and parts availability to enable the City to evaluate the proposed "equal".

**B.** The decision of the City as to what items are equal shall be final and conclusive. If the City elects to purchase a brand represented by the respondent to be an "equal", the City's acceptance of the item is conditioned on the City's inspection and testing after receipt. If, in the sole judgment of the City, the item is determined not to be an equal, the item shall be returned at the respondent's expense.

**C.** When a brand name or level of quality is not stated by the respondent, it is understood the offer is exactly as specified. If more than one brand name is specified, respondents must clearly indicate the brand and model/part number being bid.

## **2.17 ENTIRE AGREEMENT**

This written contract represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

## **2.18 CODE OF ETHICS**

The City's Code of Ethics, Chapter 1.46, Tacoma Municipal Code, provides ethical standards for City personnel and prohibits certain unethical conduct by others including respondents and contractors. Violation of the City's Code of Ethics will be grounds for termination of this contract.

## **2.19 FEDERAL FINANCIAL ASSISTANCE**

If federal funds, including FEMA financial assistance to the City of Tacoma, will be used to fund, pay or reimburse all or a portion of the Contract, Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives and the following clauses will be incorporated into the Contract:

**A. EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Contract, Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

1. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other



employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **B. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (B)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (B)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B)(2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (B)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (B)(1) through (4) of this section.

**C. CLEAN AIR ACT**

1. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**D. FEDERAL WATER POLLUTION CONTROL ACT**

1. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. Contractor agrees to report each violation to the City, understands, and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**E. DEBARMENT AND SUSPENSION**

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**F. BYRD ANTI-LOBBYING AMENDMENT**

1. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification with City. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the City.
2. If applicable, Contractor must sign and submit to the City the following certification:

**APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap.38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

## **G. PROCUREMENT OF RECOVERED MATERIALS**

1. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - b. Meeting contract performance requirements; or
  - c. At a reasonable price.
2. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
3. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

[Section III is for contracts that involve construction and/or labor, and are not applicable to contracts solely for material/supply purchases.]

## **GENERAL PROVISIONS**

### **SECTION III - CONSTRUCTION AND/OR LABOR CONTRACTS**

SECTION III REQUIREMENTS APPLY ONLY TO CONSTRUCTION AND/OR LABOR CONTRACTS AND ARE IN ADDITION TO APPLICABLE REQUIREMENTS CONTAINED IN SECTION II CONTRACT REQUIREMENTS.

#### **3.01 RESPONDENT'S DUTY TO EXAMINE**

The Respondent agrees to be responsible for examining the site(s) and to have compared them with the Specifications and Contract Drawings, and to be satisfied as to the facilities and difficulties attending the execution of the proposed Contract (such as uncertainty of weather, floods, nature and condition of materials to be handled and all other conditions, obstacles and contingencies) before the delivery of his/her Proposal. No allowance will be subsequently made by the City on behalf of the Respondent by reason of any error or neglect on Respondent's part, for such uncertainties as aforesaid.

#### **3.02 PERMITS**

Except when modified by the Special Provisions, the Contractor shall procure and pay for all permits and licenses necessary for the completion of this Contract including those permits required by the City of Tacoma. The City will obtain county or state road crossing permits if required. In the event a necessary permit is not obtained, the Contractor will not be permitted to work on items subject to said permit and any delays caused thereby will not be subject to extra compensation or extensions.

#### **3.03 NOTIFICATION OF OTHER GOVERNMENTAL AGENCIES AND UTILITIES WHEN UNDERGROUND WORK IS INVOLVED**

The Contractor shall notify all other affected governmental agencies and utilities whenever underground work is done under the terms of this Contract. The Contractor is required to obtain permission of the appropriate public and private utilities and governmental agencies before performing underground work pursuant to the terms of this Contract. The Contractor is required to call "one call" at 1-800-424-5555 for all work involving excavation or digging more than 12 inches beneath ground or road surface.

The City may have indicated on the plans and specifications the existence of certain underground facilities that are known to the City department responsible for this Contract. It is the Contractor's responsibility to fully comply with the Underground Utility Locate Law, Chapter 19.122 RCW. If the site conditions are "changed or differing" as defined by RCW 19.122.040(l), the Contractor may pursue the party responsible for not properly marking or identifying the underground facility. The Contractor agrees not to file any claim or legal action against the City (department responsible for this Contract) for said "changed or differing" conditions unless said City department is solely responsible for the delay or damages that the Contractor may have incurred.

### **3.04 TRENCH EXCAVATION BID ITEM**

In the event that "trench excavation" in excess of four feet requires a safety system pursuant to Washington State law and safety shoring, sloping, sheeting, or bracing is used, a separate bid item should be set forth in the Proposal for this work. If a separate bid item is not set forth in the Proposal pages, said installed safety system shall be paid at \$3.00 per lineal foot of trench, which unit price includes both sides of the trench.

### **3.05 SAFETY**

#### **A. General**

The Contractor shall, at all times, exercise adequate precautions for the safety of all persons, including its employees and the employees of a Subcontractor, in the performance of this Contract and shall comply with all applicable provisions of federal, state, county and municipal safety laws and regulations. It is the Contractor's responsibility to furnish safety equipment or to contractually require Subcontractors to furnish adequate safety equipment relevant to their responsibilities.

The Contractor shall obtain the necessary line clearance from the inspector before performing any work in, above, below or across energized Light Division circuits.

The Inspector and/or Engineer may advise the Contractor and the Safety Officer of any safety violations. It is the Contractor's responsibility to make the necessary corrections. Failure to correct safety violations is a breach of this Contract and, as such, shall be grounds for an order from the Safety Officer, Inspector or Engineer to cease further work and remove from the job site until the condition is corrected. Time and wages lost due to such safety shutdowns shall not relieve the Contractor of any provisions of Section 3.14 of this Specification and shall be at the sole cost of the Contractor. The purpose of this authority to stop work is to enforce the contract and not to assume control except to the extent necessary to ensure compliance with the provisions of this contract.

Any of the above actions by employees of the City of Tacoma shall in no way relieve the Contractor of his/her responsibility to provide for the safety of all persons, including his/her employees.

#### **B. Work Hazard Analysis Report**

The Contractor will be required to complete a work hazard analysis report. This report shall outline how the Contractor proposes to satisfy all safety laws and regulations involved in performing the work. This report shall be completed and submitted to the City Safety Officer before the pre-construction conference. A copy of the report shall be maintained at the work site (accessible to the supervisor).

### **3.06 PROTECTION OF WORKERS AND PROPERTY**

The Contractor shall erect and maintain good and sufficient guards, barricades and signals at all unsafe places at or near the work and shall, in all cases, maintain safe passageways at all road crossings, and crosswalks, and shall do all other things necessary to prevent accident or loss of any kind.

The Contractor shall protect from damage all utilities, improvements, and all other property that is likely to become displaced or damaged by the execution of the work under this Contract.

The Contractor is responsible for all roads and property damaged by his/her operations as shall be determined by the Engineer administering this Contract. The Contractor shall be responsible for repairing all damage to roads caused by his/her operations to the satisfaction of the particular governmental body having jurisdiction over the road.

### **3.07 CONTRACTOR - SUPERVISION AND CHARACTER OF EMPLOYEES**

#### **A. Superintendent to Supervise Contractor's Employees**

The Contractor shall keep on his/her work, during its progress, a competent superintendent and any necessary assistants, all of whom must be satisfactory to the City of Tacoma. The Contractor's superintendent shall not be changed except with the consent of the City of Tacoma, unless the Contractor's superintendent proves to be unsatisfactory to the Contractor and ceases to be in his/her employ. The Contractor's superintendent shall represent the Contractor in his/her absence and all directions given to him/her shall be binding as if given to the Contractor directly. The Contractor shall give efficient supervision to the work, using his/her best skill and attention.

## **B. Character of Contractor's Employees**

The Contractor shall employ only competent, skillful, faithful and orderly persons to do the work, and whenever the Engineer administering the Contract shall notify the Contractor in writing that any person on the work is, in his or her opinion, incompetent, unfaithful, disorderly or otherwise unsatisfactory, the Contractor shall forthwith discharge such persons from the work and shall not again employ him or her on this Contract.

### **3.08 CONTRACTOR'S COMPLIANCE WITH THE LAW**

#### **A. Hours of Labor**

The Contractor and Subcontractors shall be bound by the provisions of RCW Chapter 49.28 (as amended) relating to hours of labor. Except as set forth in the Special Provisions, eight (8) hours in any calendar day shall constitute a day's work on a job performed under this Contract.

In the event that the work is not performed in accordance with this provision and in accordance with the laws of the State of Washington, then this Contract may be terminated by the City of Tacoma for the reason that the same is not performed in accordance with the public policy of the State of Washington as defined in said statutes.

#### **B. Prevailing Wages**

If federal, state, local, or any applicable law requires Supplier to pay prevailing wages in connection with a Contract, and Supplier is so notified by the City, then Supplier shall pay applicable prevailing wages.

If applicable, a Schedule of Prevailing Wage Rates and/or the current prevailing wage determination made by the Secretary of Labor for the locality or localities where the Contract will be performed is attached and made of part of the Contract by this reference. If prevailing wages do apply to the Contract, Supplier and its subcontractors shall:

1. Be bound by and perform all transactions regarding the Contract relating to prevailing wages and the usual fringe benefits in compliance with the provisions of Chapter 39.12 RCW, as amended, the Washington State Prevailing Wage Act and/or the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable, including the federal requirement to pay wages not less than once a week,
2. Ensure that no worker, laborer or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule and/or specified in a wage determination made by the Secretary of Labor (unless specifically preempted by federal law, the higher of the Washington state prevailing wage or federal Davis-Bacon rate of wage must be paid)and Additionally, in compliance with applicable federal law, contractors are required to pay wages not less than once a week.
3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington and/or the federal Department of Labor, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages and/or other or additional documentation required by applicable federal law, must be submitted by Contractor and its subcontractors to the City, in the manner requested by the City, prior to any payment by the City hereunder, and an Affidavit of Wages Paid and/or other or additional documentation required by federal law must be received or verified by the City prior to final Contract payment. In the event any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the Director of the State of Washington, Department of Labor and industries whose decision shall be final, conclusive and binding on all parties involved in the dispute.

### 3.09 COPELAND ANTI-KICKBACK ACT

For contracts subject to Davis Bacon Act the following clauses will be incorporated into the Contract:

**A. Contractor.** The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

**B. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

**C. Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

### 3.10 CHANGES

#### A. In Plans or Quantities

The City of Tacoma, without invalidating this Contract, or any part of this Contract, may order extra work or make reasonable changes by altering, adding to or deducting from the materials, work and labor and the Contract sum will be adjusted accordingly. All such work and labor shall be executed under the conditions of the original Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. When work or bid items are deducted, reduced or eliminated, it is agreed that no payment will be made to Contractor for anticipated profit.

#### B. Extra Work

Any claim or order for extra materials, work and labor made necessary by alterations or additions to the plans or by other reasons for which no price is provided in this Contract, shall not be valid unless the Contractor and Engineer administering the Contract have agreed upon a price prior to commencing extra work, and the agreement has been signed by the Contractor and approved by the Superintendent or his/her designee, and approved by the payment and performance bond surety.

#### C. Extra Work - No Agreed Price

If it is impracticable to fix an increase in price definitely in advance, the order may fix a maximum price which shall not under any circumstances, be exceeded, and subject to such limitation, such alteration, modification, or extra shall be paid for at the actual necessary cost as determined by the City of Tacoma, which cost (including an allowance for profit) shall be determined as the sum of the following items (1) to (7) inclusive:

- (1) Labor, computed at regular wage scale, including premium on compensation insurance and charge for social security taxes, and other taxes, pertaining to labor; no charge for premium pay shall be allowed unless authorized by the Engineer administering the Contract;
- (2) The proportionate cost of premiums on comprehensive general liability and other insurance applicable to the extra work involved and required under this Contract;
- (3) Material, including sales taxes pertaining to materials;
- (4) Plant and equipment rental, to be agreed upon in writing before the work is begun; no charge for the cost of repairs to plant or equipment will be allowed;
- (5) Superintendence, general expense and profit computed at 20 percent of the total of paragraphs (1) to (4) inclusive;
- (6) The proportionate cost of premiums on bonds required by this Contract, computed by 1 1/2 percent of the total of paragraphs (1) to (5) inclusive.
- (7) The City of Tacoma reserves the right to furnish such materials as it may deem expedient, and no allowance will be made for profit thereon.

Whenever any extra work is in progress, for which the definite price has not been agreed on in advance, the Contractor shall each day, report to the Engineer the amount and cost of the labor and material used, and any other expense incurred in such extra work on the preceding day, and no claim for compensation for such extra work will be allowed unless such report shall have been made.

The above-described methods of determining the payment for work and materials shall not apply to the performance of any work or the furnishing of any material, which, in the judgment of the Engineer administering the Contract, may properly be classified under items for which prices are established in the Contract.

#### **D. Claims for Extra Work**

If the Contractor claims that any instructions by drawings or otherwise, involve extra cost under this Contract, he/she shall give the City of Tacoma written notice thereof within 30 days after receipt of such instruction, and in any event before proceeding to execute the work, except in an emergency endangering life or property, and the procedures governing the same shall be as provided for immediately above in this paragraph. The method in these paragraphs is the only method available to the Contractor for payment of claims for extra work performed under the terms of this Contract.

### **3.11 CLEANING UP**

The Contractor shall at all times, at his/her own expense, keep the premises free from accumulation of waste materials or debris caused by any workers or the work, at the completion of the work the Contractor shall remove all his waste materials from and about the site and all his/her equipment, sanitary facilities and surplus materials. In the case of dispute, the City of Tacoma may remove the debris and charge the cost to the Contractor as the City of Tacoma shall determine to be just. All material that is deposited or placed elsewhere than in places designated or approved by the Engineer administering the Contract will not be paid for and the Contractor may be required to remove such material and deposit or place it where directed.

### **3.12 PROGRESS PAYMENT**

Progress payments will be made up to the amount of ninety-five percent (95%) of the actual work completed as shall be determined by the Engineer administering the Contract.

The Contractor may request that an escrow account be established as permitted by law, in which event the Contractor will earn interest on the retained funds.

When the time for construction, services and/or installation will exceed thirty (30) days, the Contractor may request, by invoice, to be paid a progress payment based on percentage of work completed. The Engineer will review and approve the progress payment request on a monthly basis.

### **3.13 FINAL PAYMENT**

The final payment of five percent (5%) of the Contract price shall be approved on final acceptance of the work under this Contract by the Superintendent or his/her designee. In addition, before final payment is made, the Contractor shall be required to:

- A. Provide a certificate from the Washington State Department of Revenue that all taxes due from the Contractor have been paid or are collectible in accordance with the provisions of Chapter 60.28 and Title 82 of the Revised Code of Washington;
- B. Provide the General Release to the City of Tacoma on the form set forth in these Contract documents;
- C. Provide a release of any outstanding liens that have been otherwise filed against any monies held or retained by the City of Tacoma;
- D. File with the City Director of Finance, and with the Director of the Washington State Department of Labor and Industries, on the state form to be provided, an affidavit of wages paid;
- E. File with the City Director of Finance, on the state form to be provided, a statement from the State of Washington, Department of Labor and Industries, certifying that the prevailing wage requirements have been satisfied.
- F. File with the City Director of Finance, on the state form to be provided, a statement of release from the Public Works Contracts Division of the State of Washington, Department of Labor and Industries, verifying that all industrial insurance and medical aid premiums have been paid.

If there is a fee assessed to the City for any certificate, release or other form required by law, the contractor agrees that the fee amount may be passed on to the Contractor and deducted from the monies paid to the Contractor.



**3.14 FAILURE TO COMPLETE THE WORK ON TIME**

Should the completion of the work required under the Contract be delayed beyond the expiration of the period herein set for the completion of said work, or such extension of said period as may be allowed by reason of unavoidable delays, there shall be deducted from the total Contract price of work, for each calendar day by which such completion shall be delayed beyond said period of such extension thereof the sum of \$300 or a sum of money as set forth hereinafter in these Specifications, as the amount of such deduction per calendar day.

Said sum shall be considered not as a penalty, but as liquidated damages, which the City will suffer by reason of the failure of the Contractor to perform and complete the work within the period, herein fixed or such extensions of said period as may be allowed by reason of unavoidable delays.

Any money due or to become due the Contractor may be retained by the City to cover said liquidated damages, and should such money not be sufficient to cover such damages, the City shall have the right to recover the balance from the Contractor or his/her Sureties.

The filing of any bid for the work herein contemplated shall constitute acknowledgment by the Respondent that he/she understands, agrees and has ascertained that the City will actually suffer damages to the amount hereinabove fixed for each and every calendar day during which the completion of the work herein required shall be delayed beyond the expiration of the period herein fixed for such completion or such extension of said period as may be allowed by reason of unavoidable delays.

**3.15 CITY RESERVES RIGHT TO USE FACILITIES PRIOR TO ACCEPTANCE**

The City of Tacoma hereby reserves the right to use the facilities herein contracted prior to final acceptance under this Contract. The use of said facilities, as mentioned herein, shall not be construed as a waiver or relinquishment of any rights that the City of Tacoma has under this Contract.

**3.16 LIST OF SUBCONTRACTORS**

Bid proposals for construction, alteration or repair of any building or other public works that may exceed \$1,000,000 including tax shall satisfy the following requirement: Respondent shall submit as part of the bid, the names of the subcontractors, with whom the respondent, if awarded the contract, will subcontract performance of the work of heating, ventilation and air conditioning, plumbing as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW, or to name itself for the work. The respondent shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the respondent must indicate which subcontractor will be used for which alternate. Failure to comply with this provision or the naming of two or more subcontractors to perform the same work shall require the City (pursuant to state law RCW 39.30.060) to determine that respondent's bid is nonresponsive; therefore, the bid will be rejected.

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**PART 1 GENERAL PROVISIONS**

**1.01 DEFINITIONS**

*Replace the following article in Section 1.01:*

- Q. "Owner" means the City or its authorized representative with the authority to enter into, administer, and/or terminate the Work in accordance with the Contract Documents and make related determinations and findings.

*Add the following articles to Section 1.01:*

- AC. "Abbreviations" refer to trade association names and titles of general standards are frequently abbreviated. Where such acronyms or abbreviations are used in the specifications or other contract documents, they mean recognized name of the trade association, standards generating organization, authority having jurisdiction, or other entity applicable to the context of the text provision. Refer to the "Encyclopedia of Associations," published by Gale Research Co., available in most libraries.
- AD. "Alternate Bid" (or Alternate) is an amount stated in the Bid to be added or deducted from the amount of the base Bid if the corresponding change in project scope or materials or methods of construction described in the Bidding Documents is accepted.
- AE. "Base Bid" is the sum stated in the Bid for which the Bidder offers to perform the work described as the base, to which work may be added or deducted for sums stated in Alternate Bids and Unit Prices. The base bid does not include Allowances, Force Account work and Washington State Sales taxes. Owner shall pay Contractor the Contract Sum plus state sales tax for performance of the Work, in accordance with the Contract Documents.
- AF. "Contracting Agency" (or Owner) is the City of Tacoma.
- AG. "Contract Provisions" is the publication addressing the work required for an individual project. At the time of the call for bids, the contract provisions may include, for a specific individual project, the general conditions, supplements to the general conditions, the special provisions, a listing of the applicable standard plans, the prevailing minimum hourly wage rates, contract forms, LEAP and EIC requirements.
- AH. "Furnish" is used to mean supply and deliver to the project site, ready for unloading, unpacking, assembly, installation and other.
- AI. "Indicated" refers to graphic representations, notes or schedules on the drawings, or other paragraphs or schedules in the specifications, and similar requirements in the contract documents. Where terms such as "shown," "noted," "scheduled," and "specified" are used, it is to help the reader locate the reference; no limit on location is intended.
- AJ. "Install" is used to describe operations at the project site including the actual unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.

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- AK. “Installer” is the contractor or an entity engaged by the contractor, either as an employee, subcontractor, or contractor of lower tier for performance of a particular construction activity, including installation, erection, application, and similar operations. Installers are required to be experienced in the operations they are engaged to perform.
- AL. “Provide” means to furnish and install, complete and ready for intended use.
- AN. “Unit Price” is an amount stated in the Bid as a price per unit of measurement for materials or services as described in the Contract Documents.

**1.03 EXECUTION AND INTENT**

*Add the following to Section 1.03:*

The intent of the contract is to be prescribing a complete work. Omissions from the contract of details of work, which are necessary to carry out the contract, shall not relieve the Contractor from performing the omitted work.

**1.04 OBJECTIONS TO APPLICATION OF PRODUCTS**

*Add the following new Section 1.04:*

Bidders for this project are required to thoroughly familiarize themselves with specified products and installation procedures and submit to the Senior Buyer any questions or objections (in writing) no later than **the date specified on the “Bidder Question Form.”** Submittal of Bid constitutes acceptance of products and procedures specified.

**1.05 DISQUALIFICATION OF BIDDERS**

*Add the following new Section 1.05:*

A bidder may be deemed not responsible, and the proposal rejected by the Owner for any of the following:

- A. More than one bid proposal is submitted for the same project from a bidder under the same or different names;
- B. Evidence of collusion exists with any other bidder. Participants in collusion will be restricted from submitting future bids;
- C. A bidder is not pre-qualified for the work or to the full extent of the bid;
- D. An unsatisfactory performance record exists based on past or current work;
- E. There is incomplete work which may hinder or prevent the prompt completion of the work bid upon;
- F. The bidder failed to settle bills for labor or materials on past or current contracts;
- G. The bidder has failed to complete a written public contract or has been convicted of a crime arising from a previous public contract;
- H. The bidder is unable, financially or otherwise, to perform the work;
- I. A bidder is not authorized to do business in the state of Washington;
- J. Failure by the contractor to properly review the project documents and/or site;

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- K. The bid proposal was not received by the submittal deadline;
- L. The contractor fails to meet the LEAP or EIC requirements as described in these documents;
- M. Receipt of addenda is not acknowledged; or
- N. There are any other reasons deemed proper by the Owner.

**1.06 PRE-AWARD INFORMATION**

*Add the following new Section 1.06:*

Before awarding any contract, the Owner may require one or more of these items or actions of the apparent lowest responsible bidder:

1. A complete statement of the origin, composition, and manufacture of any or all materials to be used,
2. Samples of these materials for quality and fitness tests,
3. A progress schedule (in a form the Owner requires) showing the order of and time required for the various phases of the work,
4. A breakdown of costs assigned to any bid item,
5. Attendance at a conference with the Engineer or representatives of the Engineer,
6. Bid evaluation submittals related to the contractors ability to perform the work including experience on similar projects, project personnel and equipment, and financial resources, or
7. Any other information or action taken that is deemed necessary to ensure that the bidder is the lowest responsible bidder.

**PART 2 INSURANCE AND BONDS**

**2.01 CONTRACTOR’S LIABILITY INSURANCE**

*Replace the entire Section 2.01 with the following:*

Insurance shall be per the City’s standard “City of Tacoma Insurance Requirements” provided in the Contract Forms section of the Project Manual.

**2.02 COVERAGE LIMITS**

*Replace the entire Section 2.02 with the following:*

Insurance shall be per the City’s standard “City of Tacoma Insurance Requirements” provided in the Contract Forms section of the Project Manual.

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**2.03 INSURANCE COVERAGE CERTIFICATES**

*Replace the entire Section 2.03 with the following:*

Insurance shall be per the City’s standard “City of Tacoma Insurance Requirements” provided in the Contract Forms section of the Project Manual.

**2.04 PAYMENT AND PERFORMANCE BONDS**

*Add the following to Section 2.04:*

For contracts of \$150,000 or less, the Contractor may, at the Contractor’s option authorize the Contracting Agency to retain 10% of the contract amount in lieu of furnishing a performance and/or payment bond. For contracts over \$150,000, a Payment Bond and Performance Bond shall be obtained by the Contractor utilizing the forms entitled “Payment Bond to the City of Tacoma” and “Performance Bond to the City of Tacoma” as found at the front of the Project Manual under “Contract Forms”.

**2.06 BUILDER’S RISK**

*Replace the entire Section 2.06 with the following:*

Insurance shall be per the City’s standard “City of Tacoma Insurance Requirements” provided in the Contract Forms section of the Project Manual.

**PART 3 TIME AND SCHEDULE**

**3.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION**

*Delete Section 3.07 B – Actual Damages.*

**PART 5 PERFORMANCE**

**5.04 PREVAILING WAGES**

*Replace Section 5.04 G with the following.*

- G. Certified Payrolls: Consistent with WAC 296-127-320, the contractor and any subcontractor shall submit a certified copy of payroll records monthly. All certified payrolls must be filled with L&I’s online reporting system consistent with RCW 31.12.120 with a copy of such fillings being provided to the City of Tacoma per and in accordance with the project documents unless specified by owner in writing. Any contractor or subcontractor failing to comply with this requirement will be in violation of RCW 39.12.050.

**5.14 AVAILABILITY AND USE OF UTILITY SERVICES**

*Delete Section 5.14 A – Owner to provide and charge for utilities.*

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**5.15 TESTS AND INSPECTIONS**

*Replace Section 5.15 A with the following.*

A. Testing and inspection of work:

Contractor shall maintain an adequate testing and inspection program and perform such tests and inspections as are necessary or required to ensure that the Work conforms to the requirements of the Contract Documents. Contractor shall be responsible for inspection and quality surveillance of all its Work and all Work performed by any Subcontractor. Unless otherwise provided, Contractor shall make arrangements for such tests, inspections, and approvals or entity acceptable to Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Contractor shall give Owner timely notice of when and where tests and inspections are to be made. Contractor shall maintain complete inspection records and make them available to Owner.

Owner will contract separately with an independent testing laboratory for code required special inspections, if applicable. Contractor shall give Owner timely notice of when and where special inspections are to be made.

**5.20 SUBCONTRACTORS AND SUPPLIERS**

*Delete Section 5.20 E – Automatic assignment of subcontracts.*

**PART 10 MISCELLANEOUS PROVISIONS**

**10.11 DIVERSE BUSINESS PARTICIPATION**

*Replace Section 10.11 with the following:*

The City of Tacoma requires participation by Diverse Businesses in its' contracts as supported by the City's Equity in Contracting office, Municipal code TMC 1.07.040, RCW chapters 39, 43, and WAC326. Refer to the City Programs section of the contract documents for specific project requirements.

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## PART 1 - GENERAL PROVISIONS

### 1.01 DEFINITIONS

- A. "Application for Payment" means a written request submitted by Contractor to A/E for payment of Work completed in accordance with the Contract Documents and approved Schedule of Values, supported by such substantiating data as Owner or A/E may require.
- B. "Architect," "Engineer," or "A/E" means a person or entity lawfully entitled to practice architecture or engineering, representing Owner within the limits of its delegated authority.
- C. "Change Order" means a written instrument signed by Owner and Contractor stating their agreement upon all of the following: (1) a change in the Work; (2) the amount of the adjustment in the Contract Sum, if any, and (3) the extent of the adjustment in the Contract Time, if any.
- D. "Claim" means Contractor's exclusive remedy for resolving disputes with Owner regarding the terms of a Change Order or a request for equitable adjustment, as more fully set forth in Part 8.
- E. "Contract Award Amount" is the sum of the Base Bid and any accepted Alternates.
- F. "Contract Documents" means the Advertisement for Bids, Instructions for Bidders, completed Bid Form, General Conditions, Modifications to the General Conditions, Supplemental Conditions, Public Works Contract, other Special Forms, Drawings and Specifications, and all addenda and modifications thereof.
- G. "Contract Sum" is the total amount payable by Owner to Contractor, for performance of the Work in accordance with the Contract Documents, including all taxes imposed by law and properly chargeable to the Work, except Washington State sales tax.
- H. "Contract Time" is the number of calendar days allotted in the Contract Documents for achieving Substantial Completion of the Work.
- I. "Contractor" means the person or entity who has agreed with Owner to perform the Work in accordance with the Contract Documents.
- J. "Day(s):" Unless otherwise specified, day(s) shall mean calendar day(s)."
- K. "Drawings" are the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, and may include plans, elevations, sections, details, schedules, and diagrams.
- L. "Final Acceptance" means the written acceptance issued to Contractor by Owner after Contractor has completed the requirements of the Contract Documents, as more fully set forth in Section 6.09 B.
- M. "Final Completion" means that the Work is fully and finally complete in accordance with the Contract Documents, as more fully set forth in Section 6.09 A.
- N. "Force Majeure" means those acts entitling Contractor to request an equitable adjustment in the Contract Time, as more fully set forth in paragraph 3.05A.
- O. "Notice" means a written notice that has been delivered to the authorized representative or officer of the addressed party by registered or certified mail, or by email as a PDF attachment. Notices should clearly identify the project number and date of notice.

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- P. “Notice to Proceed” means a notice from Owner to Contractor that defines the date on which the Contract Time begins to run.
- Q. “Owner” means the state agency, institution, or its authorized representative with the authority to enter into, administer, and/or terminate the Work in accordance with the Contract Documents and make related determinations and findings.
- R. “Person” means a corporation, partnership, business association of any kind, trust, company, or individual.
- S. “Prior Occupancy” means Owner’s use of all or parts of the Project before Substantial Completion, as more fully set forth in Section 6.08 A.
- T. “Progress Schedule” means a schedule of the Work, in a form satisfactory to Owner, as further set forth in Section 3.02.
- U. “Project” means the total construction of which the Work performed in accordance with the Contract Documents may be the whole or a part and which may include construction by Owner or by separate contractors.
- V. “Project Record” means the separate set of Drawings and Specifications as further set forth in paragraph 4.02A.
- W. “Schedule of Values” means a written breakdown allocating the total Contract Sum to each principal category of Work, in such detail as requested by Owner.
- X. “Specifications” are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- Y. “Subcontract” means a contract entered into by Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind for or in connection with the Work.
- Z. “Subcontractor” means any person, other than Contractor, who agrees to furnish or furnishes any supplies, materials, equipment, or services of any kind in connection with the Work.
- AA. “Substantial Completion” means that stage in the progress of the Work when the construction is sufficiently complete, as more fully set forth in Section 6.07.
- AB. “Work” means the construction and services required by the Contract Documents, and includes, but is not limited to, labor, materials, supplies, equipment, services, permits, and the manufacture and fabrication of components, performed, furnished, or provided in accordance with the Contract Documents.

**1.02 ORDER OF PRECEDENCE**

Any conflict or inconsistency in the Contract Documents shall be resolved by giving the documents precedence in the following order:

1. Signed Public Works Contract, including any Change Orders.
2. Supplemental Conditions.
3. Modifications to the General Conditions.
4. General Conditions.
5. Specifications. Provisions in Division 1 shall take precedence over provisions of any other Division.

6. Drawings. In case of conflict within the Drawings, large-scale drawings shall take precedence over small-scale drawings.
7. Signed and Completed Bid Form.
8. Instructions to Bidders.
9. Advertisement for Bids.

### **1.03 EXECUTION AND INTENT**

Contractor Representations: Contractor makes the following representations to Owner:

1. Contract Sum reasonable: The Contract Sum is reasonable compensation for the Work and the Contract Time is adequate for the performance of the Work, as represented by the Contract Documents;
2. Contractor familiar with project: Contractor has carefully reviewed the Contract Documents, visited and examined the Project site, become familiar with the local conditions in which the Work is to be performed, and satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished and all other requirements of the Contract Documents, as well as the surface and subsurface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof;
3. Contractor financially capable: Contractor is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the Work and perform Contractor's obligations required by the Contract Documents; and
4. Contractor can complete Work: Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform the obligations required by the Contract Documents and has sufficient experience and competence to do so.

## **PART 2 – INSURANCE AND BONDS**

### **2.01 CONTRACTOR'S LIABILITY INSURANCE**

General insurance requirements: Prior to commencement of the Work, Contractor shall obtain all the insurance required by the Contract Documents and provide evidence satisfactory to Owner that such insurance has been procured. Review of the Contractor's insurance by Owner shall not relieve or decrease the liability of Contractor. Companies writing the insurance to be obtained by this part shall be licensed to do business under Chapter 48 RCW or comply with the Surplus Lines Law of the State of Washington. Contractor shall include in its bid the cost of all insurance and bond costs required to complete the base bid work and accepted alternates. Insurance carriers providing insurance in accordance with the Contract Documents shall be acceptable to Owner, and its A.M. Best rating shall be indicated on the insurance certificates.

- A. Term of insurance coverage: Contractor shall maintain the following insurance coverage during the Work and for one year after Final Acceptance. Contractor shall also maintain the following insurance coverage during the performance of any corrective Work required by Section 5.16.
  1. General Liability Insurance: Commercial General Liability (CGL) on an Occurrence Form. Coverage shall include, but not be limited to:
    - a. Completed operations/products liability;
    - b. Explosion, collapse, and underground; and
    - c. Employer's liability coverage.

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2. Automobile Liability Insurance: Automobile liability
- B. Industrial Insurance compliance: Contractor shall comply with the Washington State Industrial Insurance Act and, if applicable, the Federal Longshoremen's and Harbor Workers' Act and the Jones Act.
- C. Insurance to protect for the following: All insurance coverages shall protect against claims for damages for personal and bodily injury or death, as well as claims for property damage, which may arise from operations in connection with the Work whether such operations are by Contractor or any Subcontractor.
- D. Owner as Additional Insured: All insurance coverages shall be endorsed to include Owner as an additional named insured for Work performed in accordance with the Contract Documents, and all insurance certificates shall evidence the Owner as an additional insured.

**2.02 COVERAGE LIMITS**

A. Insurance Coverage Certificates and Policies

The Contractor shall furnish acceptable proof of insurance coverage on the state of Washington Certificate of Insurance form SF500A, dated 07/02/92 or ACORD form, as well as copies of insurance policies.

B. Required Insurance Coverages

1. For a contract less than \$100,000.00, the coverage required is:

- a. Comprehensive General Liability Insurance – The Contractor shall at all times during the term of this contract, at its cost and expense, carry and maintain general public liability insurance, including contractual liability, against claims for bodily injury, personal injury, death or property damage occurring or arising out of services provided under this contract. This insurance shall cover claims caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or servants. The limits of liability insurance, which may be increased as deemed necessary by the contracting parties, shall be:

Each Occurrence	\$1,000,000.00
General Aggregate Limits (other than products – commercial operations)	\$1,000,000.00
Products – Commercial Operations Limit	\$1,000,000.00
Personal and Advertising Injury Limit	\$1,000,000.00
Fire Damage Limit (any one fire)	\$50,000.00
Medical Expense Limit (any one person)	\$5,000.00

- b. If the contract is for underground utility work, then the Contractor shall provide proof of insurance for that above in the form of Explosion, Collapse and Underground (XCU) coverage.
- c. Employers Liability on an occurrence basis in an amount not less than \$1,000,000.00 per occurrence.
2. For contracts over \$100,000.00 but less than \$5,000,000.00 the contractor shall obtain the coverage limits as listed for contracts below \$100,000.00 and General Aggregate and Products – Commercial Operations Limit of not less than \$2,000,000.00.

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3. Coverage for Comprehensive General Bodily Injury Liability Insurance for a contract over \$5,000,000.00 is:

Each Occurrence	\$2,000,000.00
General Aggregate Limits (other than products – commercial operations)	\$4,000,000.00
Products – Commercial Operations limit	\$4,000,000.00
Personal and Advertising Injury Limit	\$2,000,000.00
Fire Damage Limit (any one fire)	\$50,000.00
Medical Expense Limit (any one Person)	\$5,000.00

4. For all Contracts – Automobile Liability: in the event that services delivered pursuant to this contract involve the use of vehicles or the transportation of clients, automobile liability insurance shall be required. If Contractor-owned personal vehicles are used, a Business Automobile Policy covering at a minimum Code 2 “owned autos only” must be secured. If Contractor employee’s vehicles are used, the Contractor must also include under the Business Automobile Policy Code 9, coverage for non-owned autos. The minimum limits for automobile liability is: \$1,000,000.00 per occurrence, using a combined single limit for bodily injury and property damage.

5. For Contracts for Hazardous Substance Removal (Asbestos Abatement, PCB Abatement, etc.)

a. In addition to providing insurance coverage for the project as outlined above, the Contractor shall provide Pollution Liability insurance for the hazardous substance removal as follows:

<u>EACH OCCURRENCE</u>	<u>AGGREGATE</u>
\$500,000.00	\$1,000,000.00

or \$1,000,000.00 each occurrence/aggregate bodily injury and property damage combined single limit.

- i. Insurance certificate must state that the insurer is covering hazardous substance removal.
- ii. Should this insurance be secured on a “claims made” basis, the coverage must be continuously maintained for one year following the project’s “final completion” through official completion of the project, plus one year following.

For Contracts where hazardous substance removal is a subcomponent of contracted work, the general contractor shall provide to the Owner a certificate of insurance for coverage as defined in 5a. above. The State of Washington must be listed as an additional insured. This certificate of insurance must be provided to the Owner prior to commencing work.

**2.03 INSURANCE COVERAGE CERTIFICATES**

- A. Certificate required: Prior to commencement of the Work, Contractor shall furnish to Owner a completed certificate of insurance coverage.
- B. List Project info: All insurance certificates shall name Owner’s Project number and Project title.
- C. Cancellation provisions: All insurance certificates shall specifically require 45 Days prior notice to Owner of cancellation or any material change, except 30 Days for surplus line insurance.

## **2.04 PAYMENT AND PERFORMANCE BONDS**

Conditions for bonds: Payment and performance bonds for 100% of the Contract Award Amount, plus state sales tax, shall be furnished for the Work, using the Payment Bond and Performance Bond form published by and available from the American Institute of Architects (AIA) – form A312. Prior to execution of a Change Order that, cumulatively with previous Change Orders, increases the Contract Award Amount by 15% or more, the Contractor shall provide either new payment and performance bonds for the revised Contract Sum, or riders to the existing payment and performance bonds increasing the amount of the bonds. The Contractor shall likewise provide additional bonds or riders when subsequent Change Orders increase the Contract Sum by 15% or more.

No payment or performance bond is required if the Contract Sum is \$150,000 or less and the Contractor or General Contractor/Construction Manager agrees that Owner may, in lieu of the bond, retain 10% of the Contract Sum for the period allowed by RCW 39.08.010.

## **2.05 ALTERNATIVE SURETY**

When alternative surety required: Contractor shall promptly furnish payment and performance bonds from an alternative surety as required to protect Owner and persons supplying labor or materials required by the Contract Documents if:

- A. Owner has a reasonable objection to the surety; or
- B. Any surety fails to furnish reports on its financial condition if required by Owner.

## **2.06 BUILDER'S RISK**

- A. Contractor to buy Property Insurance: Contractor shall purchase and maintain property insurance in the amount of the Contract Sum including all Change Orders for the Work on a replacement cost basis until Substantial Completion. For projects not involving New Building Construction, "Installation Floater" is an acceptable substitute for the Builder's Risk Insurance. The insurance shall cover the interest of Owner, Contractor, and any Subcontractors, as their interests may appear.
- B. Losses covered: Contractor property insurance shall be placed on an "all risk" basis and insure against the perils of fire and extended coverage and physical loss or damage including theft, vandalism, malicious mischief, collapse, false work, temporary buildings, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for A/E's services and expenses required as a result of an insured loss.
- C. Waiver of subrogation rights: Owner and Contractor waive all subrogation rights against each other, any Subcontractors, A/E, A/E's subconsultants, separate contractors described in Section 5.20, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this section or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.



## **PART 3 – TIME AND SCHEDULE**

### **3.01 PROGRESS AND COMPLETION**

Contractor to meet schedule: Contractor shall diligently prosecute the Work, with adequate forces, achieve Substantial Completion within the Contract Time, and achieve Final Completion within a reasonable period thereafter.

### **3.02 CONSTRUCTION SCHEDULE**

- A. Preliminary Progress Schedule: Unless otherwise provided in Division 1, Contractor shall, within 14 Days after issuance of the Notice to Proceed, submit a preliminary Progress Schedule. The Progress Schedule shall show the sequence in which Contractor proposes to perform the Work, and the dates on which Contractor plans to start and finish major portions of the Work, including dates for shop drawings and other submittals, and for acquiring materials and equipment.
- B. Form of Progress Schedule: The Progress Schedule shall be in the form of a Critical Path Method (CPM) logic network or, with the approval of the Owner, a bar chart schedule may be submitted. The scheduling of construction is the responsibility of the Contractor and is included in the contract to assure adequate planning and execution of the work. The schedule will be used to evaluate progress of the work for payment based on the Schedule of Values. The schedule shall show the Contractor's planned order and interdependence of activities, and sequence of work. As a minimum the schedule shall include:
1. Date of Notice to Proceed;
  2. Activities (resources, durations, individual responsible for activity, early starts, late starts, early finishes, late finishes, etc.);
  3. Utility Shutdowns;
  4. Interrelationships and dependence of activities;
  5. Planned vs. actual status for each activity;
  6. Substantial completion;
  7. Punch list;
  8. Final inspection;
  9. Final completion, and
  10. Float time

The Schedule Duration shall be based on the Contract Time of Completion listed on the Bid Form. The Owner shall not be obligated to accept any Early Completion Schedule suggested by the Contractor. The Contract Time for Completion shall establish the Schedule Completion Date.

If the Contractor feels that the work can be completed in less than the Specified Contract Time, then the Surplus Time shall be considered Project Float. This Float time shall be shown on the Project Schedule. It shall be available to accommodate changes in the work and unforeseen conditions.

Neither the Contractor nor the Owner have exclusive right to this Float Time. It belongs to the project.

- C. Owner comments on Progress Schedule: Owner shall return comments on the preliminary Progress Schedule to Contractor within 14 Days of receipt. Review by Owner of Contractor's schedule does not constitute an approval or acceptance of Contractor's construction means, methods, or sequencing, or its ability to complete the Work within the Contract Time. Contractor shall revise and resubmit its schedule, as necessary. Owner may withhold a portion of progress payments until a Progress Schedule has been submitted which meets the requirements of this section.

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- D. Monthly updates and compliance with Progress Schedule: Contractor shall utilize and comply with the Progress Schedule. On a monthly basis, or as otherwise directed by Owner, Contractor shall submit an updated Progress Schedule at its own expense to Owner indicating actual progress. If, in the opinion of Owner, Contractor is not in conformance with the Progress Schedule for reasons other than acts of Force Majeure as identified in Section 3.05, Contractor shall take such steps as are necessary to bring the actual completion dates of its work activities into conformance with the Progress Schedule, and if directed by Owner, Contractor shall submit a corrective action plan or revise the Progress Schedule to reconcile with the actual progress of the Work.
- E. Contractor to notify Owner of delays: Contractor shall promptly notify Owner in writing of any actual or anticipated event which is delaying or could delay achievement of any milestone or performance of any critical path activity of the Work. Contractor shall indicate the expected duration of the delay, the anticipated effect of the delay on the Progress Schedule, and the action being or to be taken to correct the problem. Provision of such notice does not relieve Contractor of its obligation to complete the Work within the Contract Time.

**3.03 OWNER'S RIGHT TO SUSPEND THE WORK FOR CONVENIENCE**

- A. Owner may suspend Work: Owner may, at its sole discretion, order Contractor, in writing, to suspend all or any part of the Work for up to 90 Days, or for such longer period as mutually agreed.
- B. Compliance with suspension; Owner's options: Upon receipt of a written notice suspending the Work, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost of performance directly attributable to such suspension. Within a period up to 90 Days after the notice is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, Owner shall either:
1. Cancel the written notice suspending the Work; or
  2. Terminate the Work covered by the notice as provided in the termination provisions of Part 9.
- C. Resumption of Work: If a written notice suspending the Work is cancelled or the period of the notice or any extension thereof expires, Contractor shall resume Work.
- D. Equitable Adjustment for suspensions: Contractor shall be entitled to an equitable adjustment in the Contract Time, or Contract Sum, or both, for increases in the time or cost of performance directly attributable to such suspension, provided Contractor complies with all requirements set forth in Part 7.

**3.04 OWNER'S RIGHT TO STOP THE WORK FOR CAUSE**

- A. Owner may stop Work for Contractor's failure to perform: If Contractor fails or refuses to perform its obligations in accordance with the Contract Documents, Owner may order Contractor, in writing, to stop the Work, or any portion thereof, until satisfactory corrective action has been taken.
- B. No Equitable Adjustment for Contractor's failure to perform: Contractor shall not be entitled to an equitable adjustment in the Contract Time or Contract Sum for any increased cost or time of performance attributable to Contractor's failure or refusal to perform or from any reasonable remedial action taken by Owner based upon such failure.

**3.05 DELAY**

- A. Force Majeure actions not a default; Force Majeure defined: Any delay in or failure of performance by Owner or Contractor, other than the payment of money, shall not constitute a default hereunder if and to the extent the cause for such delay or failure of performance was unforeseeable and beyond the control of the party ("Force Majeure"). Acts of Force Majeure include, but are not limited to:
1. Acts of God or the public enemy;
  2. Acts or omissions of any government entity;
  3. Fire or other casualty for which Contractor is not responsible;
  4. Quarantine or epidemic;
  5. Strike or defensive lockout;
  6. Unusually severe weather conditions which could not have been reasonably anticipated; and
  7. Unusual delay in receipt of supplies or products which were ordered and expedited and for which no substitute reasonably acceptable to Owner was available.
- B. Contract Time adjustment for Force Majeure: Contractor shall be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to an act of Force Majeure, provided it makes a request for equitable adjustment according to Section 7.03. Contractor shall not be entitled to an adjustment in the Contract Sum resulting from an act of Force Majeure.
- C. Contract Time or Contract Sum adjustment if Owner at fault: Contractor shall be entitled to an equitable adjustment in Contract Time, and may be entitled to an equitable adjustment in Contract Sum, if the cost or time of Contractor's performance is changed due to the fault or negligence of Owner, provided the Contractor makes a request according to Sections 7.02 and 7.03.
- D. No Contract Time or Contract Sum adjustment if Contractor at fault: Contractor shall not be entitled to an adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to the extent such delay or failure was caused by Contractor or anyone for whose acts Contractor is responsible.
- E. Contract Time adjustment only for concurrent fault: To the extent any delay or failure of performance was concurrently caused by the Owner and Contractor, Contractor shall be entitled to an adjustment in the Contract Time for that portion of the delay or failure of performance that was concurrently caused, provided it makes a request for equitable adjustment according to Section 7.03, but shall not be entitled to an adjustment in Contract Sum.
- F. Contractor to mitigate delay impacts: Contractor shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by an act of Force Majeure or otherwise.

**3.06 NOTICE TO OWNER OF LABOR DISPUTES**

- A. Contractor to notify Owner of labor disputes: If Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance in accordance with the Contract Documents, Contractor shall immediately give notice, including all relevant information, to Owner.

- B. Pass through notification provisions to Subcontractors: Contractor agrees to insert a provision in its Subcontracts and to require insertion in all sub-subcontracts, that in the event timely performance of any such contract is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor or Sub-subcontractor shall immediately notify the next higher tier Subcontractor or Contractor, as the case may be, of all relevant information concerning the dispute.

### **3.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION**

A. Liquidated Damages

1. Reason for Liquidated Damages: Timely performance and completion of the Work is essential to Owner and time limits stated in the Contract Documents are of the essence. Owner will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time. However, it would be difficult if not impossible to determine the exact amount of such damages. Consequently, provisions for liquidated damages are included in the Contract Documents.
2. Calculation of Liquidated Damages amount: The liquidated damage amounts set forth in the Contract Documents will be assessed not as a penalty, but as liquidated damages for breach of the Contract Documents. This amount is fixed and agreed upon by and between the Contractor and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain. This amount shall be construed as the actual amount of damages sustained by the Owner, and may be retained by the Owner and deducted from periodic payments to the Contractor.
3. Contractor responsible even if Liquidated Damages assessed: Assessment of liquidated damages shall not release Contractor from any further obligations or liabilities pursuant to the Contract Documents.

B. Actual Damages

Calculation of Actual Damages: Actual damages will be assessed for failure to achieve Final Completion within the time provided. Actual damages will be calculated on the basis of direct architectural, administrative, and other related costs attributable to the Project from the date when Final Completion should have been achieved, based on the date Substantial Completion is actually achieved, to the date Final Completion is actually achieved. Owner may offset these costs against any payment due Contractor.

## **PART 4 – SPECIFICATIONS, DRAWINGS, AND OTHER DOCUMENTS**

### **4.01 DISCREPANCIES AND CONTRACT DOCUMENT REVIEW**

- A. Specifications and Drawings are basis of the Work: The intent of the Specifications and Drawings is to describe a complete Project to be constructed in accordance with the Contract Documents. Contractor shall furnish all labor, materials, equipment, tools, transportation, permits, and supplies, and perform the Work required in accordance with the Drawings, Specifications, and other provisions of the Contract Documents.
- B. Parts of the Contract Documents are complementary: The Contract Documents are complementary. What is required by one part of the Contract Documents shall be binding as if required by all. Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both.

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- C. Contractor to report discrepancies in Contract Documents: Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by Owner. If, during the performance of the Work, Contractor finds a conflict, error, inconsistency, or omission in the Contract Documents, it shall promptly and before proceeding with the Work affected thereby, report such conflict, error, inconsistency, or omission to A/E in writing.
- D. Contractor knowledge of discrepancy in documents – responsibility: Contractor shall do no Work without applicable Drawings, Specifications, or written modifications, or Shop Drawings where required, unless instructed to do so in writing by Owner. If Contractor performs any construction activity, and it knows or reasonably should have known that any of the Contract Documents contain a conflict, error, inconsistency, or omission, Contractor shall be responsible for the performance and shall bear the cost for its correction.
- E. Contractor to perform Work implied by Contract Documents: Contractor shall provide any work or materials the provision of which is clearly implied and is within the scope of the Contract Documents even if the Contract Documents do not mention them specifically.
- F. Interpretation questions referred to A/E: Questions regarding interpretation of the requirements of the Contract Documents shall be referred to the A/E.

**4.02 PROJECT RECORD**

- A. Contractor to maintain Project Record Drawings and Specifications: Contractor shall legibly mark in ink on a separate set of the Drawings and Specifications all actual construction, including depths of foundations, horizontal and vertical locations of internal and underground utilities and appurtenances referenced to permanent visible and accessible surface improvements, field changes of dimensions and details, actual suppliers, manufacturers and trade names, models of installed equipment, and Change Order Proposals (COP). This separate set of Drawings and Specifications shall be the "Project Record."
- B. Update Project Record weekly and keep on site: The Project Record shall be maintained on the project site throughout the construction and shall be clearly labeled "PROJECT RECORD." The Project Record shall be updated at least weekly noting all changes and shall be available to Owner at all times.
- C. Final Project Record to A/E before Final Acceptance: Contractor shall submit the completed and finalized Project Record to A/E prior to Final Acceptance.

**4.03 SHOP DRAWINGS**

- A. Definition of Shop Drawings: "Shop Drawings" means documents and other information required to be submitted to A/E by Contractor pursuant to the Contract Documents, showing in detail: the proposed fabrication and assembly of structural elements; and the installation (i.e. form, fit, and attachment details) of materials and equipment. Shop Drawings include, but are not limited to, drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, samples, and similar materials furnished by Contractor to explain in detail specific portions of the Work required by the Contract Documents. For materials and equipment to be incorporated into the Work, Contractor submittal shall include the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the item. When directed, Contractor shall submit all samples at its own expense. Owner may duplicate, use, and disclose Shop Drawings provided in accordance with the Contract Documents.
- B. Approval of Shop Drawings by Contractor and A/E: Contractor shall coordinate all Shop Drawings, and review them for accuracy, completeness, and compliance with the Contract Documents and shall indicate its approval thereon as evidence of such coordination and review.

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Where required by law, Shop Drawings shall be stamped by an appropriate professional licensed by the state of Washington. Shop Drawings submitted to A/E without evidence of Contractor's approval shall be returned for resubmission. Contractor shall review, approve, and submit Shop Drawings with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or separate contractors. Contractor's submittal schedule shall allow a reasonable time for A/E review. A/E will review, approve, or take other appropriate action on the Shop Drawings. Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings until the respective submittal has been reviewed and the A/E has approved or taken other appropriate action. Owner and A/E shall respond to Shop Drawing submittals with reasonable promptness. Any Work by Contractor shall be in accordance with reviewed Shop Drawings. Submittals made by Contractor which are not required by the Contract Documents may be returned without action.

- C. Contractor not relieved of responsibility when Shop Drawings approved: Approval, or other appropriate action with regard to Shop Drawings, by Owner or A/E shall not relieve Contractor of responsibility for any errors or omissions in such Shop Drawings, nor from responsibility for compliance with the requirements of the Contract Documents. Unless specified in the Contract Documents, review by Owner or A/E shall not constitute an approval of the safety precautions employed by Contractor during construction, or constitute an approval of Contractor's means or methods of construction. If Contractor fails to obtain approval before installation and the item or work is subsequently rejected, Contractor shall be responsible for all costs of correction.
- D. Variations between Shop Drawings and Contract Documents: If Shop Drawings show variations from the requirements of the Contract Documents, Contractor shall describe such variations in writing, separate from the Shop Drawings, at the time it submits the Shop Drawings containing such variations. If A/E approves any such variation, an appropriate Change Order will be issued. If the variation is minor and does not involve an adjustment in the Contract Sum or Contract Time, a Change Order need not be issued; however, the modification shall be recorded upon the Project Record.
- E. Contractor to submit 5 copies of Shop Drawings: Unless otherwise provided in Division 1, Contractor shall submit to A/E for approval 5 copies of all Shop Drawings. Unless otherwise indicated, 3 sets of all Shop Drawings shall be retained by A/E and 2 sets shall be returned to Contractor.

#### **4.04 ORGANIZATION OF SPECIFICATIONS**

Specification organization by trade: Specifications are prepared in sections which conform generally with trade practices. These sections are for Owner and Contractor convenience and shall not control Contractor in dividing the Work among the Subcontractors or in establishing the extent of the Work to be performed by any trade.

#### **4.05 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS, AND OTHER DOCUMENTS**

- A. A/E, not Contractor, owns Copyright of Drawings and Specifications: The Drawings, Specifications, and other documents prepared by A/E are instruments of A/E's service through which the Work to be executed by Contractor is described. Neither Contractor nor any Subcontractor shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by A/E, and A/E shall be deemed the author of them and will, along with any rights of Owner, retain all common law, statutory, and other reserved rights, in addition to the copyright. All copies of these documents, except Contractor's set, shall be returned or suitably accounted for to A/E, on request, upon completion of the Work.
- B. Drawings and Specifications to be used only for this Project: The Drawings, Specifications, and other documents prepared by the A/E, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor

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on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner and A/E. Contractor and Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents prepared by A/E appropriate to and for use in the execution of their Work.

- C. Shop Drawing license granted to Owner: Contractor and all Subcontractors grant a non-exclusive license to Owner, without additional cost or royalty, to use for its own purposes (including reproduction) all Shop Drawings, together with the information and diagrams contained therein, prepared by Contractor or any Subcontractor. In providing Shop Drawings, Contractor and all Subcontractors warrant that they have authority to grant to Owner a license to use the Shop Drawings, and that such license is not in violation of any copyright or other intellectual property right. Contractor agrees to defend and indemnify Owner pursuant to the indemnity provisions in Section 5.03 and 5.22 from any violations of copyright or other intellectual property rights arising out of Owner's use of the Shop Drawings hereunder, or to secure for Owner, at Contractor's own cost, licenses in conformity with this section.
- D. Shop Drawings to be used only for this Project: The Shop Drawings and other submittals prepared by Contractor, Subcontractors of any tier, or its or their equipment or material suppliers, and copies thereof furnished to Contractor, are for use solely with respect to this Project. They are not to be used by Contractor or any Subcontractor of any tier, or material or equipment supplier, on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner. The Contractor, Subcontractors of any tier, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Shop Drawings and other submittals appropriate to and for use in the execution of their Work under the Contract Documents.

## **PART 5 – PERFORMANCE**

### **5.01 CONTRACTOR CONTROL AND SUPERVISION**

- A. Contractor responsible for Means and Methods of construction: Contractor shall supervise and direct the Work, using its best skill and attention, and shall perform the Work in a skillful manner. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents give other specific instructions concerning these matters. Contractor shall disclose its means and methods of construction when requested by Owner.
- B. Competent Superintendent required: Performance of the Work shall be directly supervised by a competent superintendent who has authority to act for Contractor. The superintendent must be satisfactory to the Owner and shall not be changed without the prior written consent of Owner. Owner may require Contractor to remove the superintendent from the Work or Project site, at no cost to the Owner for delay or any other claim, if Owner reasonably deems the superintendent incompetent, negligent, or otherwise objectionable, provided Owner has first notified Contractor in writing and allowed a reasonable period for transition. Noncompliance with the Owner's request to remove and replace the superintendent for a material reason shall also be grounds for terminating the Contract for cause.
- C. Contractor responsible for acts and omissions of self and agents: Contractor shall be responsible to Owner for acts and omissions of Contractor, Subcontractors, and their employees and agents.
- D. Contractor to employ competent and disciplined workforce: Contractor shall enforce strict discipline and good order among all of the Contractor's employees and other persons performing the Work. Contractor shall not permit employment of persons not skilled in tasks assigned to them. Contractor's employees shall at all times conduct business in a manner which assures fair, equal, and nondiscriminatory treatment of all persons. Owner may, by written notice, require

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Contractor to remove from the Work or Project site, at no cost to the Owner for delay or any other claim, any employee Owner reasonably deems incompetent, negligent, or otherwise objectionable. Noncompliance with the Owner's request to remove and replace personnel at any level for a material reason shall also be grounds for terminating the Contract for cause.

- E. Contractor to keep project documents on site: Contractor shall keep on the Project site a copy of the Drawings, Specifications, addenda, reviewed Shop Drawings, and permits and permit drawings.
- F. Contractor to comply with ethical standards: Contractor shall ensure that its owner(s) and employees, and those of its Subcontractors, comply with the Ethics in Public Service Act RCW 42.52, which, among other things, prohibits state employees from having an economic interest in any public works contract that was made by, or supervised by, that employee. Contractor shall remove, at its sole cost and expense, any of its, or its Subcontractors' employees, if they are in violation of this act.

**5.02 PERMITS, FEES, AND NOTICES**

- A. Contractor to obtain and pay for permits: Unless otherwise provided in the Contract Documents, Contractor shall pay for and obtain all permits, licenses, and inspections necessary for proper execution and completion of the Work. Prior to Final Acceptance, the approved, signed permits shall be delivered to Owner.
- B. Allowances for permit fees: The actual cost of the general building permit (only) and the public utility hook-up fees will be a direct reimbursement to the Contractor or paid directly to the permitting agency by the Owner. ***Fees for these permits should not be included by the Contractor in his bid amount.***
- C. Contractor to comply with all applicable laws: Contractor shall comply with and give notices required by all federal, state, and local laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
- D. Contractor to submit copies: The General Contractor shall submit copies of each valid permit required on the project to the Owner's representative. Nothing in this part shall be construed as imposing a duty upon the Owner or A/E to secure permits.

**5.03 PATENTS AND ROYALTIES**

Payment, indemnification, and notice: Contractor is responsible for, and shall pay, all royalties and license fees. Contractor shall defend, indemnify, and hold Owner harmless from any costs, expenses, and liabilities arising out of the infringement by Contractor of any patent, copyright, or other intellectual property right used in the Work; however, provided that Contractor gives prompt notice, Contractor shall not be responsible for such defense or indemnity when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents. If Contractor has reason to believe that use of the required design, process, or product constitutes an infringement of a patent or copyright, it shall promptly notify Owner of such potential infringement.

**5.04 PREVAILING WAGES**

- A. Contractor to pay Prevailing Wages or applicable Federal Wages: Contractor shall pay the prevailing rate of wages to all workers, laborers, or mechanics employed in the performance of any part of the Work in accordance with RCW 39.12 and the rules and regulations of the Department of Labor and Industries (L&I). The schedule of prevailing wage rates for the locality or localities of the Work, is determined by the Industrial Statistician of the Department of Labor and Industries. It is the Contractor's responsibility to verify the applicable prevailing wage rate. If applicable, the Contractor shall comply with all Federal Funding requirements of the Davis



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Bacon Act that will be addressed in a separate "DIVISION 00 SPECIAL CONDITIONS" specification section that will be based on the specific requirements of the funding source.

- B. Statement of Intent to Pay Prevailing Wages: Before payment is made by the Owner to the Contractor for any work performed by the Contractor and subcontractors whose work is included in the application for payment, the Contractor shall submit, or shall have previously submitted to the Owner for the Project, a Statement of Intent to Pay Prevailing Wages, approved by the L&I, certifying the rate of hourly wage paid and to be paid each classification of laborers, workers, or mechanics employed upon the Work by Contractor and Subcontractors. Such rates of hourly wage shall not be less than the prevailing wage rate.
- C. Affidavit of Wages Paid: Prior to release of retainage, the Contractor shall submit to the Owner an Affidavit of Wages Paid, approved by the L&I, for the Contractor and every subcontractor, of any tier, that performed work on the Project.
- D. Disputes: Disputes regarding prevailing wage rates shall be referred for arbitration to the Director of the L&I. The arbitration decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.060.
- E. Statement with pay application; Post Statements of Intent at job site: Each Application for Payment submitted by Contractor shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent, as approved. Copies of the approved intent statement(s) shall be posted on the job site with the address and telephone number of the Industrial Statistician of the L&I where a complaint or inquiry concerning prevailing wages may be made.
- F. Contractor to pay for Statements of Intent and Affidavits: In compliance with chapter 296-127 WAC, Contractor shall pay to the L&I the currently established fee(s) for each statement of intent and/or affidavit of wages paid submitted to the L&I for certification.
- G. Certified Payrolls: Consistent with RCW 31.12.120, contractors, subcontractors, or employers shall file a copy of its certified payroll records using the L&I' online system at least once per month. If the L&I' online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with the L&I in a format approved by the L&I at least once per month. A contractor, subcontractor, or employer's noncompliance with this section constitutes a violation of RCW 39.12.050.
- H. Compliance with Federal Funding requirements: If applicable, the Contractor shall comply with all Federal Funding requirements of the Davis Bacon Act that will be addressed in a separate "DIVISION 00 SPECIAL CONDITIONS" specification section that will be based on the specific requirements of the funding source.

**5.05 HOURS OF LABOR**

- A. Overtime: Contractor shall comply with all applicable provisions of RCW 49.28 and they are incorporated herein by reference. Pursuant to that statute, no laborer, worker, or mechanic employed by Contractor, any Subcontractor, or any other person performing or contracting to do the whole or any part of the Work, shall be permitted or required to work more than eight hours in any one calendar day, provided, that in cases of extraordinary emergency, such as danger to life or property, the hours of work may be extended, but in such cases the rate of pay for time employed in excess of eight hours of each calendar day shall be not less than one and one-half times the rate allowed for this same amount of time during eight hours of service.
- B. 4-10 Agreements: Notwithstanding the preceding paragraph, RCW 49.28 permits a contractor or subcontractor in any public works contract subject to those provisions, to enter into an agreement with its employees in which the employees work up to ten hours in a calendar day. No such agreement may provide that the employees work ten-hour days for more than four

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calendar days a week. Any such agreement is subject to approval by the employees. The overtime provisions of RCW 49.28 shall not apply to the hours, up to forty hours per week, worked pursuant to any such agreement.

**5.06 NONDISCRIMINATION**

- A. Discrimination prohibited by applicable laws: The Contractor and all Subcontractors shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement
- B. During performance of the Work:
1. Protected Classes: Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability, Vietnam era veteran status, or disabled veteran status, nor commit any other unfair practices as defined in RCW 49.60.
  2. Advertisements to state nondiscrimination: Contractor shall, in all solicitations or advertisements for employees placed by or for it, state that all qualified applicants will be considered for employment, without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
  3. Contractor to notify unions and others of nondiscrimination: Contractor shall send to each labor union, employment agency, or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union, employment agency, or workers' representative of Contractor's obligations according to the Contract Documents and RCW 49.60.
  4. Owner and State access to Contractor records: Contractor shall permit access to its books, records, and accounts, and to its premises by Owner, and by the Washington State Human Rights Commission, for the purpose of investigation to ascertain compliance with this section of the Contract Documents.
  5. Pass through provisions to Subcontractors: Contractor shall include the provisions of this section in every Subcontract.

**5.07 SAFETY PRECAUTIONS**

- A. In performing this contract, the Contractor shall provide for protecting the lives and health of employees and other persons; preventing damage to property, materials, supplies, and equipment; and avoid work interruptions. For these purposes, the Contractor shall:
1. Follow Washington Industrial Safety and Health Act (WISHA) regional directives and provide a site-specific safety program that will require an accident prevention and hazard analysis plan for the contractor and each subcontractor on the work site. The Contractor shall submit a site-specific safety plan to the Owner's representative prior to the initial scheduled construction meeting.
  2. Provide adequate safety devices and measures including, but not limited to, the appropriate safety literature, notice, training, permits, placement and use of barricades, signs, signal lights, ladders, scaffolding, staging, runways, hoist, construction elevators, shoring, temporary lighting, grounded outlets, wiring, hazardous materials, vehicles, construction

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processes, and equipment required by all applicable state, federal, and local laws and regulations.

3. Comply with the State Environmental Policy Act (SEPA), Clean Air Act, Shoreline Management Act, and other applicable federal, state, and local statutes and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources.
  4. Post all permits, notices, and/or approvals in a conspicuous location at the construction site.
  5. Provide any additional measures that the Owner determines to be reasonable and necessary for ensuring a safe environment in areas open to the public. Nothing in this part shall be construed as imposing a duty upon the Owner or A/E to prescribe safety conditions relating to employees, public, or agents of the Contractors.
- B. Contractor safety responsibilities: In carrying out its responsibilities according to the Contract Documents, Contractor shall protect the lives and health of employees performing the Work and other persons who may be affected by the Work; prevent damage to materials, supplies, and equipment whether on site or stored off-site; and prevent damage to other property at the site or adjacent thereto. Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; shall erect and maintain all necessary safeguards for such safety and protection; and shall notify owners of adjacent property and utilities when prosecution of the Work may affect them.
- C. Contractor to maintain safety records: Contractor shall maintain an accurate record of exposure data on all incidents relating to the Work resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. Contractor shall immediately report any such incident to Owner. Owner shall, at all times, have a right of access to all records of exposure.
- D. Contractor to provide HazMat training: Contractor shall provide all persons working on the Project site with information and training on hazardous chemicals in their work at the time of their initial assignment, and whenever a new hazard is introduced into their work area.
1. Information. At a minimum, Contractor shall inform persons working on the Project site of:
    - a. WAC: The requirements of chapter 296-62 WAC, General Occupational Health Standards;
    - b. Presence of hazardous chemicals: Any operations in their work area where hazardous chemicals are present; and
    - c. Hazard communications program: The location and availability of written hazard communication programs, including the required list(s) of hazardous chemicals and material safety data sheets required by chapter 296-62 WAC.
  2. Training. At a minimum, Contractor shall provide training for persons working on the Project site which includes:
    - a. Detecting hazardous chemicals: Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);

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- b. Hazards of chemicals: The physical and health hazards of the chemicals in the work area;
  - c. Protection from hazards: The measures such persons can take to protect themselves from these hazards, including specific procedures Contractor, or its Subcontractors, or others have implemented to protect those on the Project site from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and
  - d. Hazard communications program: The details of the hazard communications program developed by Contractor, or its Subcontractors, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.
- E. Hazardous, toxic or harmful substances: Contractor's responsibility for hazardous, toxic, or harmful substances shall include the following duties:
- 1. Illegal use of dangerous substances: Contractor shall not keep, use, dispose, transport, generate, or sell on or about the Project site, any substances now or hereafter designated as, or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "hazardous substances"), in violation of any such law, regulation, statute, or ordinance, but in no case shall any such hazardous substance be stored more than 90 Days on the Project site.
  - 2. Contractor notifications of spills, failures, inspections, and fines: Contractor shall promptly notify Owner of all spills or releases of any hazardous substances which are otherwise required to be reported to any regulatory agency and pay the cost of cleanup. Contractor shall promptly notify Owner of all failures to comply with any federal, state, or local law, regulation, or ordinance; all inspections of the Project site by any regulatory entity concerning the same; all regulatory orders or fines; and all responses or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Project site.
- F. Public safety and traffic: All Work shall be performed with due regard for the safety of the public. Contractor shall perform the Work so as to cause a minimum of interruption of vehicular traffic or inconvenience to pedestrians. All arrangements to care for such traffic shall be Contractor's responsibilities. All expenses involved in the maintenance of traffic by way of detours shall be borne by Contractor.
- G. Contractor to act in an emergency: In an emergency affecting the safety of life or the Work or of adjoining property, Contractor is permitted to act, at its discretion, to prevent such threatened loss or injury, and Contractor shall so act if so authorized or instructed.
- H. No duty of safety by Owner or A/E: Nothing provided in this section shall be construed as imposing any duty upon Owner or A/E with regard to, or as constituting any express or implied assumption of control or responsibility over, Project site safety, or over any other safety conditions relating to employees or agents of Contractor or any of its Subcontractors, or the public.

**5.08 OPERATIONS, MATERIAL HANDLING, AND STORAGE AREAS**

- A. Limited storage areas: Contractor shall confine all operations, including storage of materials, to Owner-approved areas.
- B. Temporary buildings and utilities at Contractor expense: Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be provided by Contractor only with the consent of Owner

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and without expense to Owner. The temporary buildings and utilities shall be removed by Contractor at its expense upon completion of the Work.

- C. Roads and vehicle loads: Contractor shall use only established roadways or temporary roadways authorized by Owner. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by federal, state, or local law or regulation.
- D. Ownership and reporting by Contractor of demolished materials: Ownership and control of all materials or facility components to be demolished or removed from the Project site by Contractor shall immediately vest in Contractor upon severance of the component from the facility or severance of the material from the Project site. Contractor shall be responsible for compliance with all laws governing the storage and ultimate disposal. Contractor shall provide Owner with a copy of all manifests and receipts evidencing proper disposal when required by Owner or applicable law.
- E. Contractor responsible for care of materials and equipment on-site: Contractor shall be responsible for the proper care and protection of its materials and equipment delivered to the Project site. Materials and equipment may be stored on the premises subject to approval of Owner. When Contractor uses any portion of the Project site as a shop, Contractor shall be responsible for any repairs, patching, or cleaning arising from such use.
- F. Contractor responsible for loss of materials and equipment: Contractor shall protect and be responsible for any damage or loss to the Work, or to the materials or equipment until the date of Substantial Completion, and shall repair or replace without cost to Owner any damage or loss that may occur, except damages or loss caused by the acts or omissions of Owner. Contractor shall also protect and be responsible for any damage or loss to the Work, or to the materials or equipment, after the date of Substantial Completion, and shall repair or replace without cost to Owner any such damage or loss that might occur, to the extent such damages or loss are caused by the acts or omissions of Contractor, or any Subcontractor.

**5.09 PRIOR NOTICE OF EXCAVATION**

- A. Excavation defined; Use of locator services: “Excavation” means an operation in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means, except the tilling of soil less than 12 inches in depth for agricultural purposes, or road ditch maintenance that does not change the original road grade or ditch flow line. Before commencing any excavation, Contractor shall provide notice of the scheduled commencement of excavation to all owners of underground facilities or utilities, through locator services.

**5.10 UNFORESEEN PHYSICAL CONDITIONS**

- A. Notice requirement for concealed or unknown conditions: If Contractor encounters conditions at the site which are subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then Contractor shall give written notice to Owner promptly and in no event later than 7 Days after the first observance of the conditions. Conditions shall not be disturbed prior to such notice.
- B. Adjustment in Contract Time and Contract Sum: If such conditions differ materially and cause a change in Contractor’s cost of, or time required for, performance of any part of the Work, the Contractor may be entitled to an equitable adjustment in the Contract Time or Contract Sum, or both, provided it makes a request therefore as provided in Part 7.

**5.11 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, VEGETATION, UTILITIES AND IMPROVEMENTS**

- A. Contractor to protect and repair property: Contractor shall protect from damage all existing structures, equipment, improvements, utilities, and vegetation: at or near the Project site; and on adjacent property of a third party, the locations of which are made known to or should be known by Contractor. Contractor shall repair any damage, including that to the property of a third party, resulting from failure to comply with the requirements of the Contract Documents or failure to exercise reasonable care in performing the Work. If Contractor fails or refuses to repair the damage promptly, Owner may have the necessary work performed and charge the cost to Contractor.
- B. Tree and vegetation protection: Contractor shall only remove trees when specifically authorized to do so, and shall protect vegetation that will remain in place.

**5.12 LAYOUT OF WORK**

- A. Advanced planning of the Work: Contractor shall plan and lay out the Work in advance of operations so as to coordinate all work without delay or revision.
- B. Layout responsibilities: Contractor shall lay out the Work from Owner-established baselines and bench marks indicated on the Drawings, and shall be responsible for all field measurements in connection with the layout. Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the Work. Contractor shall be responsible for executing the Work to the lines and grades that may be established. Contractor shall be responsible for maintaining or restoring all stakes and other marks established.

**5.13 MATERIAL AND EQUIPMENT**

- A. Contractor to provide new and equivalent equipment and materials: All equipment, material, and articles incorporated into the Work shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract Documents. References in the Specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard quality and shall not be construed as limiting competition. Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of A/E, is equal to that named in the specifications, unless otherwise specifically provided in the Contract Documents.
- B. Use of asbestos-containing building materials: The use of asbestos-containing building materials in new construction or renovation work is strictly prohibited. For the determination of asbestos-containing building materials, the following shall apply:
  - 1. Until January 1, 2025, asbestos deliberately added in any concentration that contains more than one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in bulk building materials, EPA/600/R-93/116, July 1993.
  - 2. Following January 1, 2025, asbestos building material deliberately added in any concentration that contains more than 1/10th of one percent asbestos by weight or area for the determination of asbestos in bulk building materials, EPA/600/R-93/116, July 1993.
- C. Contractor responsible for fitting parts together: Contractor shall do all cutting, fitting, or patching that may be required to make its several parts fit together properly, or receive or be received by work of others set forth in, or reasonably implied by, the Contract Documents. Contractor shall

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not endanger any work by cutting, excavating, or otherwise altering the Work and shall not cut or alter the work of any other contractor unless approved in advance by Owner.

- D. Owner may reject defective Work: Should any of the Work be found defective, or in any way not in accordance with the Contract Documents, this work, in whatever stage of completion, may be rejected by Owner.

**5.14 AVAILABILITY AND USE OF UTILITY SERVICES**

- A. Owner to provide and charge for utilities: Owner shall make all reasonable utilities available to Contractor from existing outlets and supplies, as specified in the Contract Documents. Unless otherwise provided in the Contract Documents, the utility service consumed shall be charged to or paid for by Contractor at prevailing rates charged to Owner or, where the utility is produced by Owner, at reasonable rates determined by Owner. Contractor will carefully conserve any utilities furnished.
- B. Contractor to install temporary connections and meters: Contractor shall, at its expense and in a skillful manner satisfactory to Owner, install and maintain all necessary temporary connections and distribution lines, together with appropriate protective devices, and all meters required to measure the amount of each utility used for the purpose of determining charges. Prior to the date of Final Acceptance, Contractor shall remove all temporary connections, distribution lines, meters, and associated equipment and materials.

**5.15 TESTS AND INSPECTION**

- A. Contractor to provide for all testing and inspection of Work: Contractor shall maintain an adequate testing and inspection program and perform such tests and inspections as are necessary or required to ensure that the Work conforms to the requirements of the Contract Documents. Contractor shall be responsible for inspection and quality surveillance of all its Work and all Work performed by any Subcontractor. Unless otherwise provided, Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Contractor shall give Owner timely notice of when and where tests and inspections are to be made. Contractor shall maintain complete inspection records and make them available to Owner.
- B. Owner may conduct tests and inspections: Owner may, at any reasonable time, conduct such inspections and tests as it deems necessary to ensure that the Work is in accordance with the Contract Documents. Owner shall promptly notify Contractor if an inspection or test reveals that the Work is not in accordance with the Contract Documents. Unless the subject items are expressly accepted by Owner, such Owner inspection and tests are for the sole benefit of Owner and do not:
1. Constitute or imply acceptance;
  2. Relieve Contractor of responsibility for providing adequate quality control measures;
  3. Relieve Contractor of responsibility for risk of loss or damage to the Work, materials, or equipment;
  4. Relieve Contractor of its responsibility to comply with the requirements of the Contract Documents; or
  5. Impair Owner's right to reject defective or nonconforming items, or to avail itself of any other remedy to which it may be entitled.

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- C. Inspections or inspectors do not modify Contract Documents: Neither observations by an inspector retained by Owner, the presence or absence of such inspector on the site, nor inspections, tests, or approvals by others, shall relieve Contractor from any requirement of the Contract Documents, nor is any such inspector authorized to change any term or condition of the Contract Documents.
- D. Contractor responsibilities on inspections: Contractor shall promptly furnish, without additional charge, all facilities, labor, material and equipment reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge Contractor any additional cost of inspection or testing when Work is not ready at the time specified by Contractor for inspection or testing, or when prior rejection makes reinspection or retest necessary. Owner shall perform its inspections and tests in a manner that will cause no undue delay in the Work.

**5.16 CORRECTION OF NONCONFORMING WORK**

- A. Work covered by Contractor without inspection: If a portion of the Work is covered contrary to the requirements in the Contract Documents, it must, if required in writing by Owner, be uncovered for Owner's observation and be replaced at the Contractor's expense and without change in the Contract Time.
- B. Payment provisions for uncovering covered Work: If, at any time prior to Final Completion, Owner desires to examine the Work, or any portion of it, which has been covered, Owner may request to see such Work and it shall be uncovered by Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an adjustment in the Contract Sum for the costs of uncovering and replacement, and, if completion of the Work is thereby delayed, an adjustment in the Contract Time, provided it makes such a request as provided in Part 7. If such Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of examination and reconstruction.
- C. Contractor to correct and pay for non-conforming Work: Contractor shall promptly correct Work found by Owner not to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such nonconforming Work, including additional testing and inspections.
- D. Contractor's compliance with warranty provisions: If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or within one year after the date for commencement of any system warranties established under Section 6.08, or within the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner to do so. Owner shall give such notice promptly after discovery of the condition. This period of one year shall be extended, with respect to portions of Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual performance of the Work. Contractor's duty to correct with respect to Work repaired or replaced shall run for one year from the date of repair or replacement. Obligations under this paragraph shall survive Final Acceptance.
- E. Contractor to remove non-conforming Work: Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by Contractor nor accepted by Owner.
- F. Owner may charge Contractor for non-conforming Work: If Contractor fails to correct nonconforming Work within a reasonable time after written notice to do so, Owner may replace, correct, or remove the nonconforming Work and charge the cost thereof to the Contractor.



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- G. Contractor to pay for damaged Work during correction: Contractor shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- H. No Period of limitation on other requirements: Nothing contained in this section shall be construed to establish a period of limitation with respect to other obligations which Contractor might have according to the Contract Documents. Establishment of the time period of one year as described in Section 5.16D relates only to the specific obligation of Contractor to correct the Work, and has no relationship to the time within which the Contractor's obligation to comply with the Contract Documents may be sought to be enforced, including the time within which such proceedings may be commenced.
- I. Owner may accept non-conforming Work and charge Contractor: If Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, Owner may do so instead of requiring its removal and correction, in which case the Contract Sum may be reduced as appropriate and equitable.

**5.17 CLEAN UP**

Contractor to keep site clean and leave it clean: Contractor shall at all times keep the Project site, including hauling routes, infrastructures, utilities, and storage areas, free from accumulations of waste materials. Before completing the Work, Contractor shall remove from the premises its rubbish, tools, scaffolding, equipment, and materials. Upon completing the Work, Contractor shall leave the Project site in a clean, neat, and orderly condition satisfactory to Owner. If Contractor fails to clean up as provided herein, and after reasonable notice from Owner, Owner may do so and the cost thereof shall be charged to Contractor.

**5.18 ACCESS TO WORK**

Owner and A/E access to Work site: Contractor shall provide Owner and A/E access to the Work in progress wherever located.

**5.19 OTHER CONTRACTS**

Owner may award other contracts; Contractor to cooperate: Owner may undertake or award other contracts for additional work at or near the Project site. Contractor shall reasonably cooperate with the other contractors and with Owner's employees and shall carefully adapt scheduling and perform the Work in accordance with these Contract Documents to reasonably accommodate the other work.

**5.20 SUBCONTRACTORS AND SUPPLIERS**

- A. Subcontractor Responsibility: The Contractor shall include the language of this paragraph in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the Owner, the Contractor shall promptly provide documentation to the Owner demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this paragraph apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
  2. Have a current Washington Unified Business Identifier (UBI) number;

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3. If applicable, have:
    - a. Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
    - b. A Washington Employment Security Department number, as required in Title 50 RCW;
    - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
    - d. An electrical contractor license, if required by Chapter 19.28 RCW;
    - e. An elevator contractor license, if required by Chapter 70.87 RCW.
  4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).
  5. On a project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the Owner's first advertisement of the project.
  6. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the L&I or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.
- B. Provide names of Subcontractors and use qualified firms: Contractor shall utilize Subcontractors and suppliers which are experienced and qualified, and meet the requirements of the Contract Documents, if any. Contractor shall not utilize any Subcontractor or supplier to whom the Owner has a reasonable objection, and shall obtain Owner's written consent before making any substitutions or additions. Substitutions of subcontractors listed on Forms A and B are only allowable according to RCW 39.30.060.
- C. Subcontracts in writing and pass through provision: All Subcontracts must be in writing. By appropriate written agreement, Contractor shall require each Subcontractor, so far as applicable to the Work to be performed by the Subcontractor, to be bound to Contractor by terms of the Contract Documents, and to assume toward Contractor all the obligations and responsibilities which Contractor assumes toward Owner in accordance with the Contract Documents. Each Subcontract shall preserve and protect the rights of Owner in accordance with the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. However, nothing in this paragraph shall be construed to alter the contractual relations between Contractor and its Subcontractors with respect to insurance or bonds.
- D. Coordination of Subcontractors; Contractor responsible for Work: Contractor shall schedule, supervise, and coordinate the operations of all Subcontractors. No Subcontracting of any of the Work shall relieve Contractor from its responsibility for the performance of the Work in accordance with the Contract Documents or any other obligations of the Contract Documents.
- E. Automatic assignment of subcontracts: Each subcontract agreement for a portion of the Work is hereby assigned by Contractor to Owner provided that:

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1. Effective only after termination and Owner approval: The assignment is effective only after termination by Owner for cause pursuant to Section 9.01 and only for those Subcontracts which Owner accepts by notifying the Subcontractor in writing; and
2. Owner assumes Contractor's responsibilities: After the assignment is effective, Owner will assume all future duties and obligations toward the Subcontractor which Contractor assumed in the Subcontract.
3. Impact of bond: The assignment is subject to the prior rights of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.

**5.21 WARRANTY OF CONSTRUCTION**

- A. Contractor warranty of Work: In addition to any special warranties provided elsewhere in the Contract Documents, Contractor warrants that all Work conforms to the requirements of the Contract Documents and is free of any defect in equipment, material, or design furnished, or workmanship performed by Contractor.
- B. Contractor responsibilities: With respect to all warranties, express or implied, for Work performed or materials furnished according to the Contract Documents, Contractor shall:
1. Obtain warranties: Obtain all warranties that would be given in normal commercial practice;
  2. Warranties for benefit of Owner: Require all warranties to be executed, in writing, for the benefit of Owner;
  3. Enforcement of warranties: Enforce all warranties for the benefit of Owner, if directed by Owner; and
  4. Contractor responsibility for subcontractor warranties: Be responsible to enforce any subcontractor's, manufacturer's, or supplier's warranties should they extend beyond the period specified in the Contract Documents.
- C. Warranties beyond Final Acceptance: The obligations under this section shall survive Final Acceptance.

**5.22 INDEMNIFICATION**

- A. Contractor to indemnify Owner: Contractor shall defend, indemnify, and hold Owner and A/E harmless from and against all claims, demands, losses, damages, or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:
1. Sole negligence of Contractor: The sole negligence of Contractor or any of its Subcontractors;
  2. Concurrent negligence: The concurrent negligence of Contractor, or any Subcontractor, but only to the extent of the negligence of Contractor or such Subcontractor; and
  3. Patent infringement: The use of any design, process, or equipment which constitutes an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, and trade secret.
- B. Employee action and RCW Title 51: In any action against Owner and any other entity indemnified in accordance with this section, by any employee of Contractor, its Subcontractors, Sub-subcontractors, agents, or anyone directly or indirectly employed by any of them, the indemnification obligation of this section shall not be limited by a limit on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under RCW Title 51, the Industrial Insurance Act, or any other employee benefit acts. In addition, Contractor waives immunity as to Owner and A/E only, in accordance with RCW Title 51.

## PART 6 – PAYMENTS AND COMPLETION

### 6.01 CONTRACT SUM

Owner shall pay Contract Sum: Owner shall pay Contractor the Contract Sum plus state sales tax for performance of the Work, in accordance with the Contract Documents.

### 6.02 SCHEDULE OF VALUES

Contractor to submit Schedule of Values: Before submitting its first Application for Payment, Contractor shall submit to Owner for approval a breakdown allocating the total Contract Sum to each principal category of work, in such detail as requested by Owner ("Schedule of Values"). The approved Schedule of Values shall include appropriate amounts for demobilization, record drawings, O&M manuals, and any other requirements for Project closeout, and shall be used by Owner as the basis for progress payments. Payment for Work shall be made only for and in accordance with those items included in the Schedule of Values.

### 6.03 APPLICATION FOR PAYMENT

- A. Monthly Application for Payment with substantiation: At monthly intervals, unless determined otherwise by Owner, Contractor shall submit to Owner an itemized Application for Payment for Work completed in accordance with the Contract Documents and the approved Schedule of Values. Each application shall be supported by such substantiating data as Owner may require.
- B. Contractor certifies Subcontractors paid: By submitting an Application for Payment, Contractor is certifying that all Subcontractors have been paid, less earned retainage in accordance with RCW 60.28.011, as their interests appeared in the last preceding certificate of payment. By submitting an Application for Payment, Contractor is recertifying that the representations set forth in Section 1.03, are true and correct, to the best of Contractor's knowledge, as of the date of the Application for Payment.
- C. Reconciliation of Work with Progress Schedule: At the time it submits an Application for Payment, Contractor shall analyze and reconcile, to the satisfaction of Owner, the actual progress of the Work with the Progress Schedule.
- D. Payment for material delivered to site or stored off-site: If authorized by Owner, the Application for Payment may include request for payment for material delivered to the Project site and suitably stored, or for completed preparatory work. Payment may similarly be requested for material stored off the Project site, provided Contractor complies with or furnishes satisfactory evidence of the following:
  - 1. Suitable facility or location: The material will be placed in a facility or location that is structurally sound, dry, lighted and suitable for the materials to be stored;
  - 2. Facility or location within 10 miles of Project: The facility or location is located within a 10-mile radius of the Project. Other locations may be utilized, if approved in writing, by Owner;
  - 3. Facility or location exclusive to Project's materials: Only materials for the Project are stored within the facility or location (or a secure portion of a facility or location set aside for the Project);
  - 4. Insurance provided on materials in facility or location: Contractor furnishes Owner a certificate of insurance extending Contractor's insurance coverage for damage, fire, and theft to cover the full value of all materials stored, or in transit;

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5. Facility or location locked and secure: The facility or location (or secure portion thereof) is continuously under lock and key, and only Contractor's authorized personnel shall have access;
6. Owner right of access to facility or location: Owner shall at all times have the right of access in company of Contractor;
7. Contractor assumes total responsibility for stored materials: Contractor and its surety assume total responsibility for the stored materials; and
8. Contractor provides documentation and Notice when materials moved to site: Contractor furnishes to Owner certified lists of materials stored, bills of lading, invoices, and other information as may be required, and shall also furnish Notice to Owner when materials are moved from storage to the Project site.

**6.04 PROGRESS PAYMENTS**

- A. Owner to pay within 30 Days: Owner shall make progress payments, in such amounts as Owner determines are properly due, within 30 Days after receipt of a properly executed Application for Payment. Owner shall notify Contractor in accordance with chapter 39.76 RCW if the Application for Payment does not comply with the requirements of the Contract Documents.
- B. Withholding retainage; Options for retainage: Owner shall retain 5% of the amount of each progress payment until 45 Days after Final Acceptance and receipt of all documents required by law or the Contract Documents, including, at Owner's request, consent of surety to release of the retainage. In accordance with chapter 60.28 RCW, Contractor may request that monies reserved be retained in a fund by Owner, deposited by Owner in a bank or savings and loan, or placed in escrow with a bank or trust company to be converted into bonds and securities to be held in escrow with interest to be paid to Contractor. Owner may permit Contractor to provide an appropriate bond in lieu of the retained funds.
- C. Title passes to Owner upon payment: Title to all Work and materials covered by a progress payment shall pass to Owner at the time of such payment free and clear of all liens, claims, security interests, and encumbrances. Passage of title shall not, however, relieve Contractor from any of its duties and responsibilities for the Work or materials, or waive any rights of Owner to insist on full compliance by Contractor with the Contract Documents.
- D. Interest on unpaid balances: Payments due and unpaid in accordance with the Contract Documents shall bear interest as specified in chapter 39.76 RCW.

**6.05 PAYMENTS WITHHELD**

- A. Owner's right to withhold payment: Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to such extent as may be necessary to protect Owner from loss or damage for reasons including but not limited to:
  1. Non-compliant Work: Work not in accordance with the Contract Documents;
  2. Remaining Work to cost more than unpaid balance: Reasonable evidence that the Work required by the Contract Documents cannot be completed for the unpaid balance of the Contract Sum;
  3. Owner correction or completion Work: Work by Owner to correct defective Work or complete the Work in accordance with Section 5.16;

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4. Contractor's failure to perform: Contractor's failure to perform in accordance with the Contract Documents; or
  5. Contractor's negligent acts or omissions: Cost or liability that may occur to Owner as the result of Contractor's fault or negligent acts or omissions.
- B. Owner to notify Contractor of withholding for unsatisfactory performance: In any case where part or all of a payment is going to be withheld for unsatisfactory performance, Owner shall notify Contractor in accordance with chapter 39.76 RCW.

**6.06 RETAINAGE AND BOND CLAIM RIGHTS**

Chapters 39.08 RCW and 60.28 RCW incorporated by reference: Chapters 39.08 RCW and 60.28 RCW, concerning the rights and responsibilities of Contractor and Owner with regard to the performance and payment bonds and retainage, are made a part of the Contract Documents by reference as though fully set forth herein.

**6.07 SUBSTANTIAL COMPLETION**

Substantial Completion defined: Substantial Completion is the stage in the progress of the Work (or portion thereof designated and approved by Owner) when the construction is sufficiently complete, in accordance with the Contract Documents, so Owner has full and unrestricted use and benefit of the facilities (or portion thereof designated and approved by Owner) for the use for which it is intended. All Work other than incidental corrective or punch list work shall be completed. Substantial Completion shall not have been achieved if all systems and parts are not functional, if utilities are not connected and operating normally, if all required occupancy permits have not been issued, or if the Work is not accessible by normal vehicular and pedestrian traffic routes. The date Substantial Completion is achieved shall be established in writing by Owner. Contractor may request an early date of Substantial Completion which must be approved by Change Order. Owner's occupancy of the Work or designated portion thereof does not necessarily indicate that Substantial Completion has been achieved.

**6.08 PRIOR OCCUPANCY**

- A. Prior Occupancy defined; Restrictions: Owner may, upon written notice thereof to Contractor, take possession of or use any completed or partially completed portion of the Work ("Prior Occupancy") at any time prior to Substantial Completion. Unless otherwise agreed in writing, Prior Occupancy shall not: be deemed an acceptance of any portion of the Work; accelerate the time for any payment to Contractor; prejudice any rights of Owner provided by any insurance, bond, guaranty, or the Contract Documents; relieve Contractor of the risk of loss or any of the obligations established by the Contract Documents; establish a date for termination or partial termination of the assessment of liquidated damages; or constitute a waiver of claims.
- B. Damage; Duty to repair and warranties: Notwithstanding anything in the preceding paragraph, Owner shall be responsible for loss of or damage to the Work resulting from Prior Occupancy. Contractor's one year duty to repair any system warranties shall begin on building systems activated and used by Owner as agreed in writing by Owner and Contractor.

**6.09 FINAL COMPLETION, ACCEPTANCE, AND PAYMENT**

- A. Final Completion defined: Final Completion shall be achieved when the Work is fully and finally complete in accordance with the Contract Documents. The date Final Completion is achieved shall be established by Owner in writing, but in no case shall constitute Final Acceptance which is a subsequent, separate, and distinct action.

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- B. Final Acceptance defined: Final Acceptance shall be achieved when the Contractor has completed the requirements of the Contract Documents. The date Final Acceptance is achieved shall be established by Owner in writing. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents, submit to Owner a written notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release Contractor or its sureties from any obligations of these Contract Documents or the payment and performance bonds, or constitute a waiver of any claims by Owner arising from Contractor's failure to perform the Work in accordance with the Contract Documents.
  
- C. Final payment waives Claim rights: Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to Owner of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of Owner relating to or arising out of the Work, except for those Claims made in accordance with the procedures, including the time limits, set forth in Part 8.

## **PART 7 – CHANGES**

### **7.01 CHANGE IN THE WORK**

- A. Changes in Work, Contract Sum, and Contract Time by Change Order: Owner may, at any time and without notice to Contractor's surety, order additions, deletions, revisions, or other changes in the Work. These changes in the Work shall be incorporated into the Contract Documents through the execution of Change Orders. If any change in the Work ordered by Owner causes an increase or decrease in the Contract Sum or the Contract Time, an equitable adjustment shall be made as provided in Section 7.02 or 7.03, respectively, and such adjustment(s) shall be incorporated into a Change Order.
  
- B. Owner may request COP from Contractor: If Owner desires to order a change in the Work, it may request a written Change Order Proposal (COP) from Contractor. Contractor shall submit a Change Order Proposal within 14 Days of the request from Owner, or within such other period as mutually agreed. Contractor's Change Order Proposal shall be full compensation for implementing the proposed change in the Work, including any adjustment in the Contract Sum or Contract Time, and including compensation for all delays in connection with such change in the Work and for any expense or inconvenience, disruption of schedule, or loss of efficiency or productivity occasioned by the change in the Work.
  
- C. COP negotiations: Upon receipt of the Change Order Proposal, or a request for equitable adjustment in the Contract Sum or Contract Time, or both, as provided in Sections 7.02 and 7.03, Owner may accept or reject the proposal, request further documentation, or negotiate acceptable terms with Contractor. Pending agreement on the terms of the Change Order, Owner may direct Contractor to proceed immediately with the Change Order Work. Contractor shall not proceed with any change in the Work until it has obtained Owner's approval. All Work done pursuant to any Owner-directed change in the Work shall be executed in accordance with the Contract Documents.
  
- D. Change Order as full payment and final settlement: If Owner and Contractor reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, such agreement shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of all claims for time and for direct, indirect, and consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either covered or affected by the Change Order, or related to the events giving rise to the request for equitable adjustment.
  
- E. Failure to agree upon terms of Change Order; Final offer and Claims: If Owner and Contractor are unable to reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, Contractor may at any time in writing, request a final offer from



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Owner. Owner shall provide Contractor with its written response within 30 Days of Contractor's request. Owner may also provide Contractor with a final offer at any time. If Contractor rejects Owner's final offer, or the parties are otherwise unable to reach agreement, Contractor's only remedy shall be to file a Claim as provided in Part 8.

- F. Field Authorizations: The Owner may direct the Contractor to proceed with a change in the work through a written Field Authorization (also referred to as a Field Order) when the time required to price and execute a Change Order would impact the Project.

The Field Authorization shall describe and include the following:

1. The scope of work
2. An agreed upon maximum not-to-exceed amount
3. Any estimated change to the Contract Time
4. The method of final cost determination in accordance with the requirements of Part 7 of the General Conditions
5. The supporting cost data to be submitted in accordance with the requirements of Part 7 of the General Conditions

Upon satisfactory submittal by the Contractor and approval by the Owner of supporting cost data, a Change Order will be executed. The Owner will not make payment to the Contractor for Field Authorization work until that work has been incorporated into an executed Change Order.

## **7.02 CHANGE IN THE CONTRACT SUM**

### **A. General Application**

1. Contract Sum changes only by Change Order: The Contract Sum shall only be changed by a Change Order. Contractor shall include any request for a change in the Contract Sum in its Change Order Proposal.
2. Owner fault or negligence as basis for change in Contract Sum: If the cost of Contractor's performance is changed due to the fault or negligence of Owner, or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an equitable adjustment in the Contract Sum in accordance with the following procedure. No change in the Contract Sum shall be allowed to the extent: Contractor's changed cost of performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible; the change is concurrently caused by Contractor and Owner; or the change is caused by an act of Force Majeure as defined in Section 3.05.
  - (a) Notice and record keeping for equitable adjustment: A request for an equitable adjustment in the Contract Sum shall be based on written notice delivered to Owner within 7 Days of the occurrence of the event giving rise to the request. For purposes of this part, "occurrence" means when Contractor knew, or in its diligent prosecution of the Work should have known, of the event giving rise to the request. If Contractor believes it is entitled to an adjustment in the Contract Sum, Contractor shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. Contractor shall give Owner access to any such records and, if requested shall promptly furnish copies of such records to Owner.
  - (b) Content of notice for equitable adjustment; Failure to comply: Contractor shall not be entitled to any adjustment in the Contract Sum for any occurrence of events or costs that

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occurred more than 7 Days before Contractor's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Sum; the nature of the impacts to Contractor and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Sum requested. Failure to properly give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.

- (c) Contractor to provide supplemental information: Within 30 Days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, Contractor shall supplement the written notice provided in accordance with subparagraph a. above with additional supporting data. Such additional data shall include, at a minimum: the amount of compensation requested, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that Contractor suffered the damages claimed, but that the damages claimed were actually a result of the act, event, or condition complained of and that the Contract Documents provide entitlement to an equitable adjustment to Contractor for such act, event, or condition; and documentation sufficiently detailed to permit an informed analysis of the request by Owner. When the request for compensation relates to a delay, or other change in Contract Time, Contractor shall demonstrate the impact on the critical path, in accordance with Section 7.03C. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.
  - (d) Contractor to proceed with Work as directed: Pending final resolution of any request made in accordance with this paragraph, unless otherwise agreed in writing, Contractor shall proceed diligently with performance of the Work.
  - (e) Contractor to combine requests for same event together: Any requests by Contractor for an equitable adjustment in the Contract Sum and in the Contract Time that arise out of the same event(s) shall be submitted together.
3. Methods for calculating Change Order amount: The value of any Work covered by a Change Order, or of any request for an equitable adjustment in the Contract Sum, shall be determined by one of the following methods:
- (a) Fixed Price: On the basis of a fixed price as determined in paragraph 7.02B.
  - (b) Unit Prices: By application of unit prices to the quantities of the items involved as determined in paragraph 7.02C.
  - (c) Time and Materials: On the basis of time and material as determined in paragraph 7.02D.
4. Fixed price method is default; Owner may direct otherwise: When Owner has requested Contractor to submit a Change Order Proposal, Owner may direct Contractor as to which method in subparagraph 3 above to use when submitting its proposal. Otherwise, Contractor shall determine the value of the Work, or of a request for an equitable adjustment, on the basis of the fixed price method.

**B. Change Order Pricing – Fixed Price**

Procedures: When the fixed price method is used to determine the value of any Work covered by a Change Order, or of a request for an equitable adjustment in the Contract Sum, the following procedures shall apply:

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1. Breakdown and itemization of details on COP: Contractor's Change Order Proposal, or request for adjustment in the Contract Sum, shall be accompanied by a complete itemization of the costs, including labor, material, subcontractor costs, and overhead and profit. The costs shall be itemized in the manner set forth below, and shall be submitted on breakdown sheets in a form approved by Owner.
2. Use of industry standards in calculating costs: All costs shall be calculated based upon appropriate industry standard methods of calculating labor, material quantities, and equipment costs.
3. Costs contingent on Owner's actions: If any of Contractor's pricing assumptions are contingent upon anticipated actions of Owner, Contractor shall clearly state them in the proposal or request for an equitable adjustment.
4. Markups on additive and deductive Work: The cost of any additive or deductive changes in the Work shall be calculated as set forth below, except that overhead and profit shall not be included on deductive changes in the Work. Where a change in the Work involves additive and deductive work by the same Contractor or Subcontractor, small tools, overhead, profit, bond and insurance markups will apply to the net difference.
5. Breakdown not required if change less than \$1,000: If the total cost of the change in the Work or request for equitable adjustment does not exceed \$1,000, Contractor shall not be required to submit a breakdown if the description of the change in the Work or request for equitable adjustment is sufficiently definitive for Owner to determine fair value.
6. Breakdown required if change between \$1,000 and \$2,500: If the total cost of the change in the Work or request for equitable adjustment is between \$1,000 and \$2,500, Contractor may submit a breakdown in the following level of detail if the description of the change in the Work or if the request for equitable adjustment is sufficiently definitive to permit the Owner to determine fair value:
  - a. lump sum labor;
  - b. lump sum material;
  - c. lump sum equipment usage;
  - d. overhead and profit as set forth below; and
  - e. insurance and bond costs as set forth below.
7. Components of increased cost: Any request for adjustment of Contract Sum based upon the fixed price method shall include only the following items:
  - a. Craft labor costs: These are the labor costs determined by multiplying the estimated or actual additional number of craft hours needed to perform the change in the Work by the hourly labor costs. Craft hours should cover direct labor, as well as indirect labor due to trade inefficiencies. The hourly costs shall be based on the following:
    - (1) Basic wages and benefits: Hourly rates and benefits as stated on the L&I approved "statement of intent to pay prevailing wages" or a higher amount if approved by the Owner. Direct supervision shall be a reasonable percentage not to exceed 15% of the cost of direct labor. No supervision markup shall be allowed for a working supervisor's hours.
    - (2) Worker's insurance: Direct contributions to the state of Washington for industrial insurance; medical aid; and supplemental pension, by the class and rates established by the L&I.

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- (3) Federal insurance: Direct contributions required by the Federal Insurance Compensation Act; Federal Unemployment Tax Act; and the State Unemployment Compensation Act.
  - (4) Travel allowance: Travel allowance and/or subsistence, if applicable, not exceeding those allowances established by regional labor union agreements, which are itemized and identified separately.
  - (5) Safety: Cost incurred due to the Washington Industrial Safety and Health Act, which shall be a reasonable percentage not to exceed 2% of the sum of the amounts calculated in (1), (2), and (3) above.
- b. Material costs: This is an itemization of the quantity and cost of materials needed to perform the change in the Work. Material costs shall be developed first from actual known costs, second from supplier quotations or if these are not available, from standard industry pricing guides. Material costs shall consider all available discounts. Freight costs, express charges, or special delivery charges, shall be itemized.
- c. Equipment costs: This is an itemization of the type of equipment and the estimated or actual length of time the construction equipment appropriate for the Work is or will be used on the change in the Work. Costs will be allowed for construction equipment only if used solely for the changed Work, or for additional rental costs actually incurred by the Contractor. Equipment charges shall be computed on the basis of actual invoice costs or if owned, from the current edition of one of the following sources:
- (1) The National Electrical Contractors Association for equipment used on electrical work.
  - (2) The Mechanical Contractors Association of America for equipment used on mechanical work.
  - (3) The EquipmentWatch Fleet Manager Estimator Package (digital). The maximum rate for standby equipment shall not exceed that shown in the Associated General Contractors Washington State Department of Transportation (AGC WSDOT) Equipment Rental Agreement, current edition on the Contract execution date.
- The EquipmentWatch Rental Rate Blue Book shall be used as a basis for establishing rental rates of equipment not listed in the above sources. The maximum rate for standby equipment shall not exceed that shown in the AGC WSDOT Equipment Rental Agreement, current edition on the Contract execution date.
- d. Allowance for small tools, expendables & consumable supplies: Small tools consist of tools which cost \$250 or less and are normally furnished by the performing contractor. The maximum rate for small tools shall not exceed the following:
- (1) 3% for Contractor: For Contractor, 3% of direct labor costs.
  - (2) 5% for Subcontractors: For Subcontractors, 5% of direct labor costs.
- Expendables and consumables supplies directly associated with the change in Work must be itemized.
- e. Subcontractor costs: This is defined as payments Contractor makes to Subcontractors for changed Work performed by Subcontractors of any tier. The Subcontractors' cost of Work shall be calculated and itemized in the same manner as prescribed herein for Contractor.

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- f. Allowance for overhead: This is defined as costs of any kind attributable to direct and indirect delay, acceleration, or impact, added to the total cost to Owner of any change in the Contract Sum. If the Contractor is compensated under Section 7.03D, the amount of such compensation shall be reduced by the amount Contractor is otherwise entitled to under this subsection (f). This allowance shall compensate Contractor for all noncraft labor, temporary construction facilities, field engineering, schedule updating, as-built drawings, home office cost, B&O taxes, office engineering, estimating costs, additional overhead because of extended time, and any other cost incidental to the change in the Work. It shall be strictly limited in all cases to a reasonable amount, mutually acceptable, or if none can be agreed upon to an amount not to exceed the rates below:
- (1). Projects less than \$3 million: For projects where the Contract Award Amount is under \$3 million, the following shall apply:
- (a) Contractor markup on Contractor Work: For Contractor, for any Work actually performed by Contractor's own forces, 16% of the first \$50,000 of the cost, and 4% of the remaining cost, if any.
  - (b) Subcontractor markup for Subcontractor Work: For each Subcontractor (including lower tier subcontractors), for any Work actually performed by its own forces, 16% of the first \$50,000 of the cost, and 4% of the remaining cost, if any.
  - (c) Contractor markup for Subcontractor Work: For Contractor, for any work performed by its Subcontractor(s) 6% of the first \$50,000 of the amount due each Subcontractor, and 4% of the remaining amount if any.
  - (d) Subcontractor markup for lower tier Subcontractor Work: For each Subcontractor, for any Work performed by its Subcontractor(s) of any lower tier, 4% of the first \$50,000 of the amount due the sub-Subcontractor, and 2% of the remaining amount if any.
  - (e) Basis of cost applicable for markup: The cost to which overhead is to be applied shall be developed in accordance with Section 7.02B 7a. – e.
- (2). Projects more than \$3 million: For projects where the Contract Award Amount is equal to or exceeds \$3 million, the following shall apply:
- (a) Contractor markup on Contractor Work: For Contractor, for any Work actually performed by Contractor's own forces, 12% of the first \$50,000 of the cost, and 4% of the remaining cost, if any.
  - (b) Subcontractor markup for Subcontractor Work: For each Subcontractor (including lower tier subcontractors), for any Work actually performed by its own forces, 12% of the first \$50,000 of the cost, and 4% of the remaining cost, if any.
  - (c) Contractor markup for Subcontractor Work: For Contractor, for any Work performed by its Subcontractor(s), 4% of the first \$50,000 of the amount due each Subcontractor, and 2% of the remaining amount if any.
  - (d) Subcontractor markup for lower tier Subcontractor Work: For each Subcontractor, for any Work performed by its Subcontractor(s) of any lower tier, 4% of the first \$50,000 of the amount due the sub-Subcontractor, and 2% of the remaining amount if any.

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- (e) Basis of cost applicable for markup: The cost to which overhead is to be applied shall be developed in accordance with Section 7.02B 7a. – e.
- g. Allowance for profit: Allowance for profit is an amount to be added to the cost of any change in contract sum, but not to the cost of change in Contract Time for which contractor has been compensated pursuant to the conditions set forth in Section 7.03. It shall be limited to a reasonable amount, mutually acceptable, or if none can be agreed upon, to an amount not to exceed the rates below:
- (1) Contractor / Subcontractor markup for self-performed Work: For Contractor or Subcontractor of any tier for work performed by their forces, 6% of the cost developed in accordance with Section 7.02B 7a. – e.
- (2) Contractor / Subcontractor markup for Work performed at lower tier: For Contractor or Subcontractor of any tier for work performed by a subcontractor of a lower tier, 4% of the subcontract cost developed in accordance with Section 7.02B 7a. – h.
- h. Insurance and bond premiums: Cost of change in insurance or bond premium: This is defined as:
- (1) Contractor's liability insurance: The cost of any changes in Contractor's liability insurance arising directly from execution of the Change Order; and
- (2) Payment and Performance Bond: The cost of the additional premium for Contractor's bond arising directly from the changed Work.

The cost of any change in insurance or bond premium shall be added after overhead and allowance for profit are calculated in accordance with subparagraph f. and g above.

**C. Change Order Pricing – Unit Prices**

1. Content of Owner authorization: Whenever Owner authorizes Contractor to perform Work on a unit-price basis, Owner's authorization shall clearly state:
- a. Scope: Scope of work to be performed;
- b. Reimbursement basis: Type of reimbursement including pre-agreed rates for material quantities; and
- c. Reimbursement limit: Cost limit of reimbursement.
2. Contractor responsibilities: Contractor shall:
- a. Cooperate with Owner and assist in monitoring the Work being performed. As requested by Owner, Contractor shall identify workers assigned to the Change Order Work and areas in which they are working;
- b. Leave access as appropriate for quantity measurement; and
- c. Not exceed any cost limit(s) without Owner's prior written approval.
3. Cost breakdown consistent with Fixed Price requirements: Contractor shall submit costs in accordance with paragraph 7.02B and satisfy the following requirements:

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- a. Unit prices must include overhead, profit, bond and insurance premiums: Unit prices shall include reimbursement for all direct and indirect costs of the Work, including overhead, profit, bond, and insurance costs; and
- b. Owner verification of quantities: Quantities must be supported by field measurement statements signed by Owner.

**D. Change Order Pricing – Time-and-Material Prices**

1. Content of Owner authorization: Whenever Owner authorizes Contractor to perform Work on a time-and-material basis, Owner's authorization shall clearly state:
  - a. Scope: Scope of Work to be performed;
  - b. Reimbursement basis: Type of reimbursement including pre-agreed rates, if any, for material quantities or labor; and
  - c. Reimbursement limit: Cost limit of reimbursement.
2. Contractor responsibilities: Contractor shall:
  - a. Identify workers assigned: Cooperate with Owner and assist in monitoring the Work being performed. As requested by Owner, identify workers assigned to the Change Order Work and areas in which they are working;
  - b. Provide daily timesheets: Identify on daily time sheets all labor performed in accordance with this authorization. Submit copies of daily time sheets within 2 working days for Owner's review.
  - c. Allow Owner to measure quantities: Leave access as appropriate for quantity measurement;
  - d. Perform Work efficiently: Perform all Work in accordance with this section as efficiently as possible; and
  - e. Not exceed Owner's cost limit: Not exceed any cost limit(s) without Owner's prior written approval.
3. Cost breakdown consistent with Fixed Price requirements: Contractor shall submit costs in accordance with paragraph 7.02B and additional verification supported by:
  - a. Timesheets: Labor detailed on daily time sheets; and
  - b. Invoices: Invoices for material.

**7.03 CHANGE IN THE CONTRACT TIME**

- A. COP requests for Contract Time: The Contract Time shall only be changed by a Change Order. Contractor shall include any request for a change in the Contract Time in its Change Order Proposal.
- B. Time extension permitted if not Contractor's fault: If the time of Contractor's performance is changed due to an act of Force Majeure, or due to the fault or negligence of Owner or anyone for whose acts Owner is responsible, Contractor shall be entitled to make a request for an equitable adjustment in the Contract Time in accordance with the following procedure. No adjustment in the Contract Time shall be allowed to the extent Contractor's changed time of

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performance is due to the fault or negligence of Contractor, or anyone for whose acts Contractor is responsible.

1. Notice and record keeping for Contract Time request: A request for an equitable adjustment in the Contract Time shall be based on written notice delivered within 7 Days of the occurrence of the event giving rise to the request. If Contractor believes it is entitled to adjustment of Contract Time, Contractor shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. Contractor shall give Owner access to any such record and if requested, shall promptly furnish copies of such record to Owner.
  2. Timing and content of Contractor's Notice: Contractor shall not be entitled to an adjustment in the Contract Time for any events that occurred more than 7 Days before Contractor's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Time; the nature of the impacts to Contractor and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Time requested. Failure to properly give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.
  3. Contractor to provide supplemental information: Within 30 Days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, Contractor shall supplement the written notice provided in accordance with subparagraph 7.03B.2 with additional supporting data. Such additional data shall include, at a minimum: the amount of delay claimed, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that Contractor suffered the delay claimed, but that the delay claimed was actually a result of the act, event, or condition complained of, and that the Contract Documents provide entitlement to an equitable adjustment in Contract Time for such act, event, or condition; and supporting documentation sufficiently detailed to permit an informed analysis of the request by Owner. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of Contractor's right to an equitable adjustment.
  4. Contractor to proceed with Work as directed: Pending final resolution of any request in accordance with this paragraph, unless otherwise agreed in writing, Contractor shall proceed diligently with performance of the Work.
- C. Contractor to demonstrate impact on critical path of schedule: Any change in the Contract Time covered by a Change Order, or based on a request for an equitable adjustment in the Contract Time, shall be limited to the change in the critical path of Contractor's schedule attributable to the change of Work or event(s) giving rise to the request for equitable adjustment. Any Change Order Proposal or request for an adjustment in the Contract Time shall demonstrate the impact on the critical path of the schedule. Contractor shall be responsible for showing clearly on the Progress Schedule that the change or event: had a specific impact on the critical path, and except in case of concurrent delay, was the sole cause of such impact; and could not have been avoided by resequencing of the Work or other reasonable alternatives.
- D. Cost of change in Contract Time: Contractor may request compensation for the cost of a change in Contract Time in accordance with this paragraph, 7.03D, subject to the following conditions:
1. Must be solely fault of Owner or A/E: The change in Contract Time shall solely be caused by the fault or negligence of Owner or A/E;
  2. Procedures: Contractor shall follow the procedure set forth in paragraph 7.03B;



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3. Demonstrate impact on critical path: Contractor shall establish the extent of the change in Contract Time in accordance with paragraph 7.03C; and
4. Limitations on daily costs: The daily cost of any change in Contract Time shall be limited to the items below, less the amount of any change in the Contract Sum the Contractor may otherwise be entitled to pursuant to Section 7.02B 7f for any change in the Work that contributed to this change in Contract Time:
  - a. Non-productive supervision or labor: cost of nonproductive field supervision or labor extended because of delay;
  - b. Weekly meetings and indirect activities: cost of weekly meetings or similar indirect activities extended because of the delay;
  - c. Temporary facilities or equipment rental: cost of temporary facilities or equipment rental extended because of the delay;
  - d. Insurance premiums: cost of insurance extended because of the delay;
  - e. Overhead: general and administrative overhead in an amount to be agreed upon, but not to exceed 3% of the Contract Award Amount divided by the originally specified Contract Time for each Day of the delay.

## **PART 8 – CLAIMS AND DISPUTE RESOLUTION**

### **8.01 CLAIMS PROCEDURE**

- A. Claim is Contractor's remedy: If the parties fail to reach agreement on the terms of any Change Order for Owner-directed Work as provided in Section 7.01, or on the resolution of any request for an equitable adjustment in the Contract Sum as provided in Section 7.02 or the Contract Time as provided in Section 7.03, Contractor's only remedy shall be to file a Claim with Owner as provided in this section.
- B. Claim filing deadline for Contractor: Contractor shall file its Claim within 120 Days from Owner's final offer made in accordance with paragraph 7.01E, or by the date of Final Acceptance, whichever occurs first.
- C. Claim must cover all costs and be documented: The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. At a minimum, the Claim shall contain the following information:
  1. Factual statement of Claim: A detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of Work affected by the Claim;
  2. Dates: The date on which facts arose which gave rise to the Claim;
  3. Owner and A/E employee's knowledgeable about Claim: The name of each employee of Owner or A/E knowledgeable about the Claim;
  4. Support from Contract Documents: The specific provisions of the Contract Documents which support the Claim;

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5. Identification of other supporting information: The identification of any documents and the substance of any oral communications that support the Claim;
  6. Copies of supporting documentation: Copies of any identified documents, other than the Contract Documents, that support the Claim;
  7. Details on Claim for Contract Time: If an adjustment in the Contract Time is sought: the specific days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time;
  8. Details on Claim for adjustment of Contract Sum: If an adjustment in the Contract Sum is sought, the exact amount sought and a breakdown of that amount into the categories set forth in, and in the detail as required by Section 7.02; and
  9. Statement certifying Claim: A statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes Owner is liable.
- D. Owner's response to Claim filed: After Contractor has submitted a fully documented Claim that complies with all applicable provisions of Parts 7 and 8, Owner shall respond, in writing, to Contractor as follows:
1. Response time for Claim less than \$50,000: If the Claim amount is less than \$50,000, with a decision within 60 Days from the date the Claim is received; or
  2. Response time for Claim of \$50,000 or more: If the Claim amount is \$50,000 or more, with a decision within 60 Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision. Owner will then respond with a written decision in such additional time.
- E. Owner's review of Claim and finality of decision: To assist in the review of Contractor's Claim, Owner may visit the Project site, or request additional information, in order to fully evaluate the issues raised by the Claim. Contractor shall proceed with performance of the Work pending final resolution of any Claim. Owner's written decision as set forth above shall be final and conclusive as to all matters set forth in the Claim, unless Contractor follows the procedure set forth in Section 8.02.
- F. Waiver of Contractor rights for failure to comply with this Section: Any Claim of the Contractor against the Owner for damages, additional compensation, or additional time, shall be conclusively deemed to have been waived by the Contractor unless made in accordance with the requirements of this Section.

## **8.02 ARBITRATION**

- A. Timing of Contractor's demand for arbitration: If Contractor disagrees with Owner's decision rendered in accordance with paragraph 8.01D, Contractor shall provide Owner with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than 30 Days after the date of Owner's decision on such Claim; failure to demand arbitration within said 30 Day period shall result in Owner's decision being final and binding upon Contractor and its Subcontractors.
- B. Filing of Notice for arbitration: Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provided to Owner. The parties shall negotiate or

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mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:

1. Claims less than \$30,000: Disputes involving \$30,000 or less shall be conducted in accordance with the Northwest Region Expedited Commercial Arbitration Rules; or
  2. Claims greater than \$30,000: Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
- C. Arbitration is forum for resolving Claims: All Claims arising out of the Work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the superior court having jurisdiction thereof. No independent legal action relating to or arising from the Work shall be maintained.
- D. Owner may combine Claims into same arbitration: Claims between Owner and Contractor, Contractor and its Subcontractors, Contractor and A/E, and Owner and A/E shall, upon demand by Owner, be submitted in the same arbitration or mediation.
- E. Settlement outside of arbitration to be documented in Change Order: If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.

**8.03 CLAIMS AUDITS**

- A. Owner may audit Claims: All Claims filed against Owner shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or Subcontractors of any tier, to maintain and retain sufficient records to allow Owner to verify all or a portion of the Claim or to permit Owner access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.
- B. Contractor to make documents available: In support of Owner audit of any Claim, Contractor shall, upon request, promptly make available to Owner the following documents:
1. Daily time sheets and supervisor's daily reports;
  2. Collective bargaining agreements;
  3. Insurance, welfare, and benefits records;
  4. Payroll registers;
  5. Earnings records;
  6. Payroll tax forms;
  7. Material invoices, requisitions, and delivery confirmations;
  8. Material cost distribution worksheet;
  9. Equipment records (list of company equipment, rates, etc.);
  10. Vendors', rental agencies', Subcontractors', and agents' invoices;

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11. Contracts between Contractor and each of its Subcontractors, and all lower-tier Subcontractor contracts and supplier contracts;
  12. Subcontractors' and agents' payment certificates;
  13. Cancelled checks (payroll and vendors);
  14. Job cost report, including monthly totals;
  15. Job payroll ledger;
  16. Planned resource loading schedules and summaries;
  17. General ledger;
  18. Cash disbursements journal;
  19. Financial statements for all years reflecting the operations on the Work. In addition, the Owner may require, if it deems it appropriate, additional financial statements for 3 years preceding execution of the Work;
  20. Depreciation records on all company equipment whether these records are maintained by the company involved, its accountant, or others;
  21. If a source other than depreciation records is used to develop costs for Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all such other source documents;
  22. All nonprivileged documents which relate to each and every Claim together with all documents which support the amount of any adjustment in Contract Sum or Contract Time sought by each Claim;
  23. Work sheets or software used to prepare the Claim establishing the cost components for items of the Claim including but not limited to labor, benefits and insurance, materials, equipment, Subcontractors, all documents which establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals; and
  24. Work sheets, software, and all other documents used by Contractor to prepare its bid.
- C. Contractor to provide facilities for audit and shall cooperate: The audit may be performed by employees of Owner or a representative of Owner. Contractor, and its Subcontractors, shall provide adequate facilities acceptable to Owner, for the audit during normal business hours. Contractor, and all Subcontractors, shall make a good faith effort to cooperate with Owner's auditors.

## **PART 9 – TERMINATION OF THE WORK**

### **9.01 TERMINATION BY OWNER FOR CAUSE**

- A. 7 Day Notice to Terminate for Cause: Owner may, upon 7 Days written notice to Contractor and to its surety, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for cause upon the occurrence of any one or more of the following events:

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1. Contractor fails to prosecute Work: Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure Substantial Completion of the Work within the Contract Time;
  2. Contractor bankrupt: Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency;
  3. Contractor fails to correct Work: Contractor fails in a material way to replace or correct Work not in conformance with the Contract Documents;
  4. Contractor fails to supply workers or materials: Contractor repeatedly fails to supply skilled workers or proper materials or equipment;
  5. Contractor failure to pay Subcontractors or labor: Contractor repeatedly fails to make prompt payment due to Subcontractors or for labor;
  6. Contractor violates laws: Contractor materially disregards or fails to comply with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or
  7. Contractor in material breach of Contract: Contractor is otherwise in material breach of any provision of the Contract Documents.
- B. Owner's actions upon termination: Upon termination, Owner may at its option:
1. Take possession of Project site: Take possession of the Project site and take possession of or use all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor to maintain the orderly progress of, and to finish, the Work;
  2. Accept assignment of Subcontracts: Accept assignment of subcontracts pursuant to Section 5.20; and
  3. Finish the Work: Finish the Work by whatever other reasonable method it deems expedient.
- C. Surety's role: Owner's rights and duties upon termination are subject to the prior rights and duties of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.
- D. Contractor's required actions: When Owner terminates the Work in accordance with this section, Contractor shall take the actions set forth in paragraph 9.02B, and shall not be entitled to receive further payment until the Work is accepted.
- E. Contractor to pay for unfinished Work: If the unpaid balance of the Contract Sum exceeds the cost of finishing the Work, including compensation for A/E's services and expenses made necessary thereby and any other extra costs or damages incurred by Owner in completing the Work, or as a result of Contractor's actions, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor shall pay the difference to Owner. These obligations for payment shall survive termination.
- F. Contractor and Surety still responsible for Work performed: Termination of the Work in accordance with this section shall not relieve Contractor or its surety of any responsibilities for Work performed.
- G. Conversion of "Termination for Cause" to "Termination for Convenience": If Owner terminates Contractor for cause and it is later determined that none of the circumstances set forth in paragraph 9.01A exist, then such termination shall be deemed a termination for convenience pursuant to Section 9.02.

## 9.02 TERMINATION BY OWNER FOR CONVENIENCE

- A. Owner Notice of Termination for Convenience: Owner may, upon written notice, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for the convenience of Owner.
- B. Contractor response to termination Notice: Unless Owner directs otherwise, after receipt of a written notice of termination for either cause or convenience, Contractor shall promptly:
1. Cease Work: Stop performing Work on the date and as specified in the notice of termination;
  2. No further orders or Subcontracts: Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not terminated;
  3. Cancel orders and Subcontracts: Cancel all orders and subcontracts, upon terms acceptable to Owner, to the extent that they relate to the performance of Work terminated;
  4. Assign orders and Subcontracts to Owner: Assign to Owner all of the right, title, and interest of Contractor in all orders and subcontracts;
  5. Take action to protect the Work: Take such action as may be necessary or as directed by Owner to preserve and protect the Work, Project site, and any other property related to this Project in the possession of Contractor in which Owner has an interest; and
  6. Continue performance not terminated: Continue performance only to the extent not terminated
- C. Terms of adjustment in Contract Sum if Contract terminated: If Owner terminates the Work or any portion thereof for convenience, Contractor shall be entitled to make a request for an equitable adjustment for its reasonable direct costs incurred prior to the effective date of the termination, plus reasonable allowance for overhead and profit on Work performed prior to termination, plus the reasonable administrative costs of the termination, but shall not be entitled to any other costs or damages, whatsoever, provided however, the total sum payable upon termination shall not exceed the Contract Sum reduced by prior payments. Contractor shall be required to make its request in accordance with the provisions of Part 7.
- D. Owner to determine whether to adjust Contract Time: If Owner terminates the Work or any portion thereof for convenience, the Contract Time shall be adjusted as determined by Owner.

## PART 10 – MISCELLANEOUS PROVISIONS

### 10.01 GOVERNING LAW

Applicable law and venue: The Contract Documents and the rights of the parties herein shall be governed by the laws of the state of Washington. Venue shall be in the county in which Owner's principal place of business is located, unless otherwise specified.

### 10.02 SUCCESSORS AND ASSIGNS

Bound to successors; Assignment of Contract: Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party shall assign the Work without written consent of the other, except that Contractor may assign the Work for security

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purposes, to a bank or lending institution authorized to do business in the state of Washington. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations set forth in the Contract Documents.

**10.03 MEANING OF WORDS**

Meaning of words used in Specifications: Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall be to the latest standard specification, manual, or code in effect on the date for submission of bids, except as may be otherwise specifically stated. Wherever in these Drawings and Specifications an article, device, or piece of equipment is referred to in the singular manner, such reference shall apply to as many such articles as are shown on the drawings, or required to complete the installation.

**10.04 RIGHTS AND REMEDIES**

No waiver of rights: No action or failure to act by Owner or A/E shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall action or failure to act constitute approval or an acquiescence in a breach therein, except as may be specifically agreed in writing.

**10.05 CONTRACTOR REGISTRATION**

Contractor must be registered or licensed: Pursuant to RCW 39.06, Contractor shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27.

**10.06 TIME COMPUTATIONS**

Computing time: When computing any period of time, the day of the event from which the period of time begins shall not be counted. The last day is counted unless it falls on a weekend or legal holiday, in which event the period runs until the end of the next day that is not a weekend or holiday. When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.

**10.07 RECORDS RETENTION**

Six year records retention period: The wage, payroll, and cost records of Contractor, and its Subcontractors, and all records subject to audit in accordance with Section 8.03, shall be retained for a period of not less than 6 years after the date of Final Acceptance.

**10.08 THIRD-PARTY AGREEMENTS**

No third party relationships created: The Contract Documents shall not be construed to create a contractual relationship of any kind between: A/E and Contractor; Owner and any Subcontractor; or any persons other than Owner and Contractor.

**10.09 ANTITRUST ASSIGNMENT**

Contractor assigns overcharge amounts to Owner: Owner and Contractor recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, Contractor hereby assigns to Owner any and all claims for such overcharges as to goods, materials, and equipment purchased in connection with the Work performed in accordance with the Contract Documents, except as to overcharges which result from antitrust violations commencing after the Contract Sum is established and which are not passed on to Owner

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under a Change Order. Contractor shall put a similar clause in its Subcontracts, and require a similar clause in its sub-Subcontracts, such that all claims for such overcharges on the Work are passed to Owner by Contractor.

**10.10 HEADINGS AND CAPTIONS**

Headings for convenience only: All headings and captions used in these General Conditions are only for convenience of reference, and shall not be used in any way in connection with the meaning, effect, interpretation, construction, or enforcement of the General Conditions, and do not define the limit or describe the scope or intent of any provision of these General Conditions.

**10.11 DIVERSE BUSINESS PARTICIPTION**

The state of Washington encourages participation in all of its contracts by Diverse Businesses as found in RCW Chapters 39, 43, and WAC 326. The voluntary Diverse Business goal of 26%, which is an aggregate of: 10% Minority Business Enterprises (MBE), 6% Women Business Enterprises (WBE), 5% Veteran-owned Business, and 5% Washington Small Businesses self-identified in the Washington Electronic Business Solution (WEBS). Contractors are encouraged to meet or exceed the project goals in the advertisement by any level of participation, regardless of category.

DES reserves the right to adjust the voluntary participation goals.

Businesses are encouraged to register in WEBS, as well as registering as a state certified M/WBE/Veteran Business.

For reporting, Contractor is required to register and create an account in the DES Public Works Diversity Tracking & Management System powered by B2GNow.

Every month for the duration of your contract, and while your contract is active in the DES Public Works Diversity Tracking & Management System, submit and accurately maintain the following information:

1. Payments received by the prime contractor from the Agency
2. Payments paid to each first tier subcontractor
3. Payments paid to each first tier supplier

You must also ensure the following information is reported in the DES Public Works Diversity Tracking & Management System by your first tier subcontractors and suppliers for the duration of your contract:

1. Confirmation of payments from the prime contractor to the first tier subcontractor
2. Confirmation of payments from the prime contractor to first tier suppliers

**10.12 MINIMUM LEVELS OF APPRENTICESHIP PARTICIPATION**

In accordance with RCW 39.04.320, the State of Washington requires 15% apprenticeship participation for projects estimated to cost one million dollars or more. Contractors who meet or exceed minimum participation requirement are eligible for monetary incentive. Contractors failing to meet minimum apprenticeship participation requirement are subject to monetary penalty.

- A. Apprentice participation, under this contract, may be counted towards the required percentage (%) only if the apprentices are from an apprenticeship program registered and approved by the Washington State Apprenticeship and Training Council (RCW 49.04 and WAC 296-05).
- B. Bidders may contact the L&I to obtain more information about apprenticeship programs.



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- C. No changes to the required percentage (%) of apprentice participation shall be allowed without written approval of the Owner. In any request for the change, the Contractor shall clearly demonstrate a good faith effort to comply with the requirements for apprentice participation.
- D. Any substantive violation of the mandatory requirements of this part of the contract may be a material breach of the contract by the Contractor. The Owner may withhold payment pursuant to Part 6.05, stop the work for cause pursuant to Part 3.04, and terminate the contract for cause pursuant to Part 9.01.

**10.13 SPECIAL CONDITIONS**

The Owner may have Federal Funding or other special requirements for this project. If applicable, the Contractor will be required to comply with the "DIVISION 00 SPECIAL CONDITIONS" section in the specifications that will be based on the specific requirements of the funding source.

**DIVISION 1**  
**SPECIAL PROVISIONS**

## **100% SUBMITTAL**

### **LOCOMOTIVE - SAND DISTRIBUTION FILTRATION MODIFICATION - PERFORMANCE SPECIFICATION**

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**DIVISION 1 - GENERAL REQUIREMENTS**

**SECTION 01 10 00 SUMMARY**

1.01. SCOPE

- A. This performance specification describes the location and type of work to be performed under this project.
  - 1. The Work under this contract is to provide, furnish and install all labor, materials and equipment required to complete the work, installed, tested, and ready for use, and as described in this specification.
  - 2. The Locomotive Sand Distribution Filtration Modification generally consists of:
    - a. The selective removal of the existing sanding system dust collector and filtration equipment, associated piping and electrical utilities.
    - b. The installation of the new sanding system dust collector and filtration equipment, including, but not limited to the following:
      - (i) Dust Collection and Convey Reclaim System
        - a. Support Structure, dense phase conveyor, exhaust fan, controls, associated conveyance and vent pipe, hose and fittings, filters, high level sensor, gauges, regulators, valving and ground accessible display panel.
      - (ii) Air Receiver Tank
        - a. Piping, fittings, relief, pressure gauges and associated equipment
      - (iii) Sanding Wand Dust Collection Fan and associated equipment

1.02. LOCATION

- A. The work is located at the Tacoma Rail East End Locomotive Facility, at 2601 SR 509 N. Frontage RD, Tacoma, Washington.

**END OF SECTION**

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#### SECTION 01 10 10 SUMMARY OF WORK

##### 1.01. PROJECT DESCRIPTION

- A. **Tacoma Rail is located in the Port of Tacoma at 2601 SR509 North Frontage Road. The East Locomotive Service Facility is located on the east end of rail facilities.** This project includes procuring, delivering and installing all items described in Section 01 10 00.
- B. In all cases, the City's contract is with one (1) general contractor, and it is the general contractor's responsibility to ensure all labor and materials required to provide a complete and operational facility is included in their bid. It is the contractor's responsibility to coordinate and schedule the work of all subcontractors, trades, and suppliers to assure the proper and timely prosecution and completion of all items of work.
- C. Major components of work under this contract include, but are not limited to, the following: Removal of the existing sanding system dust collector/filtration equipment, associated piping and electrical utilities. Installation of the new sanding system dust collector and filtration equipment, air receiver tank, sanding wand dust collection fan and all associated equipment: Procuring, assembling, delivering, placing, and connecting the new equipment to the existing sanding system to support the facility.

##### 1.02. PROJECT LOCATION

- A. The project is located at Tacoma Rail located in the Port of Tacoma at 2601 SR509 North Frontage Road.

##### 1.03. SITE SHOWING

The bidder will be responsible for examining the site and to have compared the site with these specifications, and be satisfied as to the facilities and difficulties attending the execution of the proposed contract (such as uncertainty of weather, floods, nature and condition of materials to be handled and all other conditions, special work conditions including work schedules, obstacles and contingencies) before the delivery of their proposal.

No allowance will be subsequently made by the City on behalf of the bidder by reason of any error or neglect on the bidder's part, for such uncertainties as aforesaid.

**A pre-bid site showing will be conducted on site (date and time to be determined by the City) prospective bidders are urged to attend.** Due to the nature of this project, the bidder is responsible for examining the site prior to placing a bid. If the contractor cannot make the showing, they may be able to coordinate a visit to the site on their own. Failure to examine the site may be grounds to reject the bid. City shall make no adjustment to the price or provide any compensation to the contractor for impacts relating to the contractor's failure to consider the potential impacts of not only the site conditions observed, but changes in the observed conditions that could have been foreseen by the contractor.

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By entering into the contract, the bidder represents that they have inspected in detail the project site and have become familiar with all the physical and local conditions affecting the project and/or the project site. Any information provided by the City to the contractor, relating to existing conditions on, under, or to the project and/or site including, but not limited to information pertaining to hazardous material abatement and other conditions affecting the project site, represents only the opinion of the City as to the location, character, or quantity of such conditions and is provided only for the convenience of the contractor. The contractor shall draw their own conclusions from such information and make such tests, review and analyses as the contractor deems necessary to understand such conditions and to prepare their proposal.

The City assumes no responsibility whatsoever with respect to the sufficiency or accuracy of such information and there is no guarantee, either expressed or implied, that the conditions indicated or otherwise found by the contractor as a result of any examination or exploration are representative of those existing throughout the work and/or project site.

The contractor shall take field measurements and verify field conditions before commencing activities. The contractor shall assume the responsibility associated with any necessary changes to their performed activities due to negligent field measurements or verification of current conditions.

#### 1.04. COMMENCEMENT, PROSECUTION AND COMPLETION

The contractor will be required to complete the contract documents and to provide surety and payment bonds within ten (10) calendar days after the award of the contract. The contractor shall begin the work to be performed in the contract within ten (10) calendar days after the date of notification to commence work. Notification to commence work may either be by letter or, if no letter is issued, by agreement at the preconstruction conference (or if no letter is issued, by the date the contract is executed by the City).

The contractor shall be required to complete the work by the date prescribed by the City..

#### 1.05. SPECIFICATION FORMAT

This specification is written and formatted for use with Public Works specifications and is numbered to be consistent with other specifications, including Construction Specifications Institute (CSI) format, as modified by the City. It is not intended to indicate what work is to be accomplished by various subcontractors on the project. In all cases, the City's contract is with one (1) general contractor and it is the general contractor's responsibility to insure all work required to provide a complete and operational facility is included in their bid.

References to Washington State Department of Transportation (WSDOT) Standard Specifications are from the 2020 edition.

#### 1.06. CONTRACT WORK TIMES

Contract work times shall be Monday through Friday, 12:00 AM to 11:59 PM, including holidays. Work shall be done between and coordinated with Tacoma Rail Operations. The contractor shall submit a two week look ahead schedule weekly. The plan shall show required inspections for the following two-week period. This work plan shall be given to the Engineer for approval by 11:00 AM every Friday. Work not specifically detailed on the weekly work plan as requiring inspection or building system shutdown shall

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not be performed unless approved by the engineer. The contractor shall reimburse the City for all inspection of work not previously scheduled or approved by the engineer. Work requiring inspection shall be determined solely by the engineer. Directions of the engineer and/or inspector shall be followed at all times.

#### 1.07. QUALIFICATION OF CONTRACTORS

##### A. QUALIFIED CONTRACTORS

Only contractors with management, employees, and staff experienced in the type of work required by this specification, and with a record of successful completion of projects of similar scope, complexity, and overall cost will be considered. The City will be the sole judge of the bidder's ability to meet the requirements of this paragraph. Bidders past work will be judged in complexity of job, time of completion, organization, and other factors that may indicate the abilities of the contractor.

Submit to the engineer within ten (10) calendar days following execution of the contact documents, a list of all subcontractors, including each subcontractor's address, telephone number, and contact person to be used on this project.

##### B. QUALIFIED SUPERINTENDENT

Contractor shall ensure that, at a minimum, its on-site Project Supervisor(s) have completed a Safety Orientation through [ContractorOrientation.com](http://ContractorOrientation.com) and that each of its employees, subcontractors, agents or invitees has received the same Safety Orientation through sessions conducted by or through the Contractor Safety Officer before the individual performs any work on the Project.

#### 1.08. SPECIFICATIONS

The Specifications herein are made a part of the contract.

Specifications may be obtained at American Reprographics Company (ARC), 632 Broadway, Tacoma, Washington 98402, by telephoning 253-383-6363 or 1-800-337-8103, or fax to 253-274-8775, or e-mail [Tacoma.bidservices@e-arc.com](mailto:Tacoma.bidservices@e-arc.com), or by going to American Reprographics Company website at [www.e-arc.com/location/tacoma](http://www.e-arc.com/location/tacoma). Prospective bidders will be required to pay reproduction costs for the specifications and plans. A maximum of six (6) copies of these specifications will be furnished to the successful bidder for construction purposes. It shall be the contractor's responsibility to provide sufficient

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sets of drawings for building purposes. The contractor shall keep on the job site a full-size copy of their drawings and the specifications, and shall, at all times, give the engineer access thereto.

#### 1.09. EVALUATION OF BIDS

The award of this contract will not be based on cost alone as other factors and features are equally important. The contract will be awarded to the lowest responsive and responsible bidder complying with the specifications; provided such bid is reasonable and it is in the best interests of the City to accept.

The City, however, reserves the right to reject any and all bids and to waive any informalities in bids received. The City reserves the right to award the contract to the lowest responsive and responsible bidder whose bid will be most advantageous to the City, price and any other factors considered.

All other elements or factors, whether or not specifically provided for in this contract, which would affect the final cost to and the benefits to be derived by the City will be considered in determining the award of the contract. In addition, the bid evaluation factors set forth in City Code Section 1.06.262 may be considered by the City. The conclusive award decision will be based on the best interests of the City. The engineer's decision as to which contractor best meets the City's need will be final.

In addition to General Provisions Section 1.03, the following factors will be used in bid evaluation:

- A. Experience of both company and superintendent completing at least five (5) projects of similar scope, complexity and overall cost.
- B. A minimum of five years (5) documented years experience in project supervision by superintendent.
- C. Proposal prices, base bid, and cost of any or all alternates listed.
- D. Review of all required submittals.
- E. Past record with the City (including satisfying safety requirements).
- F. Bidder's responsibility based on, but not limited to:
  - 1. Ability, capacity, organization, technical qualifications and skill to perform the contract or produce the services required.
  - 2. Contractor's construction record including references, judgment, stability, adequacy of equipment proposed to be furnished.
  - 3. Whether the contract can be performed within the time specified.
  - 4. Quality of performance of previous contracts or services.

#### 1.10. LIST OF SUBCONTRACTOR'S AND CONTRACTOR'S CATEGORIES OF WORK

Every invitation to bid on a prime contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or



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municipality as defined under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each prime contract bidder to submit:

- A. Within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in Chapter 18.106 RCW; and electrical as described in Chapter 19.28 RCW, or to name itself for the work; AND
- B. Within forty-eight hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of structural steel installation and rebar installation.

#### 1.11. LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM (LEAP)

The LEAP goal for this project is 15% Local Employment Utilization Goal and 15% Apprentice Utilization Goal.

#### 1.12. PREVAILING WAGES

In addition to the requirements of Section 5.04 of the General Provisions, the contractor shall be required to post on the job site a copy of the intent form to pay prevailing wages.

As identified in the General Provisions, the contractor shall comply with the law regarding prevailing wages. These rules apply to any contractor who does business with the City, including owner/operators.

A Statement of Intent to Pay Prevailing Wages **MUST** be filed with the Washington Department of Labor & Industries upon award of contract. An Affidavit of Wages Paid **MUST** be filed with the Washington Department of Labor & Industries upon job completion.

Payments cannot be released by the City until certification of these filings are received by the engineer. Additional information regarding these submittals can be obtained by calling the Department of Labor & Industries, Prevailing Wage at 360-902-5335, or by visiting their MY L&I account.

#### 1.13. PERFORMANCE (SURETY), PAYMENT AND RETAINAGE BONDS

##### A. PERFORMANCE (SURETY) AND PAYMENT BONDS

The Contractor shall provide both a Performance Bond and Payment Bond for 100-percent of the total contract award within ten (10) calendar days after award of the contract in accordance with the General Provisions. These bonds shall be required for each contract awarded under this specification. The City's forms must be used.

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#### **B. RETAINAGE BOND**

A 5-percent retainage bond may be provided in lieu of the City withholding five-percent retainage. If a retainage bond is not obtained, the City will withhold 5-percent retainage until the end of the contract. If a retainage bond is provided, the City form must be used.

#### **1.14. WORK BY CITY**

There is no other work awarded by the City related to this overall project.

**END OF SECTION**

**SECTION 01 10 25 - MEASUREMENT AND PAYMENT**

1.01. ADMINISTRATION

A. AUTHORITY

The City inspector or engineer in coordination with the contractor shall make all measurements and determine all quantities and amounts of work done for progress payments under the contract.

The engineer shall make an estimate of the work completed or done by the contractor, and such estimates will be made by measurement or approximation at the option of the engineer. The engineer's determination of progress payments shall be conclusive. The City will not pay for material not under City control.

Payment will be made monthly based on the schedule of values as described in this section. Percent completion will be calculated by the engineer based on schedule of values and material on hand. Material not on the project site will not be paid for. Once material is on hand, it will be considered part of the job and shall not be removed for any reason until the entire job is complete.

**NOTE:** All questions regarding contract status or payments (after award) should be directed to the Engineer.

B. UNIT QUANTITIES SPECIFIED

Quantities indicated in the proposal are for bidding and contract purposes only. Quantities and measurements supplied or placed in the work and verified by the engineer and contractor determine payment.

Adjustments to contract prices due to changes in quantity shall be in accordance with the latest edition of the WSDOT Standard Specifications, unless otherwise modified by this specification.

The City reserves the right to delete any bid item from the contract by notifying the contractor in writing of its intent. In the event of deleted work, the contractor's sole compensation shall be the money due to the contractor for materials that had been purchased and obtained by the contractor prior to the deletion of the work.

C. CONTRACT PRICE

The lump sum and unit bid prices shall be full and complete compensation for the contract work stated, together with all appurtenances incidental thereto, including materials, equipment, tools, labor, and all the costs to the contractor for completing the contract in accordance with the plans, specifications, and instructions of the engineer.

All work not specifically described or mentioned in these specifications, but are required to be constructed to achieve complete and operable systems, structures or amenities shall be considered incidental items of work, not separately compensable, and its price included in items of work specified in the specifications.

D. NON-PAYMENT FOR REJECTED OR SURPLUS PRODUCTS

Payment will not be made for any of the following:

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1. Products wasted or disposed of in a manner that is not acceptable
2. Products determined as unacceptable before or after placement
3. Products not completely unloaded from the transporting vehicle
4. Products placed beyond the lines and levels of the required work
5. Products remaining on hand after completion of the work
6. Loading, hauling and disposing of rejected products

#### 1.02. PROPOSAL ITEMS

See Section 01 20 00.

The contractor shall supply all necessary survey to construct the project. All costs for labor, equipment and materials for survey shall be included in the appropriate lump sum pay items.

#### 1.03. SCHEDULE OF VALUES

Submit a detailed list of items to be included in the Schedule of Values within five (5) days of award of contract for approval by the engineer.

Submit a schedule of values within five (5) days after award of contract for all components of the construction. Schedule of values will be used by the engineer to calculate monthly payment for percent completion as indicated in Section 01 10 25 Paragraph 1.1.

Use the specification Table of Contents as a guide to establish the format for the Schedule of Values. Provide a breakdown of each lump sum item shown in Section 01 20 00 for each component of work to include pricing such as to lump sum (LS), per each (EA), linear feet (LF), ton (TON), or cubic yard (CY) prices as approved by the engineer.

##### A. FORMAT

1. Type Schedule on 8-1/2 x 11 in. bond paper.
2. Round amounts to nearest whole dollar; the total shall equal the contract sum.
3. Contractor's standard form or media-driven printout will be considered on request.
4. For Specification Divisions 2 through 34 of the Project Manual, follow the Table of Contents for minimum listing of schedule of values. Identify each line item by number and title of each Specification section. Complex line items may be required to be listed in component parts of the line item.
5. For Specification Division 1, as a minimum, include one (1) line item for each of the following: mobilization, General Conditions, bonds and insurance, punchlist correction, "record" drawings, O&M manuals, operation instructions, and demobilization.

##### B. REQUIREMENTS

1. Two (2) weeks prior to submission of first Application and Certificate for Payment, submit schedule of values to the engineer for review.
2. List installed value of each major item of Work and each subcontracted item of Work as

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a separate line item to serve as a basis for computing values for Progress Payments. Round off values to nearest dollar.

3. List guarantees/warranties as separate line items for each type of Work, such as roofing, painting, etc. Show the value of each of these on the Schedule of Values.
  4. For each major subcontract, list products and operations of that subcontract as separate line items.
  5. For each line item of installed value exceeding \$20,000, show breakdown by major products or operations as separate line items.
  6. Coordinate listings with Progress Schedule.
  7. All line item listings shall each include a directly proportional amount of Contractor's overhead and profit.
  8. For items on which payments will be requested for stored products, list sub- values for cost of stored products.
- C. Update and resubmit the Schedule of Values prior to the next application for payment or when change orders or engineering change directives result in a change in the contract sum as directed by the engineer.

#### 1.04. FORCE ACCOUNT WORK

In certain circumstances, the contractor may be required to perform additional work. Where the work to be performed is determined to be extra and not attributed to the contractor's negligence, carelessness, or failure to install permanent controls, it shall be paid in accordance with the unit contract price or by force account.

Such additional work not covered by contract items will be paid for on a force account basis as a negotiated change order with lump sum or unit price items. There is no guarantee that there will be any force account work.

#### 1.05. NON-PAYMENT FOR REJECTED OR SURPLUS PRODUCTS OR WORK

Payment will not be made for work rejected by the City. Products or work not meeting contract requirements shall be replaced by the contractor at no expense to the City, regardless of the impact to work, schedule or cost.

#### 1.06. AS-BUILTS

The final retained portion of this contract shall not be released for any reasons until complete redline "AS-BUILT" plans are received and approved by the engineer. Redline "AS-BUILT" plans shall have all necessary information including make/model numbers, dimensions, and layout information necessary to properly draft changes in AutoCAD.

#### 1.07. ALTERNATES

There are no bid alternates for this project.

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**END OF SECTION**

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### SECTION 01 10 40 - PROJECT COORDINATION

#### 1.01. PROJECT ENGINEER/LEAD

The project engineer/lead shall be herein referenced as engineer in these specifications.

Construction management for this project with whom the contractor shall coordinate all their activities once the notice to commence work is issued will be Mr. Mike Slade, Construction Manager. Any changes to these specifications or plans shall be approved by this engineer prior to commencing any work.

Bidder inquiries regarding general purchasing provisions or technical specifications may be directed to Ms. Sara Bird, Senior Buyer, [SBird@cityoftacoma.org](mailto:SBird@cityoftacoma.org).

#### 1.02. MEETINGS

##### A. PRE-BID EIC MEETING

Questions concerning the EIC may be answered at the pre-bid site showing.

If you cannot attend the meeting or have further questions following the meeting regarding the EIC (Equity in Contracting) program and/or the LEAP (Local Employment and Apprenticeship Program) please call the office at 253-591-5826, for instructions in filling out the EIC/LEAP forms or for questions concerning these requirements.

##### B. PRE-BID SITE VISIT

All bidders are responsible for assessing the site for work conditions and clarifying information to form their bids during this site visit. Please contact Tacoma Rail to obtain access to the site.

##### C. PRE-CONSTRUCTION MEETING

Following award of the contract, the engineer will notify the selected bidder of the time and date of the pre-construction meeting to be held at the 2601 SR509 North Frontage Road, Tacoma, Washington.

Minutes of the pre-construction meeting will be sent to the contractor and all meeting attendees. Recipients of the pre-construction meeting minutes will be required to direct any comments or changes to these minutes to the engineer within seven (7) days from the date of receipt. If no changes or comments are received within the seven (7) days, the meeting minutes will be kept by the engineer and become part of the project file.

##### D. COORDINATION MEETING WITH TACOMA RAIL

While this project is underway active rail activities will be ongoing. See Section 01 10 40, Paragraph 1.4.

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#### 1.03. PERMITS

The City has made application to the applicable authorities for the following permits:

- Air Operating Permit #12407

The contractor shall apply for, obtain and pay for all other required permits as set forth in Section 5.02 of the General Provisions and Section 01 12 00 Permits

#### 1.04. COORDINATION WITH OTHERS

##### A. OPERATION OF EXISTING FACILITIES

The facilities or portions of facilities within the project limits must be kept in continuous operation throughout the construction period. No interruption will be permitted, which adversely affects the degree of service provided. Provided permission is obtained by Tacoma Rail in advance, portions of the existing facilities may be taken out of service for short periods.

All construction activities shall be coordinated daily with the engineer or their designated representative. Changes to the schedule that will impact on dates shown as milestones on the schedule shall be coordinated with the engineer on a daily basis.

The contractor shall give a minimum of 72 hours' notice to the Tacoma Rail for all planned power or utility interruptions and all mechanical interruptions to occupied areas.

Tacoma Rail will be using this facility for ongoing daily operations. See Section 01 10 40, Paragraph 1.12 for additional information.

The contractor shall become familiar with the ongoing operations and include all coordination required as part of the bid. The contractor shall follow all requirements of the City and Tacoma Rail and do all coordination as part of the required work.

##### B. SCHEDULE AND COORDINATION OF WORK

The contractor shall coordinate scheduling, submittals, and all work specified herein to assure efficient and orderly sequence of the installation of interdependent construction elements with provisions for accommodating items installed later.

##### C. RELATIONS WITH THE RAILROAD

**Railroad Company, as used in these specifications, shall be the railroad company or companies, or railway company or companies specified in these Special Provisions. The following provisions, though referring to a single Railroad Company, shall be applicable to each of the following railroad companies or railway companies:**

Tacoma Rail

Protection of Railroad Property



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The Contractor shall exercise care in all operations and shall, at the Contractor's expense, protect the property of the Railroad Company and the Company's appurtenances, property in its custody, or persons lawfully upon its right of way, from damage, destruction, interference or injury caused by the Contractor's operations. The Contractor shall prosecute the work to not interfere with the Railroad Company or its appurtenances, or any of the Railroad Company's trains or facilities, and shall complete the work to a condition that shall not interfere with or menace the integrity or safe and successful operations of the Railroad Company or its appurtenances, or any of the Railroad Company's trains or facilities.

The Contractor shall not transport equipment, machinery, or materials across the Railroad Company's tracks, except at a public crossing, without the written consent of the Railroad Company.

The Contractor shall keep the right of way and ditches of the Railroad Company open and clean from any deposits or debris resulting from its operations. The Contractor shall be responsible for the cost to clean and restore ballast of the Railroad Company which is disturbed or becomes fouled with dirt or materials when such deposits or damage result from the Contractor's operations, except as provided elsewhere.

The Contractor's work shall be conducted in such a manner that there will be a minimum of interference with the operation of railroad traffic. The Railroad Company will specify what periods will be allowed the Contractor for executing any part of the work in which the Railroad Company's tracks will be obstructed or made unsafe for operation of railroad traffic.

In the event that an emergency occurs in connection with the work specified, the Railroad Company reserves the right to do any and all work that may be necessary to maintain railroad traffic. If the emergency is caused by the Contractor, the Contractor shall pay the Railroad Company for the cost of such emergency work.

Protective services to protect the Railroad Company's facilities, property, and movement of its trains or engines, including railroad flagging and other devices, may be required by the Railroad Company as a result of the Contractor's operations.

The nature and extent of protective services, personnel and other measures required will in all cases be determined by the Railroad Company. Nothing in these specifications will limit the Railroad Company's right to determine and assign the number of personnel, the classes of personnel for protective services, nor other protective measures it deems necessary.

When, in the opinion of the Railroad Company, the services of qualified railroad flaggers or security personnel are necessary for the protection of the Railroad Company's facilities by reason of the Contractor's operations, the Contractor will furnish such qualified railroad flaggers or security personnel as may be required.

The Railroad Company's contact is:

Kyle Kellem: Roadmaster, Tacoma Rail: 253-377-3554

No act of the Railroad Company in supervising or approving any work shall reduce or in any way affect the liability of the Contractor for damages, expense, or cost which may result to the Railroad Company from the construction of this Contract.

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#### 1.05. DIVISION OF WORK

##### A. MATERIAL FURNISHED AND INSTALLED BY CONTRACTOR

The contractor shall furnish and pay for all necessary materials (except City-furnished) and shall provide all labor, tools, equipment and superintendent, and perform all work incidental to the completion of the project as contemplated by this contract in accordance with the plans, specifications, and instructions of the engineer.

Each subcontractor shall furnish and install all materials and equipment unless otherwise specified.

Requests for use of alternate materials shall be submitted prior to bid opening in accordance with Section 01 13 00, Paragraph 1.3 – “Or Equal” Clause or Substitutions.

#### 1.06. LIMITATION OF CONTRACTOR'S WORK AREA/OR CONTRACTOR'S USE OF PREMISES

##### A. BARRIERS

The contractor shall furnish barriers, cones, or candle sticks with caution tape, dividing work area from area in City use.

##### B. WORK BY OTHERS AND WORK BY CITY

Other contractors or Tacoma Rail may be working in the project area and other buildings at the site during the time of construction. It shall be the responsibility of this contractor to collaborate and coordinate its work with Tacoma Rail and/or contractors within the project area.

##### C. CONTRACTOR'S USE OF PREMISES

All requests for use of areas not designated for use by the contractor shall be made in writing to the engineer for approval at least four (4) days in advance of the need. The engineer shall approve those areas for use prior to use by the contractor.

The contractor shall use the staging and work area shown in the plans.

#### 1.07. WASTE MANAGEMENT

##### PART 1 GENERAL

##### SECTION INCLUDES

The activities in this section shall include all work that will require handling, storage, sampling, disturbance, removal, transportation, designation, and/or disposal of hazardous materials and hazardous wastes which may include; soil and hazardous substances.

A. This section is to establish minimum practices to be used for the generation (including soil excavation), handling, storage, and disposal of potentially hazardous materials that may be encountered, and/or generated by the contractor.

1. All non-hazardous solid wastes generated, stored, handled, transported, and disposed of shall be managed in accordance with the standards in WAC 173-350.

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2. All hazardous materials and wastes generated, stored, handled, transported, and disposed of shall be managed in accordance with the standards in WAC 173-303.
- B. The contractor shall assume the following:
1. Additional sampling and analysis of materials and/or waste by the contractor may be necessary for the determination of proper handling and disposal requirements in accordance with the standards in WAC 173-303.
  2. The cost of removal, handling, storage, sampling, analysis, transportation, and disposal of contaminated and/or hazardous materials and hazardous wastes as part of the execution of this contract shall be incidental to the specific proposal item.

#### MANAGEMENT AND ANALYSIS OF WASTES

##### A. HAZARDOUS MATERIALS/WASTES

1. The contractor shall be responsible for appropriately handling, transporting and disposing of all hazardous wastes generated and/or encountered under this contract.
2. The contractor shall be responsible for the sampling and analysis of all waste materials (waste streams) generated.
3. Hazardous wastes must be sampled, analyzed, and profiled in accordance with Washington Department of Ecology waste designation requirements as codified in WAC 173-303.
4. Testing shall be performed by a Washington State Department of Ecology accredited laboratory using EPA approved Methodologies for all testing required for waste determination.
5. The contractor shall acquire approval for all proposed waste characterizations with the engineer prior to any waste transportation and/or disposal efforts are performed. The contractor may deviate from this approach only after providing a written work plan describing in detail the evaluation process and methods, If an alternative is proposed the City of Tacoma Project Engineer must review and approve the plan prior to any work starting.
6. The contractor shall obtain approval for all proposed hazardous waste disposal locations with the engineer prior to any waste transportation and/or disposal efforts are performed. The contractor may deviate from this approach only after providing a written work plan describing in detail the handling, storage, and disposal location(s) and process(es) that will be used. If an alternative handling, storage, or disposal method is proposed, the City of Tacoma Project Engineer must review and approve the plan prior to any work starting.
7. Testing and waste characterizations may not be required if the waste materials are managed under a Department of Ecology approved recycling exemption (e.g. recycling of scrap steel without removal of coating, recycling of used concrete).

#### CODES, LAWS AND REGULATIONS

The following laws, codes, and regulations shall be followed for the removal of soils, hazardous materials, and stormwater management:

- A. Washington State Department of Labor and Industries Chapters 296-155 WAC, 296-24 WAC, 296-62 WAC
- B. Washington State Department of Ecology Chapters 173-303 WAC, 173-304 WAC, 173-350 WAC

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C. Code of Federal Regulations Chapters 29 and 40.

#### PART 2 EXECUTION

##### A. HAZARDOUS MATERIALS/WASTES

1. The contractor shall perform a baseline study for each work area where hazardous materials will be disturbed.
  - a. The contractor shall include all aspects of the environment local to the job site.
  - b. The contractor shall submit a plan showing test locations and results to the engineer prior to commencement of work involving the disturbance of hazardous materials at the job site.
  - c. Upon completion of work, including demobilization, the contractor shall perform a post-baseline study and shall submit the study to the engineer.
  - d. The City will not make final payment for work until the engineer has received and reviewed the post-baseline study.
2. All hazardous waste removal work shall be performed by workers that have completed all required training activities and are knowledgeable in the removal of hazardous waste materials.
3. The contractor shall follow all requirements of the above codes and regulations to protect all people who may enter the work area during hazardous waste removal.
4. All requirements of the county health department(s) shall be followed at all times.
5. The contractor shall furnish and require use of respiratory equipment and special protective clothing for all employees exposed to airborne contaminants or other hazardous materials.
6. The contractor shall be responsible for the removal, encapsulation and disposal of all hazardous waste materials disturbed, managed, and/or generated under this contract.
7. If applicable and/or requested by the engineer, the contractor shall include a copy of their lead/asbestos abatement program, management policies and procedures in the Contractor's Work Hazard Analysis Report. The Report shall be submitted to the City for the preconstruction conference in accordance with Section 01500 – Construction Facilities and Temporary Controls.

#### 1.08. STORM AND WASTE WATER

##### SECTION INCLUDES

The activities in this section shall include all work that will require stormwater permit coverage, or waste water management under Environmental Protection Agency, Department of Ecology, County or City of Tacoma regulation triggered by work performed by the contractor or under the direction of the contractor which may include but not limited to; ground disturbing activity of 1 acre or more, construction or maintenance activity on City of Tacoma owned property, construction dewatering, and/or waters generated during project process.

- A. This section is to establish minimum responsibilities and requirements to be used when stormwater permit, stormwater management, construction dewatering, and/or process waste waters are generated by the contractor.

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1. All ground disturbing activities shall be managed in accordance with the standards in WAC 173-220 and CFR 40.
  2. All contract activities occurring on City of Tacoma owned property inside King and Pierce County shall be managed in accordance with the standards in City of Tacoma Municipal Code Title 12, Department of Ecology Phase I Municipal Stormwater Permit, and City of Tacoma Stormwater Management Plan.
  3. All dewatering and waste waters generated, stored, handled, transported, and disposed of shall be managed in accordance with the standards in WAC 173-303 and WAC 173-350.
- B. The contractor shall assume the following:
1. Responsible for securing permits/notice/registration and all associated permits/notice/registration requirements triggered by work performed by the contractor or under the direction of the contractor
  2. Responsible for securing transfer/partial coverage for any existing permits/notice/registration triggered by work performed by the contractor or under the direction of the contractor
  3. The cost of permits/notice/registration associated plan development, sampling, reporting and requirements shall be considered as part of the execution of this contract and shall be incidental to the specific proposal item.
  4. Additional sampling and analysis of materials and/or waste by the contractor may be necessary for the determination of proper handling and disposal requirements in accordance with the standards in WAC 173-303 and shall be incidental to the specific proposal item.

#### CONSTRUCTION STORMWATER GENERAL PERMIT

##### A. CONSTRUCTION STORMWATER GENERAL PERMIT

1. The contractor shall be responsible for securing coverage under the Department of Ecology Construction General Stormwater Permit for all construction activity that include; clearing, grading and/or excavation that results in the disturbance of one or more acres (including off-site disturbance acreage related to construction-support activity) or any size construction activity discharging stormwater that the Department of Ecology determines to be a significant contributor of pollutants to waters of the State of Washington or reasonably expects to cause a violation of any water quality standard.
2. The contractor shall be responsible for development, implementation, and management of all permit required plans, programs, and procedures.
3. The contractor shall be responsible for all permit required inspections.
4. The contractor shall be responsible for the sampling and analysis of all stormwater discharges required under the Permit.
5. Testing shall be performed by a Washington State Department of Ecology accredited laboratory using EPA approved Methodologies for all testing required for waste determination.
6. The contractor shall be responsible for all reporting required in the Permit.
7. The contractor shall be responsible for all Notices of Violation and agency enforcement actions resulting from the contractor activity or activity under the direction of the contractor.

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8. The contractor shall report the results of all agency permit inspections and Notice of Violation to the designated City of Tacoma Project Manager within 5 business days of receipt.
9. The contractor shall develop a written Corrective Action plan describing in detail the Non-compliance event, current status of compliance and steps(s) and process(es), with a schedule of completion dates, that will be used to bring project activity into compliance for all City of Tacoma, Department of Ecology, and Environmental Protection Agency issued permit inspections and Notice of Violation identifying non-compliance status. The Corrective Action plan shall be provided to the City of Tacoma Project Engineer within 10 business days of receipt of permit inspections and Notice of Violation notice. The designated City of Tacoma Project Manager must review and approve the plan prior to any work resuming.

#### B. TRANSFER OF EXISTING GENERAL CONSTRUCTION STORMWATER PERMIT

1. The contractor shall be responsible for securing transfer of permit coverage ownership for all project activity covered under an existing Department of Ecology General Construction Stormwater Permit.
2. The contractor shall be responsible for taking over and updating or development, implementation, and management of all permit required plans, programs, and procedures at the time of permit transfer.
3. The contractor shall assume responsibility for all permit required inspections at the time of permit transfer.
4. The contractor shall assume responsibility for the sampling and analysis of all stormwater discharge required by the Permit at the time of transfer.
5. Analyses shall be performed by a Washington State Department of Ecology accredited laboratory using EPA approved Methodologies for all testing required for waste determination.
6. The contractor shall assume responsibility for all reporting required by the Permit at the time of permit transfer.
7. The contractor shall assume responsibility for all Notice of Violation and agency enforcement actions resulting from the contractor activity or activity under the direction of the contractor at the time of permit transfer.
8. The contractor shall report the results of all agency permit inspections and Notices of Violation to the City of Tacoma Project Engineer within 5 business days of receipt.
9. The contractor shall develop a written Corrective Action plan describing in detail the Non-compliance event, current status of compliance and steps(s) and process(es), with a schedule of completion dates, that will be used to bring project activity into compliance for all City of Tacoma, Department of Ecology, and Environmental Protection Agency issued permit inspections and Notice of Violation identifying non-compliance status. The Corrective Action plan shall be provided to the City of Tacoma Project Engineer within 10 business days of receipt of permit inspections and Notice of Violation notice. City of Tacoma Project Engineer must review and approve the plan prior to any work starting.

**C. PARTIAL COVERAGE UNDER EXISTING GENERAL CONSTRUCTION STORMWATER PERMIT**

1. The contractor shall be responsible for securing coverage under an existing Department of Ecology General Construction Stormwater Permit for all construction activity when permit is held by City of Tacoma or other contractor also requiring permit coverage.
2. The contractor shall be responsible for ensuring all permit required plans, programs, and procedures in place accurately reflect and address contractor activities and areas.
3. The contractor shall be responsibility for ensuring permit required inspections reflect and address contractor activities and areas.
4. The contractor shall be responsibility for ensuring sampling and analysis of all stormwater discharge reflect and address contractor activities and areas.
5. The contractor shall assume responsibility for all reporting required in the permit at the time of permit transfer.
6. The contractor shall assume responsibility for all Notice of Violation and agency enforcement actions resulting from the contractor activity or activity under the direction of the contractor.
7. The contractor shall report the results of all agency permit inspections and Notices of Violation to the designated City of Tacoma Project Manager within 5 business days of receipt resulting from the contractor activity or activity under the direction of the contractor.
8. The contractor shall develop a written Corrective Action plan describing in detail the Non-compliance event, current status of compliance and steps(s) and process(es), with a schedule of completion dates, that will be used to bring project activity into compliance for all City of Tacoma, Department of Ecology, and Environmental Protection Agency issued permit inspections and Notices of Violation identifying non-compliance status resulting from the contractor activity or activity under the direction of the contractor. The Corrective Action plan shall be provided to the designated City of Tacoma Project Manager within 10 business days of receipt of permit inspections and Notice of Violation notice. The designated City of Tacoma Project Manager must review and approve the plan prior to any work starting.

**WASHINGTON STATE PHASE I MUNICIPAL STORMWATER PERMIT**

1. The contractor shall be covered under the Department of Ecology Phase I Municipal Stormwater Permit for all contract activity that occurs on City of Tacoma owned property within the Counties of King and Pierce. These activities include but not limited to as described in; clearing, grading and/or excavation that results in the disturbance of soil of any size construction activity discharging stormwater that the Department of Ecology determines to be a significant contributor of pollutants to waters of the State of Washington or reasonably expects to cause a violation of any water quality standard.
2. The contractor shall be responsible for meeting all applicable City of Tacoma Stormwater Management Plan (SWMP) requirements triggered by work performed by the contractor or under the direction of the contractor.
3. The contractor shall be responsible for development, implementation, and management of all permits and SWMP required plans, programs, procedures, and Best Management Practices triggered by work performed by the contractor or under the direction of the contractor.

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4. The contractor shall develop a written plan describing in detail each permit and SWMP requirement to be met during the project, with a schedule of completion dates, responsible positions, and task description/function that will be used to meet the permit and SWMP requirements. City of Tacoma Project Engineer must review and approve the plan prior to any work starting.

#### CONSTRUCTION DEWATERING AND WASTE WATER

1. The contractor shall be responsible for appropriate handling, storage, transportation and disposal of all waste water (including dewatering activity) generated and/or encountered under this contract.
2. The contractor shall be responsible for the sampling and analysis of all waste water (waste streams) generated.
3. Waste water must be sampled, analyzed, and profiled in accordance with waste designation and profiling requirements of planned disposal location. Additional testing may be required by city/county/state/federal oversight agency. This testing must be completed prior to any waste water transportation and/or disposal efforts are performed.
4. Analytical testing shall be performed by a Washington State Department of Ecology accredited laboratory using EPA approved Methodologies for all testing required for waste determination.
5. The contractor shall report all proposed waste water characterizations/profiling with the designated City of Tacoma Project Manager prior to any waste water transportation and/or disposal efforts are performed. The contractor may deviate from this approach only after providing a written work plan describing in detail the evaluation process and methods, If an alternative is proposed the City of Tacoma Project Engineer must review and approve the plan prior to any work starting.
6. The contractor shall report all proposed wastewater disposal locations with the Project Manager prior to any wastewater transportation and/or disposal efforts are performed. The contractor may deviate from this approach only after providing a written work plan describing in detail the handling, storage, and disposal location(s) and process(es) that will be used. If an alternative handling, storage, or disposal method is proposed, the City of Tacoma Project Manager must review and approve the plan prior to any work starting.

#### CODES, LAWS AND REGULATIONS

The following laws, codes, and regulations shall be followed when dealing with wastewater, and stormwater management:

- A. Washington State Legislature 90.48 RCW and Department of Ecology Chapters 173-220 WAC, 173-303 WAC, 173-350 WAC,
- B. Code of Federal Regulations Chapter 40.
- C. City of Tacoma Municipal Code Title 12

#### 1.09. SPILLS AND RELEASES



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A spill is defined as an intentional or unintentional release of material to the environment that is not consistent with the manufacturer's intended use, and 100% of the material cannot be recaptured, or as defined in [TMC 12.08D](#).

The Contractor shall exercise appropriate care to prevent and protect against spills. The Contractor shall be prepared to clean up small-scale spills and shall provide inert, absorbent materials on-site, as needed. The Contractor shall properly transport and dispose of all used absorbent material. The Contractor shall be responsible to clean up or pick up and properly dispose of all other chemical spills or materials that they are qualified to safely remove.

The Contractor is solely responsible for any and all spills, leaks, or releases, which occur as a result of, or are contributed to by, the action of its agents, employees or subcontractors. In the event of a spill leak or release the contractor agrees to take the following actions:

- immediate emergency response necessary to contain, cleanup and remove the released Hazardous Substance;
- evacuate (if needed) and warn those persons that may be affected by the spill;
- notify the applicable City and/or regulatory agencies (e.g Department of Ecology);
- notify the City contract manager of the incident;
- promptly undertake all investigatory, remedial, removal and other response action necessary or appropriate to ensure that any Hazardous Substances contamination is eliminated to the City's reasonable satisfaction;
- Clean up the spill in a manner that complies with federal, state and local laws, regulations, rules, and standards, and
- provide the City with copies of all correspondence with any governmental agency regarding the release (or threatened or suspected release) or the response action, a detailed report documenting all such response action, and a certification that any contamination has been eliminated.

All such spill response actions shall be performed; all such reports shall be prepared; and all such certifications; shall be made by an environmental consultant reasonably acceptable to the City.

#### 1.10. DIFFERING SITE CONDITION

Differing site conditions shall be administered in accordance with Sections 1.04.5, 1.04.7, and 1.09.11 of the Washington State Department of Transportation Standard Specifications except as stipulated in these Special and General Provisions. Contractor shall have no claim for additional costs or work, if it fails to submit a written RFI to the City immediately upon encountering any differing site condition, conflicts in the plans, specifications, or constructability issues.

The contractor shall promptly, and before conditions are disturbed, notify the engineer or their field representative of problems with subsurface conditions at the site, problems or conflicts in the plans or specifications or problems on constructability. A written **Request for Information (RFI)** shall be submitted by the contractor when such problems and direction are required.

The engineer shall promptly investigate the conditions, and if agreed upon with the contractor, adjustment shall be made on the appropriate details in writing to facilitate construction. No claim by the contractor under this differing site condition shall be allowed except as agreed upon in writing with the engineer.

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Whenever possible, the contractor shall submit in advance and in writing for changes in the scope of work and/or contract amount. This proposal shall be either accepted or rejected in writing by the project engineer prior to work commencing. When no agreement can be reached, the City may order extra work on force account.

When time is short, the contractor shall notify the City extra work is required or the City shall notify the contractor that extra work is needed and at a minimum, the engineer shall issue a handwritten **Engineering Change Directive**. In such cases, said handwritten **Directive** will not be considered as agreement that such work is extra. Within seven (7) days, the contractor shall submit a written **Change Order Proposal** for changes in the scope of work and/or contract amount.

#### 1.11. CONSTRUCTION PROGRESS SCHEDULES

##### A. FORMAT

**The contractor shall prepare schedules as a horizontal bar chart with separate bar for each major portion of work or operation, identifying the first work day of each week and include holidays and times when facility will not be available to contractor for City installed work.**

##### B. CONTENT

This schedule shall be activity-oriented showing as nearly as can be determined the starting and completion dates of each event. The schedule shall show the materials delivery, structure erection, and installation. It will include the start and completion of each major civil, structural, mechanical, communications and electrical item of work critical to the general contractor's operation.

Show complete sequence of construction, by activity, with dates for beginning and completion of each element of construction.

Identify each task by the appropriate proposal bid item number and subcontractor responsible. As a minimum, the following tasks shall be included on the schedule:

1. Scope of Work identified – structural, mechanical, electrical, and communications.
2. Phases of work where required.
3. Milestone dates Sanding system testing and shut-down dates and times for existing systems.

##### C. SEQUENCE SCHEDULING

Progress schedules are required to be coordinated with the City and updated bi-monthly or when changes occur. Acceptance or approval of the progress schedule does not release the contractor from the responsibility to provide the necessary resources to meet the schedule.

##### D. SUBMITTALS

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The contractor shall submit initial schedules at the preconstruction meeting or at a minimum of within five (5) working days after the contract award. After review, if the engineer requires changes, resubmit required revised data within five (5) working days.

The contractor shall use the attached Submittal Transmittal form (electronic version is available from the engineer) for all submittals.

Within ten (10) days of the date of the contract, the contractor and the engineer will reach an agreement on all adjustments and all modifications to the submitted schedule, which are warranted. The schedule, thus modified, will become part of the contract.

The failure of the contractor to submit a schedule(s), or the inability of the contractor and the City to reach an agreement as to modifications to a schedule, shall not excuse the contractor's obligation to perform the work required by the specifications in the number of days required by the specification.

Twice a month, the City's and the contractor's site representatives will meet and perform a "Line-to-Line" review of items on the schedule, illustrating their plan for meeting the completion dates specified in this contract and the associated construction costs for each subcontractor.

The contractor shall be required to submit all color samples for the new equipment at one time. The contractor will make a color board and submit to the engineer for approval. See Section 01 13 00 Paragraph 1.2 – Submittals and Shop Drawings.

#### **1.12. PROTECTION OF EXISTING UTILITIES AND IMPROVEMENTS**

In addition to Section 5.11 of the General Provisions:

The contractor shall protect from damaging existing equipment and utilities. Cost of labor, equipment and materials required to protect or replace said items shall be incorporated into the bid for this project.

#### **1.13. CITY OCCUPANCY**

The City reserves the right to use or to occupy any substantially completed part of the project, and to use equipment installed under the contract prior to the date of final acceptance. Such use of occupancy shall not constitute acceptance of the work, or any part thereof.

During construction, normal operations will be ongoing at the facility as stated in Section 1.4.

The Contractor shall coordinate with the Tacoma Rail while working on the project to coordinate work and access issues. The contractor will cooperate with the City to minimize conflict and to facilitate the City's operations. No shutdowns will be allowed without Tacoma Rails written approval.

The contractor will schedule the work to accommodate this requirement.

#### **1.14. SUPERINTENDENT**

The contractor shall employ a competent superintendent who shall be present at the project site at all times during the entire progress of the work, except those times when the contractor is demobilized. The

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superintendent shall be on site even when only a subcontractor is working, unless otherwise approved by the engineer. The superintendent shall be satisfactory to the contractor, and shall have full authority to act on their behalf.

It will be the superintendent's responsibility to have a set of plans and specifications on the project site during the progress of the work. The superintendent shall mark or record on the plans all changes made during construction. Such redline "AS-BUILT" plans shall be available to the engineer at all times and shall be delivered to the engineer upon completion of the work.

The superintendent initially assigned to the project by the general contractor shall remain superintendent for the duration of the contract. If the superintendent is replaced, all work shall stop until an additional preconstruction meeting with the City is held. This work stoppage will be at the contractor's expense.

The completion date shall remain unchanged, regardless of any work stoppage.

#### 1.15. CLEAN UP

In addition to General Provisions Section 5.17 – Clean Up:

##### A. DAILY

The contractor and the City inspector will walk the site daily and as required to determine the cleanup and restoration required.

All areas shall be left safe, clean and free of debris.

Clean up is considered incidental to the project and no payment will be allowed. Collect waste daily and when containers are full, legally dispose of waste off site.

Clean-up of any area impacted by the construction shall be done weekly or as directed/instructed by the engineer.

**END OF SECTION**

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#### **SECTION 01 12 00 – PERMITS AND FEES**

##### **1.01. RELATED DOCUMENTS:**

- A. General provisions of Contract, including General Conditions and other Division-1 Specification sections, apply to work of this section.

##### **1.02. PERMITS PAID FOR BY OWNER:**

- A. Air Operating Permit #12407
- B. Other permits necessary to complete the work, such as electrical and plumbing, as examples, shall be the contractor's responsibility to procure.

##### **1.03. PERMITS PAID FOR BY CONTRACTOR:**

- A. Contractor is responsible to acquire and pay for all other permits and fees required by all other agencies having jurisdiction.

##### **1.04. PERMIT RECORDS:**

- A. Maintain notebook on site with copies of all permits and inspection reports. Include same in Maintenance and Operations Manuals furnished at conclusion of project.

##### **1.05. UTILITY SERVICE CONNECTION FEES PAID FOR BY OWNER (PERMANENT):**

- A. The Owner will pay directly for fees required for all permanent service connections to utilities (natural gas, electricity, water, sewer, telecommunications). Make all final connection application(s) required, advise Owner when connection fee is ready for payment, and notify Owner of all pertinent permit payment details so that payment can be made.

##### **1.06. UTILITY SERVICE CONNECTION FEES PAID FOR BY CONTRACTOR (TEMPORARY):**

- A. Pay for all utility service connection fees required by utility vendors that are required for temporary use during the course of construction.

**END OF SECTION**

**SECTION 01 13 00 – SUBMITTALS AND SHOP DRAWINGS**

## 1.01. DOCUMENTS REQUIRED AT PRECONSTRUCTION CONFERENCE

- A. Work Hazard Analysis Report as required in the General Provisions.
- B. Construction Schedule as required in Section 01 10 40 – Project Coordination.
- C. List of Subcontractors, including each subcontractor’s address, telephone number, and contact person on this project.
- D. Name of Job Superintendent.
- E. List of Number and Names of Workers, Equipment List, and Working Site Layout or Requirements.
- F. List of Products.
- G. List of Principal Suppliers and Fabricators.
- H. Schedule Of Values – See Section 01 10 25 MEASUREMENT AND PAYMENT

## 1.02. SUBMITTALS AND SHOP DRAWINGS DURING CONSTRUCTION

Submittals and shop drawings submitted to the City as specified herein are intended to show compliance with the contract documents. Signatures, corrections or comments made on submittals do not relieve the contractor from compliance with requirements of the drawings and specifications. Neither does acceptance or approval of submittals by signature add to or delete from any contract requirements resulting from these specifications regardless of the wording of the submittals. Submittals will not be reviewed or approved when the term “By Others” is used. Submittals are reviewed or approved for general conformance with the design concept of the project and general compliance with the information given in the contract documents. The contractor is responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating their work with that of other contractors and agencies, and performing their work in a safe and satisfactory manner. Piece-mealing of submittals will not be accepted.

A. SUBMITTALS PROCEDURES

- 1. Submittal Requirements: Submit as specified under individual sections. Submittals not requested will not be recognized or processed.
- 2. Transmittal Form: Accompany each submittal with transmittal letter, in triplicate. Transmittal form will be supplied by the engineer.
- 3. Submittal Numbering: Sequentially number transmittal forms in order submitted. Add alphabetic suffix to original submittal number of re-submittals.
- 4. Submittal Identification: Include project, contractor, subcontractor or supplier, pertinent drawing and detail number, specification section number, manufacturer, fabrication, product, material, and, as appropriate.
- 5. Contractor’s Certification: Apply contractor’s stamp, signed or initialed, certifying that

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review, verification or products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the contract documents.

6. Contractor shall review submittals for adequate installation interface for all work prior to submitting them to the City.
7. Schedule of Submittals: Deliver to engineer, promptly, to meet critical path, and lead times as required to expedite the project.
8. Turn-Around Time: Allow from time of receipt five (5) working days for each submittal and each re-submittal to be reviewed by the engineer.
9. Critical Issues: Prior to submittal, communicate with engineer reason for critical issue. Upon approval, allow five (5) working days turn-around time from time of receipt by engineer.
10. Coordination and Consolidation of Submittals: Submit related items, sections or trades under one (1) submittal package for each unit of work or system where possible.
11. Deviations on Submittals: Identify deviations, including products and systems, not conforming with contract documents.
12. Product and System Limitations: Indicate conditions which may be detrimental to successful performance or completion of work.
13. Substitutions to Specified Items: Submit for approval in accordance with Section 01 13 00 Paragraph 1.3 "Or Equal" Clause or Substitution. Do not indicate or otherwise imply substitutions to specified items, except as approved.
14. Job Site Office Records: Maintain one (1) copy of every submittal, regardless of status, along with a current submittal log. Ensure that the most current, architect, and engineer stamped shop drawings and product data are distributed and subsequently used in connection with the work.
15. Re-Submittal Requirements: Revise initial submittal as directed and re-submit. Following procedures specified for the initial submittal. Make any corrections or changes in the submittals required by the engineer. Revise and make any further re-submittals until no exceptions are taken. Identify changes on re-submittal made since previous submittal.
16. Other Pertinent Submittals: Provide templates, inserts, and as applicable in timely fashion to other trades.

#### B. SCHEDULE OF SUBMITTALS

1. Within five (5) days of notice to proceed, prepare schedule of submittals for shop drawings, product data, samples, and as specified for each section. Update as requested by engineer.
2. List submittals sequentially by project manual table of contents section numbers and titles.
3. Show submittal preparation time, field measurements and verification time, date

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submitted to engineer, date due back from engineer, item order dates, and delivery dates.

4. Identify individual delivery, long lead times, and critical ordering deadlines. Include ordering dates for each item including individual parts of major submittals.
5. Indicate specified time allocated for review, turn around and distribution.
6. Identify decision dates for selection of colors and finishes not scheduled or otherwise approved.
7. Within five (5) days after notice to proceed, and in accordance with the conditions of the contract, submit list of major products proposed for use with name of manufacturer, tradesman, and model number of each product.
8. For products specified only by reference standards, give manufacturer, tradesman, model or catalog designation and reference standards.

#### C. SHOP DRAWINGS

1. Number and Format: Submit one (1) opaque reproduction when larger than 11-inches by 17-inches.
2. Submittal Procedure: Submit for engineer's review in accordance with submittal procedures specified in this section. After approved drawings are returned, the contractor shall reproduce and distribute copies to subcontractors and other entities, as applicable. Maintain one (1) copy of each shop drawing at field office and one (1) for project record documents to be delivered to the engineer at project completion.
3. Maximum Sheet Size: 24-inches by 36-inches or other allowable sizes of 8-1/2-inches by 11-inches or 11-inches by 17-inches.
4. Identification: Reference shop drawing details same as reference on contract documents, including sheet and detail descriptions, schedules and room numbers. Indicate by whom materials, products, work, and installations are supplied, performed or installed. Do not use the expression "by others".
5. Presentation: Hand drafted, or computer generated, delineated to present information in a clear and thorough manner. Freehand sketches are not acceptable.
6. Variations from Contract Documents due to Standard Shop Practices: Make transmittal outlining variation.
7. Engineer Changes to Submittals which affect Contract Sum or Contract Time: Do not distribute to being work related to submittal. Notify engineer immediately.
8. Mechanical and Electrical Utilities, Equipment and Appliance: Include electrical characteristics, connection requirements, rough-ins, location of outlets, wiring, piping diagrams, weight where significant, and as required to describe installation requirements.

#### D. PRODUCT DATA

1. Number of Copies: Submit two (2) copies to be retained by the engineer.
2. Submittal Procedures: Submit for engineer review in accordance with submittal



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procedures specified in this section. After review, distribute to subcontractors and other applicable entities. Maintain one (1) copy for project record documents to be delivered to engineer at project completion.

3. Identification: Mark each copy to identify specific products, models, options, tolerances, dimensions, and other pertinent data.
4. Manufacturer's Standard Data: Modify drawings and diagrams to delete inapplicable information. Supplement to provide pertinent information unique to project.
5. Mechanical and Electrical Utilities, Equipment, and Appliance: Where not shown by shop drawings, include electrical characteristics, connection requirements, rough-ins, location of outlets, wiring, piping diagrams, controls, weight where significant, and as required to describe installation requirements. Correct published product data to correlate with specific project requirements.

#### E. ELECTRONIC FILES OF MANUALS (FROM VENDORS):

1. Electronic manuals must be submitted in .PDF and compatible with the latest version of Adobe Professional.
2. Manuals should be scanned at 300 DPI.
3. Color originals should be scanned to color images if possible.
4. All .PDF files should be scanned at using Optical Character Recognition (OCR)
5. A manual must be submitted as a single .PDF file; addendums and attachments (may or may not include drawings) should not be submitted separately, or in different file formats.
6. Manuals that consist of multiple volumes should be submitted as individual files.
7. Manuals comprised of several sections or chapters should be bookmarked by the vendor.
8. If a vendor wished to include security settings (so that their documents are "read-only"), that is acceptable provided that the City can view and print from the file.

#### F. SAMPLES

1. Quantity or Number: Submit one (1) each to be retained by engineer, except as otherwise specified by individual specification sections. Submit additional as required by contractor for distribution.
2. Submittal Procedure: Submit for engineer's review in accordance with submittal procedures specified in this section. After review, distribute to applicable entities.
3. Size and Completeness: As specified by individual sections. When not specified, submit samples of sufficient size and completeness to clearly illustrate product.
4. Identification: Label each sample with project title and complete product identification, including manufacturer, model number, descriptive name, supplier, and as applicable to sample identification.
5. Functional Characteristics: Include parts, attachments, and components as

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applicable. Coordinate with interfacing work.

6. Aesthetic Characteristics: As required for selection of colors, finishes, patterns, and as required or requested to finalize selection process. Furnish full range of manufacturer's custom and standard selections. Where selection is specified, submit as required to show conformance to contract documents.

#### G. DESIGN DETAILS

All design details shall be submitted to the City by the contractor during the design phase for review and approval prior to commencing any construction. This includes designs, loads and computations on foundations, connections, columns, beams, and complete details of all structural members and structural connections and anchoring. During this phase, the contractor shall be required to submit plans, calculations, and all required materials to the applicable authority to obtain all necessary permits for the project.

#### H. MANUFACTURER INSTRUCTIONS AND CERTIFICATES

Number: Submit one (1) copy paper and electronic of both the manufacturer instructions and certificates.

Content: Include manufacturer's printed instructions for delivery, storage, preparation, assembly, installation, start-up, adjusting, balancing, and finishing as specified for individual specification sections. Include special procedures, project conditions, and environmental criteria required for application or installation.

#### I. CODE COMPLIANCE CERTIFICATES

Submit information required as a condition of building permit issued by code authority.

### 1.03. "OR EQUAL" CLAUSE OR SUBSTITUTIONS

#### A. GENERAL

When the engineer approves a substitution, it is with the understanding that the contractor guarantees the substituted article to be equal to, or better than, the article specified. The engineer will judge the suitability, reliability, and service availability of a proposed substitute. To be considered by the engineer, the request for substitution shall be accompanied with complete physical and technical data, manufacturer's catalogue data, photographs, samples, and the address of the nearest authorized service representative, as applicable.

The decision of the engineer on "OR EQUALS" shall be final.

The requirements of the General Provision – Approved Equals also apply.

#### B. PRIOR TO BID OPENING

Substitution approvals will be considered prior to the bid opening if the bidder submits their request for substitution not less than ten (10) working days prior to the date set for bid opening. All substitution requests shall be submitted using the "**Substitution Request Form**" included in the bid packet and shall be sent to the individual as noted at the top of the form. Substitution requests not received by the named individual will not be evaluated and not allowed as a substitution prior to bidding. Submit all requests and product data in triplicate.

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Saturday, Sunday and holidays listed in the General Provisions are excluded from the calculation of five (5) days. An addendum listing such approvals may/will be issued prior to bidding.

Bidders who do not receive prior written approvals of "OR EQUAL" by five (5) working days prior to bid submittal must base their bids on the items specified.

#### **C. AFTER BID OPENING**

Proposed substitution and deviation requests shall be reviewed during the time of submittal review.

Substitution and deviation requests will be received and considered only when one or more of following conditions are satisfied:

1. The specified product or method of construction cannot be provided within the contract period and the contractor submittal is submitted within time frame allowed.
2. The specified product or method of construction cannot receive necessary approval by a governing authority, and the requested substitution can be approved.
3. The specified product or method of construction cannot be provided in a manner that is compatible with other materials.
4. A substantial advantage is offered to the Owner, in terms of cost, time, or other considerations of merit.
5. The product as specified includes the statement, "or equal" and one of the above conditions governs.
6. The engineer's decision on all substitution or deviation requests shall be final.

**END OF SECTION**

**SECTION 01 14 00 – QUALITY CONTROLS**

1.01. REFERENCE STANDARDS

- A. Reference to standards, specifications, manuals or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest Standard Specification manual, code, or laws or regulations in effect at the time of opening of bids (or on the effective date of the agreement if there were no bids), except as may be otherwise specifically stated. However, no provision of any referenced standard, specification, manual, or code (whether or not specifically incorporated by reference in the contract documents) shall be effective to change the duties and responsibilities of City, contractor, or engineer, or employees from those set forth in the contract documents.

1.02. INSPECTION, TESTING AND CERTIFICATION

A. INSPECTION

1. Construction inspection and testing for the City will be performed as the City may designate and as the construction situation may dictate. The City inspector will be responsible for insuring that the contractor is complying with the contract plans and specifications.
2. The City will prepare a construction inspection checklist to be presented to the contractor at the preconstruction meeting. The checklist will include all inspections typically required by local, city and county officials as well as other items as deemed important by the engineer.
3. The contractor shall be required to contact the City 24 hours in advance of all of the construction activities listed on the checklist, have the indicated activity inspected, and the City's inspector initial that the work was performed in accordance with the appropriate technical provision.
4. The checklist shall be posted near each structure and be available for review by the City at all times. These inspections shall be in addition to any required inspections by state or local jurisdictions. The City will prepare a suitable checklist for each building to be constructed and present same to the contractor at the preconstruction meeting.
5. Pre-final Inspection: Contractor shall notify the engineer in writing when all work or portions of work are complete and ready for inspection. The engineer will make a "punch list" and forward the results of same to the contractor who shall promptly correct any deficiencies noted.
6. Final Inspection: Contractor shall notify the engineer in writing when all punch list deficiencies have been completed. The engineer will promptly set a time for final inspection at which time the engineer and contractor shall jointly inspect the work. The contractor will promptly correct any further deficiencies noted.

B. LABORATORY SERVICES

1. Testing for quality control certification or special inspections as required by the

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permitting authority will be conducted by an independent laboratory which will be furnished and paid for by the City. Subsequent sampling and testing of rejected material shall be paid for by the contractor.

2. Failure of the material to achieve the specified density or standards will be just cause for rejecting any portion of, and/or all of the material represented by the test. All costs associated with replacement materials or any delays caused by such failure shall be borne by the contractor.
3. It shall be the contractor's responsibility to prepare test specimens as required for special inspection as required by the permitting authority or the engineer and the cost shall be incidental to the contract.

#### **C. PERMIT INSPECTIONS**

The contractor shall comply with the requirements of all permits. It shall be the contractor's responsibility to contact the permitting authority and schedule all required inspections. The contractor shall notify the City inspector of all scheduled inspections.

#### **D. QUALITY ASSURANCE – CONTROL OF INSTALLATION**

1. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship to produce Work of specified quality.
2. Comply with manufacturers' instructions, including each step in sequence.
3. Should manufacturers' instructions conflict with Contract Documents, request clarification from engineer before proceeding.
4. Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
5. Perform Work by persons qualified to produce required and specified quality.
6. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
7. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.

#### **E. TOLERANCES**

1. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
2. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from engineer before proceeding.
3. Adjust products to appropriate dimensions; position before securing products in place.

#### **F. MOCK-UP**

1. Tests will be performed under provisions identified in this Section and identified in the respective product specification sections.

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2. Assemble and erect specified items with specified attachment and anchorage devices, flashings, seals, and finishes.
3. Accepted mock-ups shall be a comparison standard for the remaining Work.
4. Where mock-up has been accepted by engineer and is specified in product specification sections to be removed, remove mock-up and clear area when directed to do so.

#### **G. MANUFACTURERS' FIELD SERVICES**

1. When specified in individual specification sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust, and balance of equipment, and to initiate instructions when necessary.
2. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

**END OF SECTION**

**SECTION 01 15 00 – CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS**

1.01. PARKING

A. PARKING

Tacoma Rail will not provide a designated parking area. The contractor is responsible for providing parking for its crews and subcontractors offsite.

1.02. LAYDOWN AREA

A. STORAGE AND LAYDOWN AREA

An area will be made available by the owner for material storage on site. This area will be made available for inspection prior to submittal of bids. This material storage area will be required to be used for storage of all construction material with lead time requirements that is required to be on hand at start of construction. The lay down area is as shown in the plans. Any modification of the storage area for the convenience of the contractor shall be at the contractor's expense and shall be pre-approved by the engineer. Contractor may use an alternate area for storage of lead time material providing it is at the contractor's expense and available to the engineer for inspection to verify availability.

1.03. SECURITY AND ACCESS

A. GENERAL

1. Contractor Operations: Tacoma Rail is as secure facility and following award Tacoma Rail and the contractor shall coordinate an access protocol to the site. Access shall be restricted to the immediate work area and access route shall be identified to be used during construction. Contractor shall confine personnel to the immediate work vicinity while on site.
2. Emergency Site Access during Construction: Fire lanes must remain open during construction.

1.04. SAFETY

In addition to Section 3.06 "Safety" of the General Provisions, the contractor shall:

A. WORK HAZARD ANALYSIS

The contractor and their subcontractors shall thoroughly review the scope of work of the proposed project. The contractor will be responsible to indicate a work hazard analysis on the form of "Contractor's Work Hazard Analysis Report" attached with the proposal; i.e., any known or potential safety issues or phases of construction that may require specific safety procedures as identified by WISHA or OSHA regulations, and/or prudent construction practices; i.e., shoring, fall protection, scaffolding, hazardous materials, asbestos removal, etc.

This report shall be completed and submitted to the engineer before the preconstruction conference. A copy of this report will be forwarded to the City Safety Officer for review. A copy of this report shall be maintained at the work site (accessible to the supervisor).

The City will review the submitted report and may require the contractor to clarify their safety

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procedures submitted or detail their procedures for ensuring safe working conditions for other working conditions not listed in the original submitted report; and/or explain how the procedures meet current safety regulations. In no case, may the contractor commence work until the Job Hazard Analysis Report has been reviewed and approved by the engineer.

#### **1.05. PROTECTION OF ADJACENT AREAS DURING CONSTRUCTION**

The contractor shall take any measures, including but not limited to the ones listed below, to protect adjacent areas from the effects of construction.

Other work and barrier requirements as directed by the engineer to provide separation between the contractor's work area and ongoing GTCC operations.

The contractor shall take any measures, including but not limited to the ones listed below, to protect adjacent areas and quadrants from the effects of construction.

#### **1.06. DUST CONTROL**

The contractor shall take reasonable measures to prevent unnecessary dust. Earth surfaces subject to dusting shall be kept moist with water or by application of a chemical dust suppressant. Dusty materials in piles or in transit shall be covered when practicable to prevent blowing.

Buildings or operating facilities which may be affected adversely by dust shall be adequately protected from dust. Existing or new machinery, motors, instrument panels, or similar equipment shall be protected by suitable dust screens. Proper ventilation shall be included with dust screens.

#### **1.07. POLLUTION CONTROL**

Contractor shall prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris, and other substances resulting for construction activities. No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris, or other substances will be permitted to enter sanitary sewers and reasonable measures will be taken to prevent such materials for entering and drain or watercourse.

The contractor shall maintain oil absorption pads in the actual job site whenever any equipment is present to immediately catch and contain any oil and/or fuel leaks.

Nothing in this specification or contract shall be deemed to warrant to the contractor the quality, quantity or usefulness of the property designated for demolition, not designated as salvage, or designated to become the property of the contractor.

**END OF SECTION**



**SECTION 01 16 00 – MATERIAL AND EQUIPMENT**

1.01. QUALITY OF WORKMANSHIP AND MATERIAL

A. WORKMANSHIP

The contractor shall employ only competent, skillful, and orderly persons to do the work. If, in the engineer's opinion, a person is incompetent, disorderly or otherwise unsatisfactory, the engineer shall notify the contractor, in writing, of same. The contractor shall immediately discharge such personnel from the work and shall not again employ those person(s) on said contract again. Work shall conform to the highest industry standards.

See General Provisions, Paragraph 5.01 – Contractor Control and Supervision for additional requirements.

B. MATERIALS

Materials shall be delivered to the project site in the manufacturer's original containers, bundles or packages unopened with the seals unbroken and the labels intact. Each type of material shall be of the same make and quality throughout. Manufactured articles, materials and equipment shall be installed in accordance with each manufacturer's written directions, unless otherwise specified.

All materials and equipment to be provided under this contract shall conform to the latest edition of the applicable codes, but in no case shall be contrary to the laws of the State of Washington and/or Federal Government.

The equipment supplied shall meet appropriate ANSI, OSHA, WISHA, and all Federal, state, and local standards for the type of equipment provided for its intended use.

Deliver, store and handle products according to manufacturer's written instructions, using means and methods that will prevent damage, deterioration, and loss, including theft.

1. Schedule delivery to minimize long-term storage and to prevent overcrowding construction spaces.
2. Deliver with labels and written instructions for handling, storing, protecting, and installing.
3. Inspect products at time of delivery for compliance with the contract documents and to ensure items are undamaged and properly protected.
4. Store heavy items in a manner that will not endanger supporting construction.
5. Store products subject to damage on platforms or pallets, under cover in a weather tight enclosure, with ventilation adequate to prevent condensation. Maintain temperature and humidity within range required.
6. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter. Protect from rain and provide spill prevention.

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7. Provide [bonded] off-site storage and protection when sited does not permit on-site storage or protection.
8. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

#### **1.02. SALVAGEABLE AND NONSALVAGEABLE MATERIAL**

##### **A. PROPERTY OF CONTRACTOR**

Demolition, not indicated for salvage, becomes property of contractor. Removed from site at contractor's expense to a legal waste site obtained by the contractor.

Materials deemed to be non-salvageable by the engineer's representative shall be disposed by the contractor to a legal dump site obtain by him. All costs to dispose of non-salvageable materials shall be the contractor's responsibility.

The contractor may, if approved by the City, furnish and install new items in lieu of those specified or indicated to be salvaged and reused, in which case such removed items will become the contractor's property. Existing materials and equipment removed by the contractor shall not be reused in the work except where so specified or indicated.

**END OF SECTION**

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### **SECTION 01 20 00 – PRICE AND PAYMENT PROCEDURES**

#### **PART 1 – GENERAL**

##### **1.01. PAYMENT PROCEDURES**

- A. Monthly pay estimates shall clearly identify the work performed for the given time period based on the approved Schedule of Values.
  - 1. At the Pre-construction meeting, the Engineer and the Contractor shall agree upon a date each month when payment applications shall be submitted.
  
- B. Prior to submitting a payment application, the Contractor and Engineer shall meet each month to review the work accomplished to determine the actual quantities including labor, materials and equipment charges to be billed.
  - 1. Prior to the payment application meeting, the Contractor shall submit to the Engineer all measurement documentation as referenced in these contract documents; to include all measurement by weight, volume or field.
  - 2. For all change work being done on a force account basis, the Contractor shall submit prior to meeting with Engineer all Force Account back-up documentation as required to process the payment application where Force Account work is being billed. The Engineer and the Contractor shall review the documentation at the payment application meeting to verify quantities and review the work accomplished.
  - 3. The Contractor shall bring a copy of all documentation to the pay application meeting with the Engineer.
  
- C. Following the Engineers review, the Contractor shall prepare an original pay estimate, in a form approved by the Owner or with the Owner's supplied form, signed and complete with all supporting documentation attached and submit it electronically using Adobe PDF file format.
  - 1. With each payment application, the Contractor shall submit a list of all subcontractors (at all tiers) and suppliers on the Owner supplied form.
  
- D. An estimated cashflow statement projecting the Contractor's monthly billings on the project shall be submitted with each payment application.

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#### 1.02. PAYMENT PRICING

- A. Pricing for the various lump sum or unit prices in the Bid Form, as further specified herein, shall include all compensation to be received by the Contractor for furnishing all tools, equipment, supplies, materials and manufactured articles, and for all labor, operations, and incidentals appurtenant to the items of work being described, as necessary to complete the various items of the work in accordance with the requirements of the Contract Documents.
- B. Pricing also includes all costs of compliance with the regulations of public agencies having jurisdiction, including safety and health requirements of the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA).
- C. No separate payment will be made for any item that is not specifically set forth in the Bid Form, and all costs therefore shall be included in the prices named in the Bid Form for the various appurtenant items of work.
- D. All other work not specifically mentioned in the measurement and payment sections identified below shall be considered incidental to the work performed and merged into the various unit and lump sum prices bid. Payment for work under one item will not be paid for under any other item.
- E. Indirect costs, such as supervision, overhead costs, profit, and compliance with general conditions, shall be allocated to each bid item as applicable for work defined in the bid item. No separate payment will be made to the Contractor for indirect costs.
- F. The Owner reserves the right to make changes should unforeseen conditions necessitate such changes. Where the work is on a unit price basis, the actual quantities occasioned by such changes shall govern.

#### 1.03. LUMP SUM MEASUREMENT

- A. Lump-sum measurement will be for the entire item, unit of Work, structure, or combination thereof, as specified and as indicated in the Contractor's submitted bid.
  - 1. If the Contractor requests progress payments for lump-sum items, such progress payments will be made in accordance with an approved schedule of values. The

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quantity for payment for completed work shall be an estimated percentage of the lump sum amount, agreed to between the Engineer and Contractor, payable in monthly progress payments in increments proportional to the work performed in amounts as agreed between the Engineer and the Contractor.

#### 1.04. MEASUREMENT OF QUANTITIES FOR UNIT PRICES

##### A. MEASUREMENT STANDARDS:

1. All Work to be paid for at a contract price per unit measurement, as indicated in the Contractor's submitted bid, will be measured by the Engineer in accordance with United States Standard Measures.

##### B. MEASUREMENT BY WEIGHT:

1. Unless shipped by rail, material to be measured and paid for by weight shall be weighed on sealed scales regularly inspected by the Washington State Department of Agriculture's Weights and Measures Section or its designated representative. Measurement shall be furnished by and at the expense of the Contractor. All weighing, measuring, and metering devices shall be suitable for the purpose intended and shall conform to the tolerances and specifications as outlined in Washington State Department of Transportation Standard Specifications, Division 1, General Requirements, Article 1-09.2, Weighing Equipment.
2. Provide or utilize platform scales of sufficient size and capacity to permit the entire vehicle or combination of vehicles to rest on the scale platform while being weighed. Combination vehicles may be weighed as separate units provided they are disconnected while being weighed. Scales shall be inspected and certified as often as the Engineer may deem necessary to ascertain accuracy. Costs incurred as a result of regulating, adjusting, testing, inspecting, and certifying scales shall be borne by the Contractor.
3. A licensed weighmaster shall weigh all Contractor-furnished materials. The Engineer may be present to witness the weighing and to check and compile the daily record of such scale weights. However, in any case, the Engineer will require that the Contractor furnish weight slips and daily summary weigh sheets. In such cases, furnish a duplicate weight slip or a load slip for each vehicle weighed, and deliver the slip to the Engineer at the point of delivery of the material.
4. If the material is shipped by rail, the certified car weights will be accepted, provided only actual weight of material will be paid for and not minimum car weights used for assessing freight tariff. Car weights will not be acceptable for material to be passed through mixing plants. Material to be

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measured by weight shall be weighed separately for each bid item under which it is to be paid.

5. Trucks used to haul material being paid for by weight shall be weighed empty daily and at such additional times as the Engineer may require. Each truck shall bear a plainly legible identification mark. The Engineer may require the weight of the material be verified by weighing empty and loaded trucks on such other scales as the Engineer may designate.

#### C. MEASUREMENT BY VOLUME:

1. Measurement by volume will be by the cubic dimension indicated in the Contractor's submitted bid. Method of volume measurement will be by the unit volume in place or removed as shown on the Contract Drawings or as specified.
2. When material is to be measured and paid for on a volume basis and it is impractical to determine the volume by the specified method of measurement, or when requested by the Contractor in writing and accepted by the Engineer in writing, the material may be weighed in accordance with the requirements specified for weight measurement. Such weights will be converted to volume measurement for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Resident Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities will be accepted.

#### D. FIELD MEASUREMENT FOR PAYMENT:

1. The Contractor shall take all measurements by providing equipment, workers, and survey crews as required to measure quantities in accordance with the provisions for measurement specified herein. No allowance will be made for specified tolerances.
2. The Engineer will verify all quantities of Work performed by the Contractor on a unit-price basis, for progress payment purposes.

#### 1.05. REJECTED, EXCESS, OR WASTED MATERIALS

1. Quantities of material wasted or disposed of in a manner not called for under the Contract; rejected loads of material, including material rejected after it has been placed by reasons of the failure of the Contractor to conform to the provisions of the Contract; material not unloaded from the transporting vehicle; material placed outside the lines indicated on the Contract Drawings or established by the Engineer; or material remaining on hand after completion of the Work, will not be paid for, and such quantities shall not be included in the final total quantities. No additional compensation will be

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permitted for loading, hauling, and disposing of rejected material.

#### 1.06. MEASUREMENT AND PAYMENT

##### A. ITEM #1: MOBILIZATION AND DEMOBILIZATION

1. Payment for MOBILIZATION AND DEMOBILIZATION shall be for preparatory work and operations performed by the Contractor including, but not limited to completion and submittal and approval of the following:
  - a. All bonds and insurance certificates (General Conditions Part 2, Contract Forms)
  - b. Schedule of Values (GC 6.02)
  - c. Detailed CPM progress schedule (GC 3.02)
  - d. Establishing Contractor's Project Manager, Superintendent, and other required specified personnel on the Work site full time.
  - e. Furnishing and installing all temporary facilities and controls as needed for the safe and proper completion of the work, including utilities, sanitary facilities, barriers and enclosures, fences, staging and entrance areas, and field offices, as specified.
  - f. Mobilization onto the site required in support of the Contractor's first 30 days of operations.
2. Mobilization and Demobilization shall be paid at the lump sum price listed in the Contractor's submitted bid. Incremental payment shall be made for each location as follows:
  - a. 40% after completion of 5% of the total contract amount of other bid items have been earned.
  - b. 40% after completion of 20% of the total contract amount of other bid items have been earned.
  - c. 20% after all work on the project has been completed, including cleanup and issuance of Final Completion from the Engineer.

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#### **B. ITEM #2: SITE PREPARATION AND SITE DEMOLITION**

1. Payment for all work and costs related to general site preparation and site demolition shall be at the contract lump sum price, which shall be full compensation for utility locates, TESC, protection or abandonment of existing monitoring wells, demolition and/or salvage of structures, utilities, and other site improvements. Site preparation and site demolition shall also include all costs related to disposal of demolition materials and securing demolition permits, including permit fees.

#### **C. ITEM #3: SAND SYSTEM**

1. Payment for all work and costs related to the modifications of the existing sand collection and dust filtration system shall be at the contract lump sum price, which shall be full compensation for furnishing and installing the new equipment in-place of the existing as well as testing and commissioning of the complete sanding distribution system. New equipment includes, but is not limited to, an air receiver tank, sand and air piping, hoses and associated fittings, sand and dust collection and filtration equipment, valving, gauges, ground level display panel, associated electrical and all other materials and components necessary and incidental to provide a complete working system, meeting the requirements within this specification.

**END OF SECTION**



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#### SECTION 01 77 00 – CONTRACT CLOSEOUT

##### 1.01. DOCUMENTS REQUIRED UPON COMPLETION OF WORK

###### A. CLOSE OUT PROCEDURES

The contractor shall notify the engineer in writing when identified tasks are complete and ready for inspection. The engineer will make the inspection, forward the results of same to the contractor, who shall promptly correct any deficiencies noted.

The contractor shall notify the engineer in writing when all punch list deficiencies have been completed. The engineer will promptly set a time for final inspection, at which time the engineer and the contractor shall jointly inspect the work. The contractor will promptly correct any deficiencies noted.

It is possible that other contractors or the City will be working in the project area during the time of construction. It shall be the responsibility of this contractor to coordinate their work with all other agencies and/or contractors within the project area.

###### B. ADJUSTMENTING

Adjust operating products and equipment to ensure smooth and unhindered operation.

###### C. FINAL DOCUMENTATION

Upon completion of the work and before final payment is made, the contractor shall deliver to the engineer, in addition to such other items specified in these specifications, the following documents:

###### 1. "AS-BUILT" Drawings

"AS-BUILT" drawings and specifications of new or revised existing work, shown in red ink, provided by the general, mechanical, electrical contractors, and all other subcontractors, including all addendum's, change orders, deviations, changes, elevations, and dimensions of their work from the construction documents, updated monthly during the construction. Monthly payments will not be made until all redlined as-builts are updated.

Two (2) copies of all shop and construction drawings used for the project, the final record drawings ("AS-BUILT" to reflect the actual installation) including one (1) reproducible set of all design drawings and AutoCAD files, if applicable.

**NOTE:** The final payment for this contract will not be released until "AS-BUILT" drawings are received and approved by the engineer.

###### 2. Project Record Documents

a. Operation and Maintenance instructions for the sanding system.

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- b. Shop drawings, product data, reports, certificates, original of warranties and bonds.
  3. Spare Parts and Maintenance Products
    - a. Provide spare parts, maintenance, and extra products in quantities specified in section 11 11 29.
    - b. Deliver to Project site and place in location as directed by Owner; obtain receipt from Owner.
  4. Warranties and Bonds
    - a. Provide duplicate notarized copies.
    - b. Execute and assemble transferable warranty documents from subcontractors, suppliers and manufacturers.
    - c. Provide Table of Contents and assemble in three D side rind binder with durable plastic cover.
    - d. Submit prior to final Application for Payment
    - e. For items of Work delayed beyond date of Substantial Completion, provide updated submittal within ten (10) days after acceptance, listing date of acceptance as start of warty period.
  5. Re-Review Fees
    - a. Engineer will do a Substantial Completion Inspection and a Final Inspection. Re- Inspections after the Final Inspection, due to Contractor failure to correct deficient work, will require the deduction of an amount for Engineer compensation from the final payment to the Contractor.
  6. Final Adjustment of Accounts
    - a. Submit final adjusted pay application to Engineer.
    - b. Submit all closeout documents to Engineer for review and acceptance prior to Final Pay Application.
- D. FINAL CLEANUP
  1. After all trades have completed their work, and just prior to occupancy, the general contractor shall:
  2. Replace and remove any broken glass. Remove excess glazing compounds or seals.
  3. Removal of all temporary facilities and contractor equipment.
  4. Remove labels that are not permanent.
  5. Clean the site.

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6. Remove and dispose of all waste generated during the project.
  - a. Sweep paved areas and walkways. Remove stains, spills, and foreign deposits.
  - b. All surfaces disturbed shall be restored to a condition equal to that before the work began.
  - c. Surplus conduit material, tools, temporary structures, dirt and rubbish shall be removed and disposed of by the contractor, and the project area shall be left clean to the satisfaction of the engineer.
  - d. Clean up is considered incidental to the project and no measurement and payment will be allowed.
  - e. Obtain final inspections from authorities having jurisdiction.

**END OF SECTION**

**TECHNICAL SPECIFICATIONS**  
**DIVISIONS 11**

**DIVISION 11**

**SECTION 11 11 29 SAND DISTRIBUTION FILTRATION MODIFICATION**

**PART 1 – GENERAL**

1.01. DESCRIPTION

A. This performance specification provides the details and requirements for the necessary modifications to the dust collection and filtration system of an existing locomotive sand-filling system located at Tacoma Rail’s maintenance facility. The existing sanding system consists of a Cyclone Aire Sandmaster 32 ton capacity storage silo, a dust collector and filter assembly, conveyance piping and sand filling wands. This modification shall address the following operational problems that Tacoma Rail is experiencing with the existing system and must meet all current regulatory air quality requirements.

1. Dust collection at the top of the storage silo during truck filling operations.
2. Dust collection at the filling wands during locomotive filling operations.
3. Automatically return sand collected during filling operations to the silo.
4. Filter collected dust, eliminating clogging and ensuring continuous operation.

B. Design, fabrication, installation, testing and commissioning of:

1. Modifications to the dust collection systems at the silo and filling wands, automatic recovery of collected sand to the silo and the filtration system. Inclusive of all required components (piping, fittings, hose, accessories, spare parts, etc).
2. A local panel accessible at ground level displaying all operational data, system pressures and silo sand level. Inclusive of all required components (control and power wiring, conduit, accessories, spare parts, training, and related materials required for a complete installation.
3. Equipment shall be suitable for installation in the available space and operation with the available building utilities. Any modification or redesign of the building structure or utilities because of an alternate equipment selection by Contractor shall be provided by Contractor at no additional cost to Owner, only after approval of Engineer.
4. Remove, relocate, and repair any items necessary for the proper installation of the equipment at no extra cost to Owner.
5. Testing, commissioning, and training shall be provided for the completed sanding system inclusive of silo and locomotive filling.

C. The intent of this Specification is for a complete, Code-compliant, and operational installation. It is the responsibility of the Contractor to apportion and coordinate the Work

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required, including any necessary work related to piping, wiring and concrete (if required). Work not included in the Contractor's purchase order or contract with the equipment system supplier ("manufacturer") shall be the responsibility of the Contractor.

#### 1.02. STANDARDS AND REGULATIONS

- A. AWS – American Welding Society:
- B. AWS D1.1, Structural Welding Code—Steel.
- C. ISO – International Organization for Standardization:
  - 1. ISO 9001-2000 series.
- D. NEMA – National Electrical Manufacturers Association.
- E. NEC (NFPA 70) – National Electrical Code.
- F. IEEE C2 – National Electrical Safety Code.
- G. UL – Underwriters Laboratories, Inc.
- H. Electrical Apparatus Safety: Electrical apparatus shall be UL listed and bear the ULI label.
- I. Flame and Smoke Rating Requirements: Comply with Washington Building Code.
- J. Paints and Coatings: Not containing chromate, lead or zinc.
- K. Dust and Other Emissions: Compliant with OSHA, National Emission Standards for Hazardous Air Pollutants (NESHAPs), New Source Performance Standards (NSPS), Puget Sound Clean Air Agency (PSCAA), and Washington State regulations.
- L. Applicable federal, state, and local codes and regulations.
  - 1. If there is a conflict between codes and the manufacturer's standards, the most stringent requirements shall take precedence and the best quality as to materials and workmanship shall be supplied and applied.
  - 2. For components not manufactured in the United States of America (USA), materials shall comply with ISO 9001-2000 quality standards. This includes but it is not limited to nuts, bolts, threads and heads for the same, pipes, conduits, and electrical connectors.

#### 1.03. SUBMITTALS

- A. Calculations, for the design of the equipment including required supports, attachments, wiring, piping and control diagrams. Provide the following data for design:
  - 1. Weight, loading diagram and anchorage details for the new dust collection and filtration unit, to be located next to the existing sand silo.

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2. The data will be reviewed “for information only” by the Engineer, and it is the Contractor’s responsibility to furnish it to their other suppliers and subcontractors as needed.
- B. Verification of the existing concrete foundation for installation of the new dust collection and filtration equipment and air receiver tank meeting all applicable code requirements. Submit either:
1. A confirmation letter affirming the adequacy of the existing foundation, or
  2. If otherwise a revised structural design calculation or details from the approved sanding system manufacturer/supplier. No work on the new dust collection and filtration unit foundation shall commence in the absence of either of these two conditions.
- C. Product Data: Technical documentation defining the sanding systems new dust collection and filtration and compressed air system design, testing, and operational criteria, type and grade of each material to be utilized, machining tolerances, and types of finish.
1. Submit manufacturer’s recommended installation procedures which, when reviewed by the Engineer, shall be the basis for accepting or rejecting installation procedures used on the work.
  2. Installation details, including new equipment, modifications to existing equipment and foundation requirements.
  3. Performance and operating characteristics of the overall sanding system incorporating all new equipment with existing.
  4. Typed operating narrative.
  5. Electrical power requirements.
  6. Pneumatic requirements.
  7. Catalog cuts of all purchased components.
    - a. In cases where there are multiple models, variants, or options for a component, the Submittal shall be annotated – by arrows, clouding or other means – to clearly indicate only the model / options to be furnished under this Contract.
  8. Submit Product Data together with the Shop Drawings.
    - a. Incomplete submittals will be rejected, with no basis for a delay claim.
    - b. It is understood that the manufacturer may need to order long-lead components before Shop Drawings are complete, so catalog cuts for long-lead equipment may be submitted on a case-by-case basis with prior approval of the Engineer.

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#### D. SHOP DRAWINGS:

1. Isometric drawing(s) to show complete piping arrangement for new sand and compressed air piping related to the system modifications.
2. General arrangement drawings showing the completed sanding system incorporating all new components.
  - a. Sand storage silo (*existing*)
  - b. Sand pump assembly (*existing*)
  - c. Fill wands (*existing*)
  - d. Sand and dust collection, filtration and reclamation to the silo (*new*)
  - e. Compressed air system (*existing*)
  - f. Receiver tank (*new*)
3. Schematic and interconnecting wiring diagrams of all new electrical equipment. All electrical equipment and components shall be identified.
4. Detail and fabrication drawings, including bill of materials.

#### E. RECORD DOCUMENTS:

1. Operation and Maintenance Manuals: Complete set of the operating and maintenance instructions for equipment paper and electronic, including installation, operation, adjustment, lubrication and maintenance, complete parts list, color mapping for touch-up paint, and related drawings and diagrams.
  - a. Include any/all maintenance timelines to include time weighted service intervals and volume per use weighted intervals for scheduled maintenance.
  - b. Manuals shall include copies of all approved shop drawings submitted.
2. Bind manual, catalogues, and lists in heavy 3 ringed binders, and deliver to Engineer prior to request for final acceptance. Indicate the name and telephone number of manufacturer(s), local representative(s), and nearest source(s) of service and parts, inside the front cover of each manual.
3. Provide electronic copies as well.
4. Format manuals as follows:
  - a. Title page: Include the name and function of the equipment, manufacturer's identification number, and project specifications section number and title.



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- b. Table of contents, in numerical order listing each section and subsection title with reference to the page on which each starts and a list of included diagrams and drawings.
- c. Index, in alphabetical order.
- d. Frontispiece: Recognition illustration of the equipment described in the manual.
- e. Manufacturer's literature describing each piece of equipment, including major assemblies and subassemblies, and giving manufacturer's model number and drawing number. Specific items included in this installation shall be indicated on the product data sheets. Excluded items may be crossed out if this configuration is more logical.
- f. Operation instructions including step-by step preparation for starting, operation, shutdown and draining, and emergency requirements.
- g. Control diagrams, as installed by the manufacturer.
- h. Sequence of operation by the control manufacturer.
- i. Wiring diagrams (as-installed) and color codes of electrical motor controllers, connections, and interlock connections.
- j. Diagrammatic location, function, and tag numbers of each valve.
- k. Maintenance instructions: Include step-by step procedures for inspection, operation, checks, cleaning, lubrication, adjustments, repair, overhaul, disassembly, and re-assembly of the equipment for proper operation of the equipment. Include list of special tools which are required for maintenance with the maintenance information.
- l. Possible breakdowns and repairs. Troubleshooting flow charts shall be included for diagnosis of any major system or control.
- m. Manufacturer's parts list of functional components, control diagrams, and wiring diagrams, giving manufacturer's model number and manufacturer's part number.
- n. "Long-Lead-Time" spare parts list for spare parts not readily available on the open market or for which it is anticipated ordering and delivery time will exceed 10 days.
- o. List of nearest local suppliers of all equipment parts.
- p. Recommended preventive maintenance schedule for major system components including lubrication schedule indicating type and frequency of lubrication.

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- q. Manufacturer's warranty and guarantee data.
- r. Spare parts data as follows:
  - (i) Complete lists of parts and supplies, with current unit prices and sources of supply.
  - (ii) List of additional items recommended by manufacturer to ensure efficient operation for period of 120 days.
- s. Appendix: Include safety precautions, a glossary, and when available, copies of acceptance test reports and other relevant materials not previously specified to be submitted.
- t. Delete from the manual information on material or equipment not used in the work.
- u. The acceptance testing documents shall be included with the final manual.

#### F. TESTING AND TRAINING:

1. Acceptance (field) testing procedures, submitted to Engineer for approval a minimum of two weeks before the acceptance test can be scheduled.
2. The training program shall include familiarization with equipment operation and performance and detailed instruction in operation, maintenance, and test procedures.
3. Proposed training program, submitted to Engineer in duplicate for approval a minimum of 30 calendar days before the scheduled start of training. Training will be completed within 14 days prior to commissioning.

#### 1.04. QUALITY CONTROL

##### A. GENERAL:

1. Articles, materials, fittings, equipment, and machinery incorporated in the work shall be new and unused, of recent manufacture, free from defects and imperfections, and shall as far as practicable be the manufacturer's standard make and shall be of first grade industrial quality, from reputable manufacturers, suitable for the purpose intended and subject to approval by Owner.
2. Components used in the assembly of the system shall be standard, commercially available components and shall be manufactured by companies regularly engaged in the manufacture of the components. The design shall provide for the interchangeability of items of piping, equipment, sub-assemblies, motors, starter, relays, and other devices.
3. Mixing of metric and United States customary units (non-metric) standards on the same equipment is not permitted.

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4. Products or composite materials containing asbestos shall not be utilized.
5. When two or more items of equipment are required, they shall be products of a single manufacturer.
6. Work shall be performed in a neat and workmanlike manner by workers skilled in their respective trades, and materials and equipment shall be installed as recommended by the manufacturers and in accordance with specified codes and standards.
7. The language of text for documents shall be English.
8. Dimensions shall be displayed in U.S. customary units.
9. Electrical apparatus shall be UL listed and bear UL label.
10. A corrosion-resistant identification plate clearly marked and stamped with the manufacturer's name and address, model number, serial number, date of manufacture, and pertinent utility or operating data (or ratings) shall be attached in a prominent location to each major piece of equipment.

#### B. QUALIFICATIONS OF MANUFACTURER:

1. Manufacturer shall be a reputable manufacturing firm, regularly engaged in the design and manufacture of the type of equipment specified. Manufacturer shall operate an installation and repair department, and shall maintain a reasonable supply of spare parts.
2. Manufacturer shall demonstrate at least five years' experience designing, manufacturing, installing, and providing product support for specialized equipment of this type. Manufacturer may be requested to submit a list of at least five locations where similar equipment is installed and operating. Manufacturer shall be responsible for providing equipment of highest quality and workmanship, which will perform specified functions reliably and safely, and shall permit required maintenance procedures with minimum interference of service or degradation of reliability. Manufacturer shall ensure all new equipment is compatible with existing. In addition, commercial literature or drawings of these models shall be furnished for illustration.
3. Manufacturer shall employ a quality assurance program that meets the requirements of the current ANSI ISO 9001 and that satisfies all safety-related quality assurance requirements imposed by applicable government regulatory agencies.

#### C. QUALIFICATIONS OF MANUFACTURER'S REPRESENTATIVE:

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1. Engage the services of the manufacturer's field service representative to supervise installation of equipment, to conduct acceptance testing, and to train Tacoma Rail's personnel in the proper operation and maintenance of the new equipment.
2. The field service representative shall be a qualified supervisor employed by the manufacturer, having a minimum of 5 years' documented training and experience in the installation of equipment being furnished. The representative shall work with Contractor's specialists and shall be present at the site for 100 percent of the installation work of the equipment being furnished.

#### D. QUALIFICATIONS OF INSTALLERS:

1. If the installer is other than the manufacturer, the installation shall be carried out by a firm having minimum 5 years' documented experience in the installation of specified products and components, and performing the work under the direction of a supervisor approved by equipment manufacturer.
2. The installation shall be carried out under the direction of a qualified manufacturer's field service representative to supervise installation of equipment, to conduct acceptance testing, and to train Tacoma Rail's personnel in the proper operation and maintenance of the equipment, and who shall be present at the site and who will work with Tacoma Rail's contractors and direct the installation work. The field service representative shall be a qualified supervisor employed by the manufacturer, having a minimum of 5 years' documented training and experience in the installation of equipment being furnished.
3. The installer shall employ an adequate number of specialists who are skilled workmen and who are thoroughly trained and experienced in the methods and requirements necessary for the proper execution of the work under this section.

#### E. REGISTRATION OF DESIGNER(S):

1. Shop drawings and design calculations that pertain to the equipment to be provided under the work of this section shall be reviewed and sealed by a professional engineer.
2. Professional engineer shall have a minimum of 5 years' documented experience in providing engineering services of the kind indicated herein, including familiarity with seismic design requirements and Building Code for project location.

F. Design and manufacture the system for a minimum 30-year life span given that scheduled maintenance will be performed in accordance with the manufacturer's instructions.

#### G. WELDING: QUALIFY PROCEDURES AND PERSONNEL ACCORDING TO THE FOLLOWING:

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1. AWS D1.1, Structural Welding Code—Steel.
2. Certify that each welder has satisfactorily passed AWS qualification tests for welding processes involved and, if pertinent, has undergone recertification.

#### H. WARRANTY:

1. Submit warranty signed by Contractor and installer and executed by manufacturer for equipment, materials, and workmanship against defects agreeing to repair or replace equipment and materials and correct workmanship.
  - a. Warranty Period: Minimum one (1) year from the date of Final Acceptance or the manufacturer's standard warranty period, whichever is greater. If the manufacturer's standard warranty period is less than that required herein, e.g. one year from shipping date, then the Contractor shall provide any necessary coverage to maintain the full warranty period specified herein.
  - b. Service and Support: Include 24/7 manufacturer support for the performing system.
  - c. Extend warranty to include specific products performing as a system.
2. This warranty shall be in writing, on Contractor's and/or supplier's letterhead, and shall be included in the operations and maintenance manual(s).
  - d. Even if previously submitted separately, a copy of the warranty shall be included in the submittal of the O&M Manual(s).

#### 1.05. DELIVERABLES

- A. All material shall be furnished in accordance with the requirements of this section.
- B. Approved maintenance and operation manuals.
- C. Documentation of training program, including all training materials, completion certificates, and electronic recording of instruction.
- D. Owner-approved spare parts. Contractor to obtain written receipt from Owner for delivery.
- E. Contractor shall provide in the O&M manuals the manufacturer, type, color and code of matching touch-up paint for each color utilized.

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## PART 2 - PRODUCTS

### 2.01. MANUFACTURERS

A. Subject to compliance with requirements, provide equipment and products of the following:

1. Cyclonaire ([www.cyclonaire.com](http://www.cyclonaire.com))
2. Or Approved Equivalent

### 2.02. GENERAL REQUIREMENTS

A. Provide new equipment to facilitate the necessary modifications to the existing sanding distribution system exceeding all current regulatory air quality requirements. New equipment shall be compatible with all existing equipment. If electrical disconnect, power wiring and conduit to breaker, and piping to air compressor are not included in the manufacturer's scope, they shall be furnished and installed by the Contractor. The system components include but are not limited to:

1. Sand storage silo (*existing*)
2. Sand Transporter (*existing*)
3. Valves (*new and existing*)
4. Sand dispensing apparatus, complete with flexible sand delivery hose assemblies. Each assembly shall include aluminum fill wand with auto-shutoff feature (*existing*)
5. Dust collection at fill wands (*new*)
6. System dust collection, filtration and return to silo conveyance equipment (*new*)
7. Sand piping, compressed air piping, pressure relief valve(s) (*new and existing*)
8. A local panel accessible at ground level displaying all operational data, system pressures and silo sand level. Inclusive of all required components (control and power wiring, conduit, and related materials required for a complete installation. (*new*)

### B. DESCRIPTION OF SYSTEM OPERATION:

1. Receiving Sand from Bulk Truck
  - a. Off-loading of sand will be done using the "on-board" blower of the delivery truck. Automatic level sensors in/on the sand silo, with exterior indicator lights on a weather tight control panel, will provide a visual indication of sand level in the silo, including a "Low Level" (or "Refill Required") level light, which indicates sufficient capacity to receive an entire truckload delivery.

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- b. When delivery commences, the control system will automatically initiate the vent filter, to filter the air from the blower on the truck as it discharges the sand, and also to accommodate (vent) the large surge of air generated when the trailer empties. When silo filling is complete, the driver unhooks the hose and departs. The control system will then automatically operate the filter for an additional 15 minutes in an unloaded condition to clean the cartridges.
2. Conveying and Dispensing of Sand to Locomotives
    - a. The sand transporter will be located at the base of the sand silo, protected from the elements and accessible for maintenance. The transporter will take sand from the silo and, by means of compressed air, convey it to the sand dispensing apparatus via sand piping.
    - b. At the sand dispensing point, the operator will remove the sanding wand from the holster and hang the wand on the locomotive railing. The operator will then ascend the locomotive ladder to reach the sand box opening. The sand box cover hatch is opened and the sanding wand is placed into the sand box opening. The operator climbs down and starts the sanding operation.
    - c. Auto-shutdown feature: During sanding, the sand flow is monitored by pressure controls for automatic shutdown on detection of a full sandbox. When the sand level in the locomotive sandbox fills and covers the end of the sanding nozzle, the sand flow is obstructed, creating a higher pressure to trigger the shutdown of the system. A brief automatic purge is initiated to clear sand from the wand to prevent spillage when the wand is disconnected from the locomotive, and to clear some of the sand from the hose to reduce weight.
    - d. When the sanding operation is complete, the wand is removed from the sand box, the box cover closed, and the wand is replaced in the holster.
  - C. Locate new sanding equipment in-place of existing as directed by Tacoma Rail.
  - D. New sanding equipment shall be easily moved by 1 or 2 people or to weigh not more than 100 pounds. If component cannot comply with this requirement, include provisions for material handling (e.g., lifting eyes).
  - E. Provide metallic hinges and latches and protect from corrosion by inherent material properties or by auxiliary protective plating or coatings.
  - F. Protect joints, connections, and contacts between dissimilar metals against galvanic action.
- 2.03. DESIGN CRITERIA
- A. Design new sanding system equipment to convey sand having the following material characteristics:

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1. Material: Sand.
2. Bulk Density: 92 lb./cu. Ft.
3. Temperature: 70 Deg. F
4. Moisture (maximum): Nil.
5. Abrasiveness: High.
6. Classification: 3.
7. Gravity Flow: Good.
8. Particle Size: 60 Mesh
9. Sieve Size: Percent Passing:
  - a. No. 5: 100
  - b. No. 10: 100
  - c. No. 18: 95
  - d. No. 35: 75
  - e. No. 60: 22
  - f. No. 100: 5
  - g. No. 270: 0

#### B. SYSTEM RATES:

1. Flow Rate (at each hose station): 3,600 Lb/Hr
2. Sand transfer speed: Not to exceed 5 feet per second, to minimize abrasion of sand piping.
3. Required exhaust dust concentration: Maximum exhaust dust loading of 0.0013 grains per dry standard cubic foot (gr/dscf).

#### C. PERFORMANCE:

1. Perform sand fill operations of locomotive sand boxes without sand dust emission.
2. Provide manufacturer's Best Available Control Technology (BACT) dust capture system, applicable for rigid fill wand, to capture sand dust at the fill point during sanding operations.
3. System design shall permit up to two (2) fill wands to be in use simultaneously.



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4. System shall be capable of safely shutting down with transfer piping full of material and then being restarted without blockage, damage, or disconnection of transfer lines.
5. System shall be capable of transporting sand at required flow rates from the silo to the furthest located sand dispenser – approximately 70 feet, including vertical travel and bends.
6. System shall be capable of transmitting performance parameters and operational data to a single local display panel, accessible at ground level.

#### D. EQUIPMENT CONFIGURATION:

1. Provide dust collection system specified herein.
2. Provide dust capturing equipment at each sand fill apparatus.

#### E. PIPING SUPPORT:

1. Provide necessary hardware to hang or support piping. Provide supports at minimum 10 feet on center and at bends.

#### F. PIPING:

1. Sand Reclamation Piping: Provide Schedule 80 steel sand piping between storage silo and dust reclamation conveyor.
2. Compressed Air Piping: ASTM A53 Grade B, Black or Galvanized.
3. Design transfer piping, particularly bends and connections, to be resistant to abrasion due to passage of sand.
4. Design system capable of shutting down with transfer piping full of material and capable of restarting conveyance without disconnecting transfer lines.
5. If piping is excluded from system supplier's scope of work, then they shall be furnished by the General Contractor.

#### G. DUST COLLECTION AND CONVEYING SYSTEM:

1. Provide dust collector system to exhaust particle-laden air from wand piping and the sand silo into a jet pulse dust collector, and return material to the sand silo.
  - a. Material handling fan:
    - (i) Capacity: Approximate 400 ACFM at 16-inch static pressure (to be confirmed by supplier)
    - (ii) Approximate 3-HP, 3,530 RPM, 3-Phase 60 Hz 230/460V (to be confirmed by supplier)

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- (iii) Provide drain with plug.
2. Dimensions:
    - a. Duct inlet from hopper: 6-inches (to be confirmed by supplier)
    - b. Duct inlet from conveyor: 1.5-inches (to be confirmed by supplier)
    - c. Duct inlet from sanding wands: 3-inches (to be confirmed by-45 supplier)
    - d. Duct Collection area: 380-square feet
    - e. Convey Piping: 2.5-inches
    - f. Supply Pressure: 90 psig
    - g. Convey Pressure: 25-45 psig (to be adjusted during field testing)
    - h. Convey Distance: 20-feet horizontal, 20-feet vertical
    - i. Average Air Consumption: 50 SCFM
  3. Dust Collector Exhaust Fan: Minimum 14-inch water column of static pressure.
  4. Jet Pulse Dust Collector:
    - a. Capacity: Minimum 17-inch ( $\pm$ ) water column of static pressure.
    - b. Dimensions: 40-inch x 40-inch inside dimension
    - c. Provide air header with fast-acting diaphragm valves, using 5-7 scfm of clean dry air at 90 psig, for reverse pulse cleaning.
    - d. Provide high level sensor, filter time board control, and automated controls to continuously clean filter and discharge dust into the hopper.
    - e. Filter: Pleated Filter Elements, Spun Bod Polyester, 23.7 square feet per element (Cyclonaire Part Number: 904-0163704 )
  5. Dense Phase Conveyor:
    - a. Capacity: Minimum 1 cubic foot, ASME-code pressure vessel, with inlet cone valve, and 2.5-inch diameter outlet pipe.
    - b. Provide air pressure regulator, timer relay controls, and solenoid valve for cone valve actuation and vessel pressurization.
  6. Air Receiver:

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- a. Capacity: 80 gallon with 120 VAC autodrain
- b. 125 psig relief valve

#### 2.04. FINISHING

- A. Non-Stainless and Non-Galvanized Steel: Finish equipment, piping, enclosures, structural steel, conduits, electrical cabinets, plates, and other items except wear surfaces, with two coats of non-zinc primer and one finish coat of machinery non-zinc enamel in color selected by Engineer.
- B. Prepare surfaces in compliance with paint manufacturer's recommendations ensuring that surfaces are free of rust, scale, dirt, grease, and oil before painting.
- C. Provide touch-up paint manufacturer, type, color and code for each color used. Perform required touch-ups prior to acceptance of the equipment. Match touch up-paint to factory coat.
- D. Color Code Bands: Apply color coded safety bands to piping, control conduits, and controls.
- E. Stainless Steel: Do not paint.
- F. Galvanized Steel: (not exposed to elements)
  - 1. Field Touch-up: High zinc dust content paint for regalvanizing welds in steel, complying with SSPC-Paint 20; two-component, moisture-cured, urethane; with gray topcoat to cover. Subject to compliance with requirements, provide one of the following, or equal approved as a comparable product:
    - a. Tnemec Company, Tneme-Zinc 90-97
    - b. Carboline Company, Carbozinc 858
    - c. International Paint Company, Interzinc 52

#### 2.05. GENERAL SERVICE COMPRESSED AIR PIPING

##### A. PERFORMANCE REQUIREMENTS

- 1. Seismic Performance: New air receiver, compressed air piping, supports and installation shall withstand effects of seismic events determined according to Washington State Building Code and local City Code.

##### B. QUALITY ASSURANCE

- 1. Installer Qualifications:
  - a. Extruded-Tee Outlet Procedure: Qualify operators according to training provided by T-DRILL Industries Inc., for making branch outlets.

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- b. Brazing: Qualify processes and operators according to ASME Boiler and Pressure Vessel Code: Section IX, Welding and Brazing Qualifications, or to AWS B2.2, Standard for Brazing Procedure and Performance Qualification.

#### 2. ASME Compliance:

- a. Comply with ASME B31.1, Power Piping, for high-pressure compressed air piping.

### C. PIPES, TUBES, AND FITTINGS

#### 1. Schedule 40 Steel Pipe: ASTM A53, Type E or S, Grade B, black or hot-dip zinc coated with ends threaded according to ASME B1.20.1.

- a. Steel Nipples: ASTM A733, made of ASTM A53 or ASTM A106, Schedule 40, galvanized seamless steel pipe. Include ends matching joining method.

- b. Malleable-Iron Fittings: ASME B16.3, Class 150 or 300, threaded.

- c. Malleable-Iron Unions: ASME B16.39, Class 150 or 300, threaded.

- d. Steel Flanges: ASME B16.5, Class 150 or 300, carbon steel, threaded.

- e. Steel Flanges: ASME B16.5, Class 150 or 300, carbon steel.

#### f. Grooved-End Fittings and Couplings:

- (i) Manufacturers: Subject to compliance with requirements, provide products by one of the following, or equal approved as a comparable product:

- a. Anvil International, Inc.

- b. Star Pipe Products; Star Fittings Div.

- c. Victaulic Company.

- d. Ward Manufacturing, Inc.

- (ii) Grooved-End Fittings: ASTM A47, malleable-iron castings or ASTM A536, ductile-iron casting; with grooves according to AWWA C606 and dimensions matching steel pipe.

- (iii) Couplings: AWWA C606 or UL 213, for steel-pipe dimensions and rated for 300-psig minimum working pressure. Include ferrous housing sections, gasket suitable for compressed air, and bolts and nuts. Provide EDPM gaskets for oil-free compressed air. Provide NBR gaskets if compressed air contains oil or oil vapor.

### D. JOINING MATERIALS

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1. Pipe-Flange Gasket Materials: Suitable for compressed air piping system contents.
  - a. ASME B16.21, nonmetallic, flat, asbestos free, 1/8-inch maximum thickness unless thickness or specific material is indicated.
    - (i) Full-Face Type: For flat-face, Class 125, cast-iron and cast-bronze flanges.
    - (ii) Narrow-Face Type: For raised-face, Class 250, cast-iron and steel flanges.
2. Flange Bolts and Nuts: ASME B18.2.1, carbon steel, unless otherwise indicated.
3. Solder Filler Metals: ASTM B 32, lead-free alloys. Include water-flushable flux according to ASTM B 813.

#### E. VALVES

1. Metal Ball, Butterfly, Check, Gate, and Globe Valves: Comply with requirements in Section 22 05 23, General Duty Valves for Plumbing Piping.

#### F. DIELECTRIC FITTINGS

1. General Requirements for Dielectric Fittings: Combination fitting of copper alloy and ferrous materials with insulating material; suitable for system fluid, pressure, and temperature. Include threaded, solder-joint, plain, or weld-neck end connections that match piping system materials.
2. Dielectric Unions: Factory-fabricated union assembly, for 250-psig minimum working pressure at 180 deg F.
  - a. Manufacturers: Subject to compliance with requirements, provide products by one of the following, or equal approved as a comparable product:
    - (i) Capitol Manufacturing Company.
    - (ii) Central Plastics Company.
    - (iii) EPCO Sales, Inc.
    - (iv) Hart Industries International, Inc.
    - (v) Watts Water Technologies, Inc.; Water Products Div.
    - (vi) Zurn Plumbing Products Group; Wilkins Div.

#### G. FLEXIBLE PIPE CONNECTORS

1. Manufacturers: Subject to compliance with requirements, provide products by one of the following, or equal approved as a comparable product:

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- a. Flex-Hose Co., Inc.
  - b. Flexicraft Industries.
  - c. Hyspan Precision Products, Inc.
  - d. Mercer Rubber Co.
  - e. Metraflex, Inc.
  - f. Proco Products, Inc.
  - g. Unaflex, Inc.
  - h. Universal Metal Hose; a Hyspan Company
2. Stainless-Steel-Hose Flexible Pipe Connectors: Corrugated-stainless-steel tubing with stainless-steel wire-braid covering and ends welded to inner tubing.
    - a. Working-Pressure Rating: 200 psig minimum.
    - b. End Connections, NPS 2 and Smaller: Threaded steel pipe nipple.
    - c. End Connections, NPS 2-1/2 and Larger: Flanged steel nipple.

#### H. ESCUTCHEONS

1. General Requirements: Manufactured wall and ceiling escutcheons and floor plates, with ID to closely fit around pipe and tube and OD that completely covers opening.
2. One-Piece, Deep-Pattern Escutcheons: Deep-drawn, box-shaped brass with polished chrome-plated finish.
3. One-Piece, Cast-Brass Escutcheons: With set screw.
  - a. Finish: Polished chrome-plated.
4. Split-Casting, Cast-Brass Escutcheons: With concealed hinge and set screw.
  - a. Finish: Polished chrome-plated.
5. One-Piece, Stamped-Steel Escutcheons: With set screw or spring clips and chrome-plated finish.
6. Split-Plate, Stamped-Steel Escutcheons: With concealed hinge, set screw or spring clips, and chrome-plated finish.
7. One-Piece, Floor-Plate Escutcheons: Cast iron.
8. Split-Casting, Floor-Plate Escutcheons: Cast brass with concealed hinge and set screw.

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#### **I. SPECIALTIES**

1. Safety Valves: ASME Boiler and Pressure Vessel Code: Section VIII, Pressure Vessels, construction; National Board certified, labeled, and factory sealed; constructed of bronze body with poppet-type safety valve for compressed air service.
  - a. Pressure Settings: Higher than discharge pressure and same or lower than receiver pressure rating.
2. Automatic Drain Valves: Stainless-steel body and internal parts, rated for 200-psig minimum working pressure, capable of automatic discharge of collected condensate.

#### **J. QUICK COUPLINGS**

1. Manufacturers: Subject to compliance with requirements, provide products by one of the following, or equal approved as a comparable product:
  - a. Aeroquip Corporation; Eaton Corp.
  - b. Bowes Manufacturing Inc.
  - c. Foster Manufacturing, Inc.
  - d. Milton Industries, Inc.
  - e. Parker Hannifin Corp.; Fluid Connectors Group; Quick Coupling Div.
  - f. Rectus Corp.
  - g. Schrader-Bridgeport; Amflo Div.
  - h. Schrader-Bridgeport/Standard Thomson.
  - i. Snap-Tite, Inc.; Quick Disconnect & Valve Division.
  - j. TOMCO Products Inc.
  - k. Tuthill Corporation; Hansen Coupling Div.
2. General Requirements for Quick Couplings: Assembly with locking-mechanism feature for quick connection and disconnection of compressed air hose.
3. Valveless Quick Couplings: Straight-through brass body with stainless-steel or nickel-plated-steel operating parts.
  - a. Socket End: With O-ring or gasket seal, without valve, and with barbed inlet for attaching hose.
  - b. Plug End: With barbed outlet for attaching hose.

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#### **K. PIPING APPLICATIONS**

1. Compressed Air Piping: Use the following piping materials:
  - a. NPS 2 to NPS 5: Schedule 40, black-steel pipe; threaded, malleable-iron fittings; and threaded joints.

#### **L. VALVE APPLICATIONS**

1. High-Pressure Compressed Air: Valve types specified for medium-pressure compressed air.
2. Lift Check Valves, NPS 2 and Smaller: Type 2, Class 125, horizontal or vertical, bronze.
3. Swing Check Valves, NPS 2 and Smaller: Type 4, Class 125, bronze.
4. Spring Loaded, Lift Disc Check Valves, NPS 2 and Smaller: Type IV, Class 125 minimum.
5. Gate Valves, NPS 2 and Smaller: Type 2, Class 125, bronze.
6. Globe Valves, NPS 2 and Smaller: Type 2, Class 125, bronze.

#### **M. PIPING INSTALLATION**

1. Drawing plans, schematics, and diagrams indicate general location and arrangement of compressed air piping.
2. Install piping adjacent to equipment and machines to allow service and maintenance.
3. Install air and drain piping with 1 percent slope downward in direction of flow.
4. Install nipples, flanges, unions, transition and special fittings, and valves with pressure ratings same as or higher than system pressure rating, unless otherwise indicated.
5. Equipment and Specialty Flanged Connections:
  - a. Use steel companion flange with gasket for connection to steel pipe.
6. Flanged joints may be used instead of specified joint for any piping or tubing system.
7. Install eccentric reducers where compressed air piping is reduced in direction of flow, with bottoms of both pipes and reducer fitting flush.
8. Install branch connections to compressed air mains from top of main. Provide drain leg and drain trap at end of each main and branch and at low points.



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9. Install thermometer and pressure gauge on discharge piping from each air compressor and on each receiver.
10. Install piping to permit valve servicing.
11. Install piping free of sags and bends.
12. Install fittings for changes in direction and branch connections.
13. Install seismic restraints on piping. Seismic restraint devices are specified in the section "HANGER AND SUPPORT INSTALLATION" below.

#### **N. JOINT CONSTRUCTION**

1. Ream ends of pipes and tubes and remove burrs. Bevel plain ends of steel pipe.
2. Remove scale, slag, dirt, and debris from inside and outside of pipe and fittings before assembly.
3. Threaded Joints: Thread pipe with tapered pipe threads according to ASME B1.20.1. Cut threads full and clean using sharp dies. Ream threaded pipe ends to remove burrs and restore full ID. Join pipe fittings and valves as follows:
  - a. Apply appropriate tape or thread compound to external pipe threads unless dry seal threading is specified.
  - b. Damaged Threads: Do not use pipe or pipe fittings with threads that are corroded or damaged. Do not use pipe sections that have cracked or open welds.
4. Flanged Joints: Use asbestos-free, nonmetallic gasket suitable for compressed air. Join flanges with gasket and bolts according to ASME B31.9 for bolting procedure.
5. Grooved Joints: Assemble couplings with housing, gasket, lubricant, and bolts. Join according to AWWA C606 for grooved joints. Do not apply lubricant to prelubricated gaskets.
6. Dissimilar Metal Piping Material Joints: Use dielectric fittings.

#### **O. VALVE INSTALLATION**

1. Install valves with unions or flanges at each piece of equipment arranged to allow service, maintenance, and equipment removal without system shutdown.
2. Locate valves for easy access and provide separate support where necessary.
3. Install valves in horizontal piping with stem at or above center of pipe.
4. Install valves in position to allow full stem movement.
5. Install check valves for proper direction of flow and as follows:

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- a. Swing Check Valves: In horizontal position with hinge pin level.
  - b. Dual Plate Check Valves: In horizontal or vertical position, between flanges.
  - c. Lift Check Valves: With stem upright and plumb.
6. Install shutoff valves and unions or flanged joints at compressed air piping to air compressors.
  7. Install shutoff valve at inlet to each automatic drain valve, filter, lubricator, and pressure regulator.
  8. Install check valves to maintain correct direction of compressed air flow to and from compressed air piping specialties and equipment.

#### **P. DIELECTRIC FITTING INSTALLATION**

1. Install dielectric fittings in piping at connections of dissimilar metal piping and tubing.
  - a. NPS 2 and Smaller: Use dielectric unions.
  - b. NPS 2-1/2 to NPS 4: Use dielectric flanges.

#### **Q. FLEXIBLE PIPE CONNECTOR INSTALLATION**

1. Install flexible pipe connectors in discharge piping and in inlet air piping from remote air-inlet filter of each air compressor.
2. Install stainless-steel-hose flexible pipe connectors in steel compressed air piping.

#### **R. SPECIALTY INSTALLATION**

1. Install safety valves on receivers in quantity and size to relieve at least the capacity of connected air compressors.
2. Install air-main pressure regulators in compressed air piping at or near air compressors.
3. Install air-line pressure regulators in branch piping to equipment and tools.
4. Install automatic drain valves on aftercoolers, receivers, and dryers. Discharge condensate onto nearest floor drain.
5. Install coalescing filters in compressed air piping at or near air compressors and upstream from mechanical filters.
6. Install mechanical filters in compressed air piping at or near air compressors and downstream from coalescing filters.

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7. Install air-line lubricators in branch piping to machine tools. Mount on wall at locations indicated.
8. Install quick couplings at piping terminals for hose connections.
9. Install hose assemblies at hose connections.

#### **S. CONNECTIONS**

1. Install unions, in piping NPS 2 and smaller, adjacent to each valve and at final connection to each piece of equipment and machine.
2. Install flanges, in piping NPS 2-1/2 and larger, adjacent to flanged valves and at final connection to each piece of equipment and machine.

#### **T. ESCUTCHEON INSTALLATION**

1. Install escutcheons for penetrations of walls, ceilings, and floors according to the following:
2. New Piping:
  - a. Piping with Fitting or Sleeve Protruding from Wall: One-piece, deep pattern.
  - b. Bare Piping at Wall Penetrations in Finished Spaces: One piece, cast brass with polished chrome-plated finish.
  - c. Bare Piping in Unfinished Service Spaces: One piece, cast brass with polished chrome-plated finish.
  - d. Bare Piping in Equipment Rooms: One piece, stamped steel with set screw or spring clips.

#### **U. HANGER AND SUPPORT INSTALLATION**

1. Install seismic restraints according to applicable codes and regulations and as approved by authorities having jurisdiction unless more stringent requirements are indicated.
2. Vertical Piping: MSS Type 8 or 42, clamps.
  - a. Individual, Straight, Horizontal Piping Runs:
  - b. 100 Feet or Less: MSS Type 1, adjustable, steel clevis hangers.
3. Longer Than 100 Feet: MSS Type 43, adjustable roller hangers.
4. Multiple, Straight, Horizontal Piping Runs 100 Feet or Longer: MSS Type 44, pipe rolls. Support pipe rolls on trapeze.
5. Base of Vertical Piping: MSS Type 52, spring hangers.

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6. Support horizontal piping within 12 inches of each fitting and coupling.
7. Rod diameter may be reduced 1 size for double-rod hangers, with 3/8-inch minimum rods.
8. Install hangers for Schedule 40, steel piping with the following maximum horizontal spacing and minimum rod diameters unless otherwise noted in drawings:
  - a. NPS 1/4 to NPS 1/2: 96 inches with 3/8-inch rod.
  - b. NPS 3/4 to NPS 1-1/4: 84 inches with 3/8-inch rod.
  - c. NPS 1-1/2: 12 feet with 3/8-inch rod.
  - d. NPS 2: 13 feet with 3/8-inch rod.
  - e. NPS 2-1/2: 14 feet with 1/2-inch rod.
9. Install supports for vertical, Schedule 40, steel piping every 15 feet.

#### V. LABELING AND IDENTIFICATION

1. Install identifying labels and devices for general-service compressed air piping, valves, and specialties. Comply with requirements in Section 22 05 53, Identification for Plumbing Piping and Equipment.

#### W. FIELD QUALITY CONTROL

1. Perform field tests and inspections.
2. Tests and Inspections:
  - a. Piping Leak Tests for Metal Compressed Air Piping: Test new and modified parts of existing piping. Cap and fill general-service compressed air piping with oil-free dry air or gaseous nitrogen to pressure of 50 psig above system operating pressure, but not less than 150 psig. Isolate test source and let stand for 200 hours to equalize temperature. Refill system, if required, to test pressure; hold for two hours with no drop in pressure.
  - b. Repair leaks and retest until no leaks exist.
3. Prepare test reports.

#### 2.06. ELECTRICAL REQUIREMENTS

- A. Power supply for equipment shall be a single 480 volts, 3-phase, 60 hertz feed unless otherwise indicated.
- B. Equipment grounding shall be accomplished by means of separate grounding conductor in each conduit sized according to code. The grounding conductor shall have green insulation.

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- C. Provide transformers for equipment as required to step down the specified supply voltage to provide lower voltage for controls and accessories and to provide voltage compatible with equipment as required.
- D. Wiring shall be provided for complete installation of all equipment and accessories and shall be adequate for proper operation of equipment.
- E. Provide a disconnect switch for each equipment item requiring electric power. Disconnect switch shall meet the requirements of the respective equipment item manufacturer. Permanently label each disconnect switch to identify corresponding equipment item; labeling method shall be subject to approval of Owner. Make connection to secondary side of disconnect switch and provide all wiring and conduit with supports from this point, including wiring to controller and starters. Provide 480 volt, 230 volt, and 208 volt equipment with electric fusible disconnecting means sized and fused as required for each equipment item. All disconnect switches shall be fused with 200,000 amp limiter fuses. Provide 120 volt equipment with electric thermal overload disconnecting means sized as required for each equipment item. Wire and cable for light, power, and signal circuits shall conform to those specified in the National Electrical Code and Washington State Electrical Code. In no case shall maximum current carried exceed that specified by the National Electrical Code or the Washington State Electrical Code for the type of conductor used.

#### **2.07. GASKETS AND FASTENERS**

- A. Provide new gaskets wherever gasketed mating equipment items or pipe connections have been dismantled. Gaskets shall be in accordance with manufacturer's recommendations.
- B. Replace all assembly bolts, studs, nuts, and fasteners of any kind, which are bent, flattened, corroded, or have their threads, heads or slots damaged.
- C. Furnish bolts, studs, nuts, and other fasteners for make-up of connections to equipment and replace any of these items damaged in storage, shipment, or moving. Bolts shall comply with applicable SAE requirements including manufacturer's identification and certification of testing.

#### **2.08. HOLES, OPENINGS, AND INSERTS**

- A. Provide holes and openings in floors, walls, ceilings, and roofs as required.
- B. Core drill holes in existing work using dustless method. Grout in holes in concrete walls, floor, and roof slabs after installation of equipment, and leave them in a completely neat and sealed condition.
- C. Install concrete inserts and flashing as required.

#### **2.09. CONCRETE FOUNDATIONS**

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- A. Provide anchor bolts as required for equipment to be mounted. Size anchors for embedding in concrete and expansion anchors as recommended by the equipment manufacturer.
- B. Provide grouting as necessary to stabilize equipment bases to concrete foundations.
- C. Provide hard rubber shims and dampening pads as recommended by the equipment manufacturer for leveling of equipment and dampening of equipment vibration transmission.

#### 2.10. MOTORS AND DRIVES

##### A. MOTORS:

1. Motors shall be TENV or TEFC, NEMA Design "D" high efficiency makes equipped with sealed bearings. The motor shall bear the UL label and be constructed to standards of NEMA, IEEE, ANSI, and AFBMA. Insulation shall be Class "F." Temperature rating of motors shall not exceed that permitted by Class "B" insulation.
2. The motors shall be brake motors and the brake shall be designed to 100 percent of the motor rating.
3. Horsepower ratings and sizes shall be selected at 104 deg F (40 deg C) ambient temperature for open motors, with service factor of 1.15 for open motors and unity for service factor for totally enclosed or drip-proof motors. Provide motors with epoxy encapsulated for severe usage in a corrosive atmosphere.
4. Motors rated one horsepower or greater shall have a full-load power factor of 85 percent or higher. Motors rated 25 horsepower and over shall be designed for reduced voltage starting.
5. Noise level shall comply with NEMA MG 1, Section 9.6 –Sound Power Level and OSHA Article 1910.95 when measured in accordance with IEEE 85.
6. Motors shall be suitable for operation on the electrical service indicated.
7. Motors shall be protected by overload devices to permit operation within their rating under all design load conditions. Provide each individual motor circuit with branch circuit over current protection in all three phases via safety fuses or fusetrons.

##### B. DRIVES:

1. Guards shall be provided for each coupling and belt drive in conformance with applicable codes.
2. Belt drives shall have adjustable motor drive pulleys, and pulleys shall be replaced by Contractor if required to properly operate the equipment.

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3. Belt drives shall be adjusted and work belts replaced in sets. Speed adjustment shall be subject to approval of Owner.
4. Provide sliding motor bases where adjustable motor drive pulleys are provided.
5. Motors and drives shall be checked carefully for correct rotation and alignment before placing equipment into operation.
6. Couplings shall be disconnected and realigned before placing into service or testing.

## **PART 3 - EXECUTION**

### **3.01. PREPARATION**

- A. Transmit submittals and deliverables required by this section.
- B. Furnish products as indicated.
- C. Ensure that substrates are in suitable condition to receive the work of this section.
- D. Verify and coordinate actual dimensions of building, service and inspection platforms, and routings between them, relating to fabrication of system and notify Engineer of discrepancies prior to ordering equipment and material, and starting fabrication or installation.
- E. Foundation: Coordinate installation and furnish anchor bolts, support plates, and incidental items embedded in pit walls or foundation, along with applicable drawings and instructions approved by Engineer minimum 30 days prior to pouring of concrete for equipment foundation.
- F. Verify that dimensions and utility supplies are satisfactory for placement of equipment.
- G. Verify that surfaces receiving metal fabrications are sound, square, and true. Correct any surface defects that would impair operability or shorten the life of any component of equipment.
- H. Examine conditions for compliance with requirements for installation tolerances, clearances, and other conditions affecting performance of equipment.
- I. Proceed with installation after unsatisfactory conditions have been corrected.
- J. Coordinate and verify proper relation of all work to the site and to the work of all trades.

### **3.02. FABRICATION**

- A. Fabrication shall comply with contract documents and shop drawings.

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- B. Fabricate equipment from newly manufactured materials, products, and components. Do not utilize used, refurbished, or remanufactured materials, products, or components. Surfaces shall not be warped (unless by design) and free of dents and distortions.
- C. Pre-assemble units to greatest extent feasible for shipping. Grind exposed welds flush.
- D. Field check for clearance and interference before fabrication and relocate material and equipment furnished as required (if approved by Engineer) to eliminate interferences.
- E. Contractor and Manufacturer shall verify dimensions of the site and related equipment as they relate to the equipment to be fabricated and notify Engineer of any discrepancy before fabrication and delivery of the item to the site.
- F. Surfaces to receive metal fabrications shall be sound, square, and true. Such surfaces shall be examined prior to installation of the fabrications and all defects which might impair the operability or shorten the life of any part of the item shall be corrected.

#### 3.03. DELIVERY, STORAGE, AND HANDLING

- A. Pre-assemble system to greatest extent possible to minimize field assembly. Disassemble only as necessary for shipping and handling limitations. Clearly mark units for re-assembly and coordinated installation. Re-assemble on site according to manufacturer's instructions.
- B. Equipment and components shall be suitably packed or crated to prevent damage in transit or during handling. Items shall be carefully stored as required in a manner to avoid misalignment or distortion, and shall be adequately protected against damage by weather, construction, exposure, or other cause.
- C. Special precautions shall be taken to prevent damage to electrical components such as motors, controls and conductors.
- D. All materials shall be delivered to the site with their original manufacturer's markings and identification intact. Reject materials that are damaged, improperly identified or not in conformance with reviewed shop drawings and catalog cuts. Tacoma Rail (or its designated site representative) reserves the right to also reject such materials.
- E. Upon completion of work, leave the site and premises in good order. This includes removal of manufacturer-owned materials and shipping and packaging materials used by the manufacturer in support of delivery of the equipment being provided under this section.

#### 3.04. INSTALLATION

- A. Ensure that all information regarding the scheduling, delivery and preparations necessary for setting up the equipment to be supplied under this specification is verified with the equipment manufacturer and reviewed by Engineer and Owner prior to commencement of the work.



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- B. Furnish common and skilled labor, tools, rigging equipment, scaffolding, shims, and other materials necessary to make complete installation of equipment as specified and indicated in the contract documents.
- C. Receive, unload, check, and store equipment in suitable facilities. All equipment should be kept clean, dry, and free from damage and be marked and tagged with equipment item numbers.
- D. Examine equipment for concealed damage and report any damage.
- E. Be responsible for safety and protection from loss or damage of equipment received until work is complete.
- F. Pay demurrage charges and claims for damage resulting from unloading operations.
- G. Reassemble equipment items that were dismantled for shipment or moving. Assemble items that are delivered knocked-down or disassembled.
- H. Coordinate installation of equipment with other trades.
- I. Install equipment in accordance with manufacturer's instructions and approved shop drawings.
- J. Protect equipment during storage and prior to start-up, which shall include covering of openings, protection against rust and other damage, etc. Equipment may be stored outdoors only with approval of Owner.
- K. Field check for clearance and interferences before fabricating or installation and relocate material and equipment furnished as required to eliminate interferences.
- L. Coordinate and verify that required utility connection points are in place.
- M. Provide grout, shim material, and miscellaneous steel necessary for brackets, anchors, or supports required in installation of equipment.
- N. Accomplish field machining that might be required to fit equipment together or to install equipment.
- O. Lubricate apparatus before start-up.
- P. Field Touch Up-Painting: Re-touch surfaces where the shop coat has been damaged, using the same film thickness as the original shop coat.
- Q. Details listed in this specification are given for a better understanding of the work required by Contractor, and do not place a limitation on the amount of work to be done nor do they relieve Contractor of additional work that may be required for a complete installation.
- R. Perform mechanical and electrical work required to install the equipment in accordance with the requirements of the jurisdictional authorities and the current applicable codes and standards of practice employed by these trades.

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- S. Upon completion of work, leave the site and premises in good order. This includes removal of temporary installations, manufacturer-owned materials, and shipping and packaging materials used by the manufacturer in support of delivery of the equipment being provided under this section.

#### 3.05. SETTING AND ALIGNING EQUIPMENT

- A. Equipment shall be set and aligned in accordance with manufacturer's recommendations, approved shop drawings, and applicable standards of trade practice.
- B. Equipment shall be set true and level. Demonstrate adequate leveling of installed equipment.
- C. Retighten bolted connections after installation.

#### 3.06. CLEANING AND PROTECTION

- A. Clean fabricated assemblies and equipment items thoroughly before and after operating and testing.
- B. Protect equipment from damage, deterioration, paint or coating spills or spots, corrosion, or harm from any source.

#### 3.07. FIELD PAINTING

- A. Field painting equipment, including touch-up painting, if any, is included under this section. Normally, equipment shall be factory-finished as previously specified.
- B. Where factory finishes are provided on equipment and no additional field painting is specified, all marred or damaged surfaces shall be touched up or refinished so as to leave a smooth, uniform finish at the time of final inspection.
- C. Galvanized Steel: Do not paint.
  - 1. Field Touch-up: Zero to low zinc dust content coating for regalvanizing welds and any required touch-ups to galvanized steel, complying with the requirements of the Washington state Department of Ecology and any other regulatory agencies. Subject to compliance with requirements, provide the following, or equal approved as a comparable product:
    - a. Tnemec Company (20+ year life): prime with 2.5-3.5 mils DFT series 394 Perimeprime; polyurethane, one-component, moisture-cured, micaceous iron oxide and zinc-filled (25% zinc in the dry film) primer. Topcoat with 4-6 mils DFT series N69 Hi-Build Epoxoline II; zinc-free epoxy, or equivalent. Contact Tnemec representative for detailed surface preparation and coating process requirements.

#### 3.08. EQUIPMENT TEST AND CHECKOUT

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- A. Submit an acceptance test procedure to Engineer for approval a minimum of 60 days prior to the start of the equipment test and checkout.
- B. The manufacturer shall first demonstrate the acceptance test procedure to Contractor before it is demonstrated to Owner and Engineer. When the manufacturer has demonstrated compliance with all requirements of the procedure to Contractor's satisfaction, Contractor shall submit to Engineer the filled-out test procedure. Upon review, only then can the Final Acceptance test by Owner and Engineer be scheduled.
- C. Before Final Acceptance, Contractor-furnished equipment shall be tested in the presence of Owner and Engineer and demonstrated to Owner's and Engineer's satisfaction to be correctly connected, functioning, and installed.
- D. Testing and checkout procedures of the manufacturer shall be carried out completely.
- E. The acceptance tests shall not only be performed to demonstrate that the equipment has been properly installed and connected and operates properly but also to demonstrate that the equipment performs the work for which it is intended. It shall also demonstrate the operation of all pertinent safety devices including but not limited to the operations of limit switches and warning devices.
- F. Tested equipment found to be defective or inoperable to any extent shall be reported to Owner immediately.
- G. Any operating difficulty or defective item shall be repaired or replaced and put into proper operation by Contractor immediately, at no additional expense to Owner.
- H. Protect equipment and surrounding areas from damage resulting from testing operations. Clean up spills or leakage from testing.
- I. All materials for acceptance testing shall be provided by the manufacturer with the exception of Owner's vehicle.
- J. Contractor shall bear expense of all tests, including the furnishing of necessary instruments, lubricants, hydraulic fluids, supplies, data recorders, and operating personnel. Provide and bear all expenses for fuel/power required to operate the equipment during the tests.
- K. Owner will provide pertinent railroad vehicles and/or railroad vehicle components (e.g., wheelsets) required for acceptance testing, with the exception of calibrated vehicle components which are the responsibility of the Contractor.
- L. After approval of the site test procedure notify the Engineer at least two weeks in advance of making the site test.
- M. Provide material and manpower required for the program.
- N. Owner will provide delivery of sand to fill silo. Verify low level and high-level sensors during this process.

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- O. Test all pump locations.
  - 1. Verify auto refill, auto stop, and dust control features
  - 2. Verify function of amber indicator light on each pump
  - 3. Verify safe shut-down and restart of sanding system with full transfer piping.
- P. During testing, verify operation of safety and annunciation devices.
- Q. Top off sand level prior to final acceptance.
- R. Submit test results to Engineer.
- S. In the determination of Engineer, should sanding system fail to function properly, make modifications and adjustments and replace impaired parts required for operation. Perform additional tests as necessary to verify equipment is operating properly.
- T. At the sole discretion of Owner, Contractor shall be required to repeat any test at no additional cost to Owner.
- U. Owner shall determine final acceptance of the installed equipment upon successful completion of the approved test program plan.
- V. Conformed copies of the acceptance test procedure shall be available at the start of acceptance testing.

#### 3.09. START-UP AND INSTRUCTIONS

- A. Prior to installation, submit for review a program to train Owner's personnel to operate and maintain equipment. Provide materials required for the program.
- B. Unless otherwise specified, all lubricants, cleaning compounds and similar operating materials required for instruction of Owner's personnel will be furnished by Owner.
- C. Following installation, testing and commissioning, and at Owner's convenience, conduct a training program for Owner's personnel in the operation and maintenance of the new equipment. Schedule training period for a mutually agreed-upon number of consecutive days of 8 hours each day. All training shall include a written test, if required by Clean Air Agency, as well as hands-on demonstration by student. Provide each person attending training sessions with a written training manual.
- D. During this period, provide qualified representatives of equipment manufacturers for instructions of Owner's personnel in operation and maintenance of the equipment.
- E. Following completion of training, provide Owner with:
  - 1. A letter attesting to the names of persons receiving instruction and the dates instruction took place.
  - 2. Certificate of completion for each person receiving instruction.

**100% SUBMITTAL**

LOCOMOTIVE - SAND DISTRIBUTION FILTRATION MODIFICATION - PERFORMANCE SPECIFICATION

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3. Minimum of 2 copies of training materials (excluding operation and maintenance and parts manuals).

**END OF SECTION**

# **APPENDIX A**



## HI-BUILD EPOXOLINE® II SERIES N69

## PRODUCT PROFILE

<b>GENERIC DESCRIPTION</b>	Polyamidoamine Epoxy
<b>COMMON USAGE</b>	An advanced generation epoxy for protection and finishing of steel and concrete in commercial, industrial and marine environments. It has excellent resistance to abrasion and is suitable for immersion as well as chemical contact exposure. Contact your local Tnemec representative for a list of chemicals. This product can also be used for lining storage tanks that contain demineralized, deionized or distilled water.
<b>COLORS</b>	Refer to Tnemec Color Guide. <b>Note:</b> Epoxies chalk with extended exposure to sunlight. Lack of ventilation, incomplete mixing, miscatalyzation or the use of heaters that emit carbon dioxide and carbon monoxide during application and initial stages of curing may cause yellowing to occur.
<b>FINISH</b>	Satin
<b>SPECIAL QUALIFICATIONS</b>	This product is part of a coating system tested in accordance with ISO 12944-6 (2018). Contact your Tnemec representative for coating system test results.

## COATING SYSTEM

<b>SURFACER/FILLER/PATCHER</b>	Series 215, 217, 218
<b>PRIMERS</b>	<b>Steel:</b> Self-priming or Series 1, 27, 37H, 66, L69, L69F, N69F, V69F, 90E-92, 90-97, H90-97, 90G-1K97, 90-98, 91-H <sub>2</sub> O, 94-H <sub>2</sub> O, 135, 161, 394 <b>Galvanized Steel and Non-Ferrous Metal:</b> Self-priming or Series 66, L69, L69F, N69F, V69F, 161 <b>Concrete:</b> Self-priming or Series 130, 1254 <b>CMU:</b> Self-priming or 130, 1254
<b>TOPCOATS</b>	Series 21, 22, 46H-413, 66, L69, L69F, N69, N69F, V69, V69F, 73, 104, 113, 114, 118, 141, 156, 157, 161, 180, 181, 262, 265, 287, 435, 436, 1026, 1028, 1029, 1070, 1070V, 1071, 1071V, 1072, 1072V, 1077, 1078, 1078V, 1080, 1081, 1094, 1095, 1096, 1224. <b>Note:</b> The following recoat times apply for Series N69: Immersion Service—Surface must be scarified after 60 days. Atmospheric Service—After 60 days, scarification or an epoxy tie-coat is required. Contact your Tnemec representative for specific recommendations.

## SURFACE PREPARATION

<b>STEEL</b>	<b>Immersion Service:</b> SSPC-SP10/NACE 2 Near-White Blast Cleaning or ISO Sa 2 1/2 Very Thorough Blast Cleaning with a minimum angular anchor profile of 1.5 mils. <b>Non-Immersion Service:</b> SSPC-SP6/NACE 3 Commercial Blast Cleaning or ISO Sa 2 Thorough Blast Cleaning with a minimum angular anchor profile of 1.5 mils. <b>Note:</b> Commercial Blast Cleaning generally produces the best coating performance for this exposure. If conditions will not permit this, in moderate exposures Series N69 may be applied to SSPC-SP2 or SP3 Hand or Power Tool Cleaned surfaces (SSPC Rust Grade Condition C).
<b>GALVANIZED STEEL &amp; NON-FERROUS METAL</b>	Surface preparation recommendations will vary depending on substrate and exposure conditions. Contact your Tnemec representative or Tnemec Technical Services.
<b>CAST/DUCTILE IRON</b>	All external surfaces of ductile iron pipe and fittings shall be delivered to the application facility without asphalt or any other protective lining on the exterior surface. All oils, small deposits of asphalt paint, grease, and soluble deposits should be removed and uniformly abrasive blasted using angular abrasive in accordance with NAF 500-03-04: External Pipe Surface condition. When viewed without magnification, the exterior surfaces shall be free of all visible dirt, dust, loose annealing oxide, rust, mold coating and other foreign matter. Any area where rust reappears before application shall be reblasted. The surface shall contain a minimum angular anchor profile of 1.5 mils (38.1 microns) (Reference NACE RP0287 or ASTM D 4417, Method C).
<b>CONCRETE</b>	Allow new cast-in-place concrete to cure a minimum of 28 days at 75°F (24°C). Verify concrete dryness in accordance with ASTM F 1869 "Standard Test Method for Measuring Moisture Vapor Emission Rate of Concrete Subfloor Using Anhydrous Calcium Chloride" (moisture vapor transmission should not exceed three pounds per 1,000 square feet in a 24 hour period), F 2170 "Standard Test Method for Determining Relative Humidity in Concrete using in situ Probes" (relative humidity should not exceed 80%), or D 4263 "Standard Test Method for Indicating Moisture in Concrete by the Plastic Sheet Method" (no moisture present). Prepare concrete surfaces in accordance with NACE No. 6/SSPC-SP13 Joint Surface Preparation Standards and ICRI Technical Guidelines. Abrasive blast, shot-blast, water jet or mechanically abrade concrete surfaces to remove laitance, curing compounds, hardeners, sealers and other contaminants and to provide an ICRI-CSP 2-3 surface profile. Large cracks, voids and other surface imperfections should be filled with a recommended filler or surfacer.
<b>CMU</b>	Allow mortar to cure for 28 days. Level protrusions and mortar spatter.
<b>PAINTED SURFACES</b>	<b>Non-Immersion Service:</b> Ask your Tnemec representative for specific recommendations.
<b>PRIMED SURFACES</b>	<b>Immersion Service:</b> Scarify the Series N69 prime coat surface by abrasive-blasting with a fine abrasive before topcoating if: (a) the Series N69 prime coat has been in exterior exposure for 60 days or longer and Series 66, 46H-413, L69, L69F, N69, N69F, V69, V69F or 161 is the specified topcoat; (b) the Series N69 prime coat has been in exterior exposure for 14 days or longer and Series 104 is the specified topcoat; (c) the Series N69 prime coat has been in exterior exposure for seven days or longer and Series 262, 265 or 435 is the specified topcoat.
<b>ALL SURFACES</b>	Must be clean, dry and free of oil, grease, chalk and other contaminants.

## TECHNICAL DATA

<b>VOLUME SOLIDS</b>	67.0 ± 2.0% (mixed) †
<b>RECOMMENDED DFT</b>	2.0 to 10.0 mils (50 to 255 microns) per coat. <b>Note:</b> The number of coats and thickness requirements will vary with substrate, application method and exposure. Contact your Tnemec representative.

# HI-BUILD EPOXOLINE® II | SERIES N69

**CURING TIME AT 5 MILS DFT**

Without 44-700 Accelerator

Temperature	To Handle	To Recoat	Immersion
90°F (32°C)	5 hours	7 hours	7 days
80°F (27°C)	7 hours	9 hours	7 days
70°F (21°C)	9 hours	12 hours	7 days
60°F (16°C)	16 hours	22 hours	9 to 12 days
50°F (10°C)	24 hours	32 hours	12 to 14 days

Curing time varies with surface temperature, air movement, humidity and film thickness. **Note:** For faster curing and low-temperature applications, add No. 44-700 Epoxy Accelerator; see separate product data sheet for cure information.

**VOLATILE ORGANIC COMPOUNDS**

**Unthinned:** 2.40 lbs/gallon (285 grams/litre)  
**Thinned 10% (No. 4 Thinner):** 2.80 lbs/gallon (334 grams/litre)  
**Thinned 10% (No. 60 Thinner):** 2.80 lbs/gallon (335 grams/litre)

**HAPS**

**Unthinned:** 2.40 lbs/gal solids  
**Thinned 10% (No. 4 Thinner):** 3.25 lbs/gal solids  
**Thinned 10% (No. 60 Thinner):** 2.40 lbs/gal solids

**THEORETICAL COVERAGE**

1,074 mil sq ft/gal (26.4 m<sup>2</sup>/L at 25 microns). See APPLICATION for coverage rates. †

**NUMBER OF COMPONENTS**

Two: Part A (amine) and Part B (epoxy) — One (Part A) to one (Part B) by volume.

**PACKAGING**

	Part A	Part B	Yield (mixed)
Large Kit	5 gallon pail	5 gallon pail	10 gallons (37.9 L)
Small Kit	1 gallon can	1 gallon can	2 gallons (7.6 L)

**NET WEIGHT PER GALLON**

13.67 ± 0.25 lbs (6.10 ± 0.11 kg) (mixed) †

**STORAGE TEMPERATURE**

Minimum 20°F (-7°C) Maximum 110°F (43°C)

**TEMPERATURE RESISTANCE**

(Dry) Continuous 250°F (121°C) Intermittent 275°F (135°C)

**SHelf LIFE**

Part A: 24 months; Part B: 12 months at recommended storage temperature.

**FLASH POINT - SETA**

Part A: 82°F (28°C) Part B: 93°F (34°C)

**HEALTH & SAFETY**

Paint products contain chemical ingredients which are considered hazardous. Read container label warning and Material Safety Data Sheet for important health and safety information prior to the use of this product.  
**Keep out of the reach of children.**

**APPLICATION**

**COVERAGE RATES**

	Dry MILS (MICRONS)	Wet MILS (MICRONS)	Sq Ft/Gal (m <sup>2</sup> /Gal)
Suggested (1)	6.0 (150)	9.0 (230)	179 (16.6)
Minimum	2.0 (50)	3.0 (75)	537 (49.9)
Maximum	10.0 (250)	15.0 (375)	107 (10.0)

**Dense Concrete & Masonry:** From 100 to 150 sq ft (9.3 to 13.9 m<sup>2</sup>) per gallon.

**CMU:** From 75 to 100 sq ft (7.0 to 9.3 m<sup>2</sup>) per gallon.

**(1) Note for Steel:** Roller or brush application requires two or more coats to obtain recommended film thickness. Also, Series N69 can be spray applied to an optional high-build film thickness range of 8.0 to 10.0 dry mils (205 to 255 dry microns) or 11.5 to 14.5 wet mils (209 to 370 wet microns). Allow for overspray and surface irregularities. Film thickness is rounded to the nearest 0.5 mil or 5 microns. Application of coating below minimum or above maximum recommended dry film thicknesses may adversely affect coating performance. †

**MIXING**

Start with equal amounts of Series N69 Parts A and B. Power mix contents of each container separately, making sure no pigment remains on the bottom. Pour a measured amount of Part B into a clean container large enough to hold both components. If Series 44-700 is not being used, proceed with mixing and add an equal volume of Part A to Part B while under agitation. Continue agitation until the two components are thoroughly mixed. **Note:** Both components must be above 50°F (10°C) prior to mixing. For optimum mixing and application properties, the material should be above 60°F (16°C).

If using Series 44-700 accelerator, slowly add four (4) fluid ounces of 44-700 per gallon to Series N69 Part A material while under agitation and proceed with adding Part B. **Note:** The use of more than the recommended amount of 44-700 will adversely affect performance.

Thin by volume and thoroughly mix. Failure to thoroughly mix the Part A and Part B components prior to thinning can affect product's gloss and performance. Do not use mixed material beyond pot life limits. **Note:** For application of the unaccelerated version to surfaces between 50°F to 60°F (10°C to 16°C) or the accelerated version to surfaces between 35°F to 50°F (2°C to 10°C), allow mixed material to stand 30 minutes and restir before using.

**THINNING**

Use No. 4 or No. 60 Thinner. For air spray, thin up to 10% or 3/4 pint (380 mL) per gallon. For airless spray, roller or brush, thin up to 5% or 1/4 pint (190 mL) per gallon.

**POT LIFE**

Without 44-700: 6 hours at 50°F (10°C) 4 hours at 75°F (24°C) 1 hour at 100°F (38°C)  
 With 44-700: 2 hours at 50°F (10°C) 1 hour at 75°F (24°C) 30 minutes at 100°F (38°C)

**SPRAY LIFE**

Without 44-700: 1 hour at 75°F (24°C) With 44-700: 30 minutes at 75°F (24°C)  
**Note:** Spray application after listed times will adversely affect ability to achieve recommended dry film thickness.



# HI-BUILD EPOXOLINE® II | SERIES N69

**APPLICATION EQUIPMENT**

**Air Spray ‡**

Gun	Fluid Tip	Air Cap	Air Hose ID	Mat'l Hose ID	Atomizing Pressure	Pot Pressure
DeVilbiss JGA	E	765 or 704	5/16" or 3/8" (7.9 or 9.5 mm)	3/8" or 1/2" (9.5 or 12.7 mm)	50-80 psi (3.4-5.5 bar)	10-20 psi (0.7-1.4 bar)

Low temperatures or longer hoses require higher pot pressure.

**Airless Spray ‡**

Tip Orifice	Atomizing Pressure	Mat'l Hose ID	Manifold Filter
0.015"-0.019" (380-485 microns)	3000-4800 psi (207-330 bar)	1/4" or 3/8" (6.4 or 9.5 mm)	60 mesh (250 microns)

Use appropriate tip/atomizing pressure for equipment, applicator technique and weather conditions.

‡ Spray application of first coat on CMU should be followed by backrolling. **Note:** Application over inorganic zinc-rich primers: Apply a wet mist coat and allow tiny bubbles to form. When bubbles disappear in 1 to 2 minutes, apply a full wet coat at specified mil thickness.

**Roller:** Use 3/8" or 1/2" (9.5 mm or 12.7 mm) synthetic woven nap roller cover. Use longer nap to obtain penetration on rough or porous surfaces.

**Brush:** Recommended for small areas only. Use high quality natural or synthetic bristle brushes.

**SURFACE TEMPERATURE**

Minimum 50°F (10°C) Maximum 135°F (57°C) The surface should be dry and at least 5°F (3°C) above the dew point. Coating will not cure below minimum surface temperature.

**CLEANUP**

Flush and clean all equipment immediately after use with the recommended thinner or MEK.

† Values may vary with color.

WARRANTY & LIMITATION OF SELLER'S LIABILITY: Tnemec Company, Inc. warrants only that its coatings represented herein meet the formulation standards of Tnemec Company, Inc. THE WARRANTY DESCRIBED IN THE ABOVE PARAGRAPH SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. The buyer's sole and exclusive remedy against Tnemec Company, Inc. shall be for replacement of the product in the event a defective condition of the product should be found to exist and the exclusive remedy shall not have failed its essential purpose as long as Tnemec is willing to provide comparable replacement product to the buyer. NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY, ENVIRONMENTAL INJURIES OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO THE BUYER. Technical and application information herein is provided for the purpose of establishing a general profile of the coating and proper coating application procedures. Test performance results were obtained in a controlled environment and Tnemec Company makes no claim that these tests or any other tests, accurately represent all environments. As application, environmental and design factors can vary significantly, due care should be exercised in the selection and use of the coating.



# PERIMEPRIME SERIES 394

## PRODUCT PROFILE

**GENERIC DESCRIPTION** Aromatic Polyurethane, Mio-Zinc Filled Primer

**COMMON USAGE** Specially formulated, one-component, moisture-cured, micaceous iron oxide and zinc-filled primer that offers superior bonding to marginally prepared rusty steel and tightly adhered old coatings. This high-performance primer is ideal for corrosion resistance with a triple barrier mechanism of zinc, mio, and urethane resin built into the dry film. It is suitable as a corrosion-resistant primer under certain fireproofing systems. Contact your Tnemec representative for specific information.

**COLORS** 0250 Greenish-Gray

**SPECIAL QUALIFICATIONS** UL classified in accordance with UL 263 (ASTM E119). Meets material adhesion test ASTM E 736 for use under various fire-resistive products. Contact your Tnemec representative for specific information.

Series 394 meets the **AISC** requirements in accordance with RCSC Appendix A for Class B surface with a mean slip coefficient of no less than 0.50 and tension creep not in excess of 0.005 inches (0.13 mm). Contact Tnemec Technical Service for more information. **Note:** Using other products as primers or topcoats voids AISC requirements. Contact your Tnemec representative for specific recommendations.

Series 394 meets the requirements of LEED-Low-Emitting Materials, Collaborative for High-Performance Schools-Paints & Coatings, WELL Building Standard-VOC Restrictions, and Living Building Challenge-Healthy Interior Performance. Contact your Tnemec representative for more information.

## COATING SYSTEM

**PRIMERS** Self-priming, Series 90-97, 90G-1K97

**TOPCOATS** Series 21, 27, 66, L69, L69F, N69, N69F, 73, 113, 114, 115, V115, 161, 971, 975, 1026, 1028, 1029, 1094, 1095, 1096, 1224. **Note:** If Series 394 is exterior exposed for one year or more it must be scarified or recoated with itself before topcoating. Scarification or recoating with itself is required if the Series 394 has been exterior exposed for three days or longer and Series 113 is the specified topcoat. **Note:** Series 115 and V115 require the use of Series 44-900 adhesion promoter when topcoating Series 394. **Note:** Certain topcoat colors may not provide one coat hiding depending on the method of application. Contact your Tnemec representative. **Note:** Series 394 must be exterior exposed for one day prior to topcoating with Series 1224 or three days prior to topcoating with Series 1028 or 1029.

## SURFACE PREPARATION

**STEEL** **Enclosed or Fireproofed:** SSPC-SP3 Power Tool Cleaning (SSPC Rust Grade Condition C). **Moderate Exterior Exposure:** Abrasive blast cleaning to SSPC-SP6/NACE 3 Commercial Blast Cleaning generally produces the best coating performance for this exposure. If conditions won't permit this, Series 394 may be applied to SSPC-SP2 or SP3 Hand or Power Tool Cleaned surfaces (SSPC Rust Grade Condition C). **Immersion & Severe Exposure:** SSPC-SP10/NACE 2 Near-White Blast Cleaning. **Slip Critical Connections:** SSPC-SP6/NACE 3 Commercial Blast Cleaning or SSPC-SP3 Power Tool Cleaning (SSPC Rust Grade Condition C).

**ALL SURFACES** Must be clean and free of oil, grease and other contaminants.

## TECHNICAL DATA

**VOLUME SOLIDS** 61.0 ± 2.0% (mixed)

**RECOMMENDED DFT** 2.5 to 3.5 mils (65 to 90 microns) per coat.

**CURING TIME** Without 44-710

Temperature †	To Touch	To Handle	To Topcoat
75°F (24°C)	¼ hour	1 ½ hours	16 hours
65°F (18°C)	¼ hour	2 ¾ hours	16 hours
55°F (13°C)	¼ hour	5 hours	20 hours

† 50% Relative Humidity. Curing time will vary with surface temperature, humidity, and film thickness. **Note:** When recoating Series 394 with itself, the minimum recoat time is 2 hours at 70°F (21°C). **Note:** The use of Series 44-710 can greatly reduce dry to handle cure times. Series 44-710 Accelerator must be used when the surface temperature falls below 50°F (10°C).

**VOLATILE ORGANIC COMPOUNDS** **Unthinned:** 2.00 lbs/gallon (240 grams/litre)  
**Thinned 10% (No. 2 Thinner):** 2.55 lbs/gallon (306 grams/litre)  
**Thinned 10% (No. 3 Thinner):** 2.55 lbs/gallon (306 grams/litre)  
**Thinned 10% (No. 49 Thinner):** 2.00 lbs/gallon (240 grams/litre)

**HAPS** **Unthinned:** 1.73 lbs/gal solids  
**Thinned 10% (No. 2 Thinner):** 2.91 lbs/gal solids  
**Thinned 10% (No. 3 Thinner):** 1.78 lbs/gal solids  
**Thinned 10% (No. 49 Thinner):** 1.73 lbs/gal solids

**THEORETICAL COVERAGE** 978 mil sq ft/gal (24.0 m<sup>2</sup>/L at 25 microns). See APPLICATION for coverage rates.

**NUMBER OF COMPONENTS** One

**PACKAGING** Five-gallon pail yielding 3 gallons (11.4 L) and one-gallon can yielding 0.95 gallons (3.6 L)

**NET WEIGHT PER GALLON** 21.36 ± 0.60 lbs (9.70 ± 0.27 kg)

**STORAGE TEMPERATURE** Minimum 20°F (-7°C) Maximum 110°F (43°C)

**TEMPERATURE RESISTANCE** (Dry) Continuous 250°F (121°C) Intermittent 300°F (149°C)

# PERIMEPRIME | SERIES 394

**SHELF LIFE** 12 months at recommended storage temperature.  
**FLASH POINT - SETA** 90°F (32°C)  
**HEALTH & SAFETY** Paint products contain chemical ingredients which are considered hazardous. Read container label warning and Material Safety Data Sheet for important health and safety information prior to the use of this product.  
**Keep out of the reach of children**

## APPLICATION

COVERAGE RATES		Dry MILS (Microns)	Wet MILS (Microns)	Sq Ft/Gal (m <sup>2</sup> /Gal)
	Suggested	3.0 (75)	5.0 (125)	326 (30.3)
	Minimum	2.5 (65)	4.0 (100)	391 (36.4)
	Maximum	3.5 (90)	5.5 (140)	280 (26.0)

Allow for overspray and surface irregularities. Wet film thickness is rounded to the nearest 0.5 mil or 5 microns. Application of coating below minimum or above maximum recommended dry film thicknesses may adversely affect coating performance.

**MIXING** Stir thoroughly making sure no pigment remains on the bottom of the can. Use a power mixer and keep material under constant agitation while mixing.

**THINNING** For spray, thin up to 10% or ¼ pint (380 mL) per gallon with No. 2 Thinner if temperatures are below 80°F (27°C). Thin up to 10% or ¼ pint (380 mL) per gallon with No. 3 Thinner if temperatures are above 80°F (27°C). For brush or roller, thin up to 10% or ¼ pint (380 mL) with No. 3 Thinner. For slip critical applications and to meet low VOC requirements of some air districts, thin up to 10% or ¼ pint (380 mL) with No. 49 Thinner for brush, roll, and spray applications.

**POT LIFE** 24 hours at 77°F (25°C) and 50% R.H. **Caution: This product cures with moisture acting as a catalyst. Incorporation of moisture or moisture laden air (humidity) during use will shorten pot life.** The use of a solvent blanket (small addition of solvent that sits atop the paint in the can) can help to retard a reaction with moisture in the container but agitation will have to be done by manual means, taking care to not disturb the solvent or incorporate it into the paint. Avoid continual agitation at high RPM. When feasible keep containers of material covered during use.

**APPLICATION EQUIPMENT** **Note:** When intermediate and finish coats are white or light colors, best hiding of this primer can be achieved by spray application; or when roller applied, by using 1/4" synthetic woven nap covers.

### Air Spray

Gun	Fluid Tip	Air Cap	Air Hose ID	Mat'l Hose ID	Atomizing Pressure	Pot Pressure
DeVilbiss † JGA	E	765 or 704	5/16" or 3/8" (7.9 or 9.5 mm)	3/8" or 1/2" (9.5 or 12.7 mm)	50-60 psi (3.4-4.1 bar)	15-25 psi (1.0-1.7 bar)

† (with heavy mastic spring) Low temperatures or longer hoses will require additional pressure. Use pressure pot equipped with an agitator and keep pressure pot at same level or higher than the spray gun. Compressed air must be dry.

### Airless Spray

Tip Orifice	Atomizing Pressure	Mat'l Hose ID	Manifold Filter
0.017"-0.021" (430-535 microns) Reversible Tip	2400-3000 psi (165-207 bar)	1/4" or 3/8" (6.4 or 9.5 mm)	60 mesh (250 microns)

Use appropriate tip/atomizing pressure for equipment, applicator technique and weather conditions.

**Roller:** Use a 1/4" or 3/8" (6.4 mm or 9.5 mm) high quality synthetic woven nap roller cover.

**Brush:** Use high quality natural or synthetic bristle brushes.

**SURFACE TEMPERATURE** Minimum 35°F (2°C) Maximum 120°F (49°C)  
 The surface should be dry and at least 5°F (3°C) above the dew point. **Note:** Series 44-710 Accelerator must be used if the surface temperature is 35°F to 60°F (2°C to 16°C) and 20% to 40% relative humidity, or if surface temperature is below 50°F (10°C) regardless of humidity.

**AMBIENT HUMIDITY** Minimum 20% Maximum 90%

**CLEANUP** Flush and clean all equipment immediately after use with the recommended thinner or xylene.

WARRANTY & LIMITATION OF SELLER'S LIABILITY: Tnemec Company, Inc. warrants only that its coatings represented herein meet the formulation standards of Tnemec Company, Inc. THE WARRANTY DESCRIBED IN THE ABOVE PARAGRAPH SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. The buyer's sole and exclusive remedy against Tnemec Company, Inc. shall be for replacement of the product in the event a defective condition of the product should be found to exist and the exclusive remedy shall not have failed its essential purpose as long as Tnemec is willing to provide comparable replacement product to the buyer. NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY, ENVIRONMENTAL INJURIES OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO THE BUYER. Technical and application information herein is provided for the purpose of establishing a general profile of the coating and proper coating application procedures. Test performance results were obtained in a controlled environment and Tnemec Company makes no claim that these tests or any other tests, accurately represent all environments. As application, environmental and design factors can vary significantly, due care should be exercised in the selection and use of the coating.