

PARKS AND RECREATION DEPARTMENT
48 NATOMA STREET
FOLSOM, CALIFORNIA 95630



**PROJECT MANUAL
FOR
FOLSOM CITY HALL
BOILER & HVAC REPLACEMENT
DESIGN-BUILD PROJECT**

No Fee

**FOR PRE-PROPOSAL INFORMATION CONTACT
CHRIS OKEEFE
COKEEFE@FOLSOM.CA.US
(916) 461-6684**

**PROPOSALS TO BE RECEIVED BEFORE
2:00 P.M., TUESDAY MAY 3, 2022 AT:**

**CITY OF FOLSOM
CITY CLERK'S OFFICE
ATTN: CHRIS O'KEEFE
50 NATOMA STREET
FOLSOM, CA 95630**

NOTICE TO CONTRACTORS

Sealed Proposals will be received by the City Clerk's Office for the City of Folsom at, 50 Natoma Street, Folsom, California 95630 up to the hour of **2:00 P.M. on Tuesday, May 3, 2022** for construction of:

CITY OF FOLSOM CITY HALL BOILER & HVAC REPLACEMENT DESIGN-BUILD PROJECT

In accordance with the Contract Documents issued by the City of Folsom. Proposals must be submitted on printed forms supplied by the Department of Parks and Recreation enclosed in an envelope marked:

SEALED PROPOSALS FOR: CITY OF FOLSOM CITY HALL BOILER & HVAC REPLACEMENT DESIGN-BUILD PROJECT

Copies of the Sealed Proposal forms and accompanying documents (specifications and drawings) are available electronically on-line at WWW.CIPLIST.COM

Contractor's License: A, B or C-20 Air Conditioning/C-4 Boiler

Requests for technical information or clarification shall be directed to the City's representative, Chris O'Keefe cokeefe@folsom.ca.us (916) 461-6684.

City affirmatively identifies this project as a "public work" as that term is defined by Labor Code Section 1720, and the project is, therefore, subject to prevailing wages under Labor Code Section 1771.

Contractor and its subcontractors shall fully comply with all the provisions of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at the job site and prohibitions against discrimination. The prevailing rates so determined are on file with the City Clerk and they are available for public inspection. They may also be obtained on the internet at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Those prevailing wage rates hereby are incorporated in this Contract and made a part hereof. (See General Provisions, Article 6, Section 6.01)

As of March 1, 2015, Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at:

<http://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRRegistrationForm>

Pursuant to California Public Contracts Code, any contract awarded pursuant to this invitation for bid shall include a provision permitting the substitution of securities for any moneys withheld to ensure performance under the contract. The terms of such provisions shall be according to the requirements of the Public Contracts Code Section 22300.

Each bid must be accompanied by security consisting only of cash, California Bank Cashier's Check, Certified Check, California Bank Money Order, or bid bond made payable to the "City of Folsom" in the sum of ten percent (10%) of the sum of the proposal.

The Contract will be awarded to the lowest responsive responsible Bidder based on any combination of Base Bid and Alternates as determined by the City. This process is conducted by the City in a "blind selection" format, i.e., without knowledge of the identity of any of the Bidders before ranking of all Bidders from lowest to highest has been determined. All awards will be made in the City's best interest.

The right to reject any and all bids or waive any informality in any bid received is reserved by the City Council.

Lorraine Poggione
Parks and Recreation Director

PROJECT OVERVIEW

1. PROJECT DESCRIPTION

The City of Folsom is conducting a formal Request for Proposals (**RFP**) to provide design-build services for the replacement of two (2) Lochinvar natural gas boilers (**BOILERS**) and the Heating Ventilation and Air Conditioning (**HVAC**) equipment and systems at the Folsom City Hall, 50 Natoma Street, Folsom, CA. The contractor shall work with the City of Folsom facilities and local utilities to determine if rebates are available for this project, and to identify replacement boilers that meet the performance criteria called for in the rebate program.

The General / Prime / Contractor / Lead Entity allowed to participate in the RFP process must meet and provide the minimum license requirements as follows:

1. Current and good standing Business License
2. Proof of a valid A, B, or C-20 License for HVAC and electrical work.

Compliance: All service(s) rendered shall be in compliance with all applicable federal, state, local, and OSHA regulations. The selected Contractor shall possess any, or all, required licenses required to perform the requested service.

City affirmatively identifies this project as a “public work” as that term is defined by Labor Code Section 1720, and the project is, therefore, subject to prevailing wages under Labor Code Section 1771.

Contractor and its subcontractors shall fully comply with all the provisions of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at the job site and prohibitions against discrimination. The prevailing rates so determined are on file with the City Clerk and they are available for public inspection. They may also be obtained on the internet at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. Those prevailing wage rates hereby are incorporated in this Contract and made a part hereof. (See General Provisions, Article 6, Section 6.01)

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at:
<https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRRegistrationForm>

Pursuant to California Public Contracts Code, any contract awarded pursuant to this invitation for bid shall include a provision permitting the substitution of securities for any moneys withheld to ensure performance under the contract. The terms of such provisions shall be according to the requirements of the Public Contracts Code Section 22300.

Each bid must be accompanied by security consisting only of cash, California Bank Cashier's Check, Certified Check, California Bank Money Order, or bid bond made payable to the “City of Folsom” in the sum of ten percent (10%) of the sum of the proposal.

The right to reject any and all bids, or waive any informality in any bid received is reserved by the City Council.

2. PROJECT LOCATION

BOILERS

The two (2) Lochinvar natural gas boilers and associated equipment to be replaced are located on the 2nd Floor Mechanical Room of the Folsom City Hall building. Access to the Utility Room is through the City Council Chambers, up two flights of stairs, and across two landings. Access to the Utility Room can also be accomplished by way of a door on the roof. Please see Mechanical Room Location Map in Appendix A.

HVAC

The HVAC units are located on the roof of the Folsom City Hall building. Access to the roof is through the Council Chamber, up two flights of stairs, and across two landings. The roof is accessed through a door in the Mechanical Room. Please see the HVAC Location Map in Appendix B.

3. PROPOSAL REQUIREMENTS

Sealed Proposals will be received by the City Clerk's Office for the City of Folsom at 50 Natoma Street, Folsom, California, 95630, up to the hour of **2:00 P.M. on Tuesday May 3, 2022** for the design-build removal and replacement of gas boilers and HVAC system.

The City of Folsom is seeking qualified contractors for design build work relating to the removal and replacement of gas boilers and HVAC equipment and fixtures, control systems, electrical upgrades and improvements. The contractor is expected to prepare all documents, and provide and install all equipment described in the scope of work.

4. SCOPE OF WORK – DESIGN-BUILD SERVICES FOR THE BOILER REPLACEMENT

A. Project Start-up Phase

1. Project Coordination & Mobilization (NTE 5%)

B. Design Phase

The Design-build Contractor shall provide all the necessary engineering, material procurement, labor, materials, tools, equipment, supplies, services, components, and disposal, and comply with the contract's General Conditions to successfully complete the replacement of existing Boiler units to the satisfaction of the City of Folsom.

1. Provide mechanical schematic design drawings for new and modified equipment, including Title 24 compliance documentation.
2. Secure all necessary electrical and mechanical permits, and/or demonstrate proof that quality and standards meets or exceeds Folsom Municipal Code requirements. Obtain No Fee Permit through the City of Folsom Building Department.
3. Determine if the project is eligible for utility rebates and assist City of Folsom staff in preparing rebate submittal if rebates are available.

C. Construction Phase

1. Disconnect, remove, and legally dispose of offsite the following:
 - a. Two (2) existing Lochinvar PBN0750 boilers.
 - b. Demo existing flue vent, old hot water piping, and gas piping as required to facilitate the installation of the new equipment.
2. Provide and install two (2) new boilers (Lochinvar FTXL 97.3% or equivalent)
 - a. Provide new flue vent
 - b. Provide new circuits and disconnects
 - c. Provide new drain pan
 - d. Provide new pump
 - e. Connect new equipment to existing system
 - f. New boilers and pumps to existing HW system
 - g. New boilers to existing gas piping
 - h. Complete Installation of New Equipment
 - i. Insulate new HWS/HWR piping
 - j. Provide pipe identification

D. Project Close-out Phase

- a. Test new equipment to confirm functionality
- b. Start-up and leak check
- c. Clean-up of project site
- d. Approval from City on installation
- e. Owner training

5. SCOPE OF WORK – DESIGN-BUILD SERVICES FOR THE HVAC REPLACEMENT

1. Project Start-Up Phase

1. Project Coordination & Mobilization (NTE 5%)

2. Design Phase

The Design-build Contractor shall provide all the necessary engineering, material procurement, labor, materials, tools, equipment, supplies, services, components, and disposal, and comply with the contract's General Conditions to successfully complete the replacement of existing HVAC units to the satisfaction of the City of Folsom.

The work includes, but shall not be limited to the following:

1. After the work is awarded, the contractor shall conduct a Site Survey and gather all the information required to proceed with the engineering, based on the agreed Scope of Work (SOW). The contractor shall report any discrepancies or necessary changes to the SOW.
2. After the Site Survey, the contractor shall design a functioning system based on the agreed SOW. The contractor will prepare engineering drawings using AutoCAD format. These drawings are to be available in electronic format; any additional drawings required for the design package shall be created by the contractor.

3. Upon review and approval of the design and all related submittals, the contractor will then proceed with the permitting, material procurement, and construction phase of the project.
4. The contractor's design drawings shall include, but not be limited to:
 - a. Schedule of equipment showing capacities, models, weights, and accessories.
 - b. All proposed equipment shown on dimensioned drawings.
 - c. Any details and sections that are required to clearly indicate the installation.
 - d. Method of connecting to the facility.
 - e. Any variances or modifications from the City's scope of work.
5. Design Submittal Requirements

The Design-Build Contractor shall obtain all required approvals and permits prior to proceeding with the installation of the work in this SOW. The Design-Build Contractor is responsible for the review of electrical specifications, equipment performance specifications and related design criteria prior to the purchase of equipment, materials, and installation of work. The Design-Build Contractor shall submit the following information considered as the Design Submittal:

Provide engineering drawings and material submittals with equipment type, manufacturer, model, EER Rating, options, quantity; cut sheets, and product warranties (submitted within 10 days from the Notice to Proceed).

C. Construction Phase

General Description of Requirements
<p><u>HVAC Equipment</u></p> <ul style="list-style-type: none"> • Demolish existing HVAC units in accordance with all equipment defined in Attachment B. • Contractor shall be responsible to haul all demolished units and ancillary equipment offsite. • Procure, install, and commission new high efficiency units. Equipment shall meet or exceed efficiency requirements as outlined by prevailing Title 24 Standards & Regulations. • Unit weight shall not exceed 5% above existing HVAC unit weight.
<p><u>Electrical</u></p> <ul style="list-style-type: none"> • Disconnect and demo existing electrical connections and disconnect switches. • Install new disconnect switches and conduit to the new units.
<p><u>Plumbing</u></p> <ul style="list-style-type: none"> • Demo existing hydronic ball valves, control valves, and strainers as needed. • Furnish, install, and commission new ball valves, control valves, and strainers.

<ul style="list-style-type: none"> • Demo existing condensate drains and traps. • Install new condensate drains and traps. • Pressure test piping. • Furnish NEBB Certified Report if necessary.
<p><u>Ducting and Air Distribution</u></p> <ul style="list-style-type: none"> • Re-use existing ductwork • Evaluate existing VAV system to determine if it can be re-used.
<p><u>Controls</u></p> <ul style="list-style-type: none"> • Install smoke detector and connect to existing fire alarm systems. • Install new thermostats • Evaluate the feasibility of installing occupancy sensors. • Replace existing Trane control system with non-proprietary control system. • Furnish as-built control diagrams, label control wiring, sensors, and cabinets. • Integrate new HVAC equipment into the new control system
<p><u>Commissioning</u></p> <ul style="list-style-type: none"> • Commission equipment and controls. • Document and submit Commissioning Log for all equipment as outlined in the SOW.

D. Project Close-out Phase

1. Test new equipment to confirm functionality
2. Start-up and leak check
3. Clean-up of project site
4. Approval from City on installation
5. Owner training
6. Close-Out Documents
 - a. List of Manufacturers with contact information and parts reordering information for all products installed.
 - b. As-built drawings of HVAC unit replacements and thermostat installations.
 - c. Commissioning checklist for each HVAC unit as outlined in Attachment C.

6. General Requirements

- A. The Scope of Work is provided to the Design-Build Contractor for information purposes only. Design-Build Contractor assumes all the responsibility for site verification of equipment for replacement with high-efficiency units, controls, and other items required to successfully complete the Boiler and HVAC replacements, and meet the necessary building and safety codes.
- B. Design-Build Contractor shall become familiar with details of work in the field and shall advise City of Folsom Project Manager of any discrepancy prior to performing any tasks, including but not limited to existing and proposed equipment quantities, building and area locations, etc. The Design-Build Contractor shall thoroughly investigate and satisfy itself of the conditions affecting the work prior to construction start.

- C. The selected contractor will be required to work closely with the designated Project Manager for the City of Folsom. The Contractor shall identify an individual who will serve as the key contact person and to specify other staff who will perform various tasks.

D. Required information to be included in response to this RFP:

1. **Cover letter:** signed by an individual authorized to make commitments on behalf of the design-build contractor/team.
2. **Statement of Project Understanding:** Provide a description of the design-build contractor/team's understanding of the project, describing both the design process as well as the construction (build) process of the project. This may be included as part of the Cover Letter.
3. **Relevant Experience:** Provide design-build contractor/team's qualifications and specific project related experience.
4. **Cost Proposal:** Provide a cost proposal, indicating breakdowns per task as identified in the Proposal Form.
6. The successful contractor shall be required to sign the Construction Agreement for Design Build shown in Exhibit A of this RFP.

7 Instructions for Submitting Proposals

Three (3) copies of the requested information should be delivered to the following address not later than **2:00 PM on Tuesday, May 3, 2022:**

City of Folsom, City Clerk's Office
Attn: Chris O'Keefe, Facilities Maintenance Supervisor
50 Natoma Street
Folsom, Ca 95630

All requests for clarification must be received no later than **April 25, 2022 at 5:00 PM** and must be sent via email to the contact provided below or by mail to the address cited above. Requests for clarification submitted after this date will not be responded to. Responses to requests for clarification will be posted and distributed as an addendum to this RFP and will be posted on the City website, CIPList.com, and any other venue used by the City for posting this RFP. Requests for clarification should be sent to:

Chris O'Keefe, Facilities Maintenance Supervisor
Email: COKeefe@folsom.ca.us
Phone: 916-461-6684

Contractor must submit a signed copy of the addendum (if any) with their response as acknowledgement of receiving the additional information.

The City shall consider each proposal subject to the public disclosure requirements of the California Public Records Act (California Government Code section 6250, et seq.), unless City identifies and exercises a right or obligation to exempt any record from public disclosure. If a contractor believes that any portion of its proposal is subject to a legal exception to public disclosure, they must clearly

mark the relevant portions of their proposal as “Confidential” and identify the legal basis for exemption from disclosure under the Public Record Act. The City Attorney’s office will determine if the information is in fact confidential, based on state and federal law. Note that under California law, a price proposal to a public agency is not a trade secret. Contractor shall defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the “Confidential” portion of the proposal.

8 Proposal Selection Process and Criteria

The criteria that will be considered in the evaluation of proposals is summarized below. The City’s final selection will not be dictated on any single criteria, including price. The relative importance of the criteria involves judgment on the part of the City’s selection committee and will include both objective and subjective analysis. A contractor may be eliminated from consideration for failure to comply with any of the requirements, depending upon the critical nature of such requirements. Proposals will be evaluated using the following criteria:

Project Understanding	30 Points
Relevant Experience	30 Points
Cost	40 Points
Total Possible Points	100 Points

The above selection criteria are provided to assist the proposer and are not meant to limit other considerations, which may become apparent during the course of the selection process.

The City reserves the right to reject any and all proposals. Elements and/or tasks may be added or deleted at the discretion of the City pending negotiation of the scope of work and compensation.

The Design-Build Contractor/team selected to perform the work will be required to complete the City of Folsom Construction Agreement for Design Build (Attachment A) and must meet the insurance requirements stated therein.

9 Rights Reserved by the City of Folsom

The City reserves the right to waive informalities in proposals. The City is not obligated to award all tasks of the proposal selected but may award any combination of tasks best suited for completion of the project as the City envisions it. Elements and/or tasks may be added or deleted at the discretion of the City pending negotiation of the scope of work and compensation.

10 Folsom City Hall Existing HVAC Schedule

Unit	Carrier Model #	CFM	Power	Seer
AC 1	50DK084	35,000	460V	9.3
AC 2	48DJD024	6,200	460V	9.4
AC 3	50DK034	12,000	460V	9.3

AC 4	50DK034	12,000	460V	9.4
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11 Folsom City Hall Existing HVAC Control System

Trane Tracer Summit Version 17

12 Folsom City Hall Existing Variable Air Volume

1. Titus AESV 3000
2. 30 Cooling Only VAV Boxes
3. 45 Reheat VAV Boxes

CITY OF FOLSOM
SEALED PROPOSAL
(MUST BE SIGNED BY BIDDER)

Sealed Proposals will be received not later than **2:00 P.M** on **Tuesday, May 3, 2022**, at the City of Folsom City Clerk's Office, 50 Natoma Street, Folsom, California.

TO THE HONORABLE CITY COUNCIL:

The undersigned hereby proposes and agrees to furnish any and all required labor, material, transportation, and services for

FOLSOM CITY HALL
BOILER & HVAC REPLACEMENT
DESIGN – BUILD PROJECT

in the City of Folsom, County of Sacramento, California.

The work is to be done in strict conformity with the Contract Documents, at the following Lump Sum and/or Unit Prices:

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL</u>
<u>BOILER</u>					
1.	PROJECT START-UP PHASE	1	LS	\$ _____	\$ _____
2.	DESIGN PHASE	1	LS	\$ _____	\$ _____
3.	CONSTRUCTION PHASE	1	LS	\$ _____	\$ _____
4.	PROJECT CLOSE-OUT PHASE	1	LS	\$ _____	\$ _____
	SUB-TOTAL BOILER			\$ _____	
<u>HVAC</u>					
5.	PROJECT START-UP PHASE	1	LS	\$ _____	\$ _____
6.	DESIGN PHASE	1	LS	\$ _____	\$ _____
7.	CONSTRUCTION PHASE	1	LS	\$ _____	\$ _____
8.	PROJECT CLOSE-OUT PHASE	1	LS	\$ _____	\$ _____
	SUB-TOTAL HVAC			\$ _____	
	<u>TOTAL BASE BID BOILER AND HVAC:</u>			\$ _____	

Total Project Bid, Item Nos. 1 through 8, shall be (spell out) _____

_____ Dollars.

If awarded the contract, the undersigned shall execute said Contract and furnish the necessary bonds within **ten (10) calendar days** after the Notice of Award of said Contract and begin work within **ten (10) calendar days** from and after receipt of written Notice to Proceed from City to Contractor.

In determining the amount bid by each bidder, the City of Folsom (City) shall disregard mathematical errors in addition, subtraction, multiplication, and division that appear obvious on the face of the Proposal. When such a mathematical error appears on the Proposal, the City shall have the right to correct such error and to compute the total amount bid by said bidder on the basis of the corrected figure or figures.

When an item price is required to be set forth in the Proposal, and the total for the item set forth separately does not agree with a figure which is derived by multiplying the item price times the Engineer's estimate of the quantity of work to be performed for said item, the item price shall prevail over the sum set forth as the total for the item unless, in the sole discretion of the City, such a procedure would be inconsistent with the policy of the bidding procedure. The total paid for each such item of work shall be based upon the item price and not the total price. Should the Proposal contain only a total price for the item and the item price is omitted, the City shall determine the item price by dividing the total price for the item by Engineer's estimate of the estimated quantities of work to be performed as items of work.

If the Proposal contains neither the item price nor the total price for the item, then it shall be deemed incomplete and the Proposal shall be disregarded.

It is understood that this bid is based upon completion of the work within a period of 60 **working days** commencing on the day the Notice to Proceed is issued.

The amount of the liquidated damages to be paid by the Contractor for failure to complete the entire work by the Completion Date (as extended, if applicable) will be **\$250 (Two-Hundred Fifty Dollars) for each calendar day**, continuing to the time at which the work is completed. Such amount is the actual cash value agreed upon as the loss to the City resulting from Contractor's default.

The undersigned represents and warrants that the undersigned has examined the location of the proposed work and is familiar with the local conditions at the place where the work is to be done, and the undersigned has reviewed and understands the plans, specifications and other contract documents, and the undersigned is satisfied with all conditions for the performance of the work.

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

The contractor shall initial below that he has received the appropriate addenda and has incorporated the addenda into his bid.

Addenda Received and Acknowledged

No. 1	_____
No. 2	_____
No. 3	_____

BID DEPOSIT ENCLOSED IN THE FOLLOWING FORM:

\$ _____ not less than ten percent (10%) of amount bid.

☐ CERTIFIED CHECK

☐ MONEY ORDER

☐ CASHIER'S CHECK

☐ BID BOND

CONTRACTOR

By: _____

Signature

Address: _____

Telephone No.: _____

NOTE: As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at:

<https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRegistrationForm>

License Required: Required license to perform the requested service.

Valid Contractor's License No. _____ is held by the bidder.

The Expiration date is _____.

Dept. of Industrial Relations (DIR) Registration No. _____

Representations contained within this bid are made under penalty of perjury.

CERTIFICATE OF AUTHORIZATION

(If Bidder is a Corporation or a Limited Liability Corporation)

STATE OF CALIFORNIA

COUNTY OF _____

I HEREBY CERTIFY that at a meeting of the Board of Directors of the _____, a corporation existing under the laws of the State of California, held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that _____,
as _____ President of the Corporation, be and is hereby
authorized to execute the Bid dated _____, 20____, to the City of
Folsom and this Corporation and that his/her execution thereof, attested by the
Secretary of the Corporation, and with the Corporate seal fixed, shall be the
official act and deed of this Corporation.”

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Corporation this _____ day of _____, 20____.

Secretary

Corporate Officer

(seal)

Corporate Address

CERTIFICATE OF AUTHORIZATION

(If Bidder is a Partnership)

STATE OF CALIFORNIA

COUNTY OF _____

I HEREBY CERTIFY that at a meeting of the Partners of the _____, a partnership existing under the laws of the State of California, held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that _____, as _____ of the Partnership, be and is hereby authorized to execute the Bid dated _____, 20____, to the City of Folsom and this Partnership and that his/her execution thereof, attested by the _____ shall be the official act and deed of this Partnership.”

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

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20____.

Managing Partner

Partnership Address

CERTIFICATE OF AUTHORIZATION

(If Bidder is a Joint Venture)

STATE OF CALIFORNIA

COUNTY OF _____

I HEREBY CERTIFY that at a meeting of the Principals of the _____, a joint venture existing under the laws of the State of California, held on _____, 20____, the following resolution was duly passed and adopted:

“RESOLVED, that _____,
as _____ of the Joint Venture, be and is hereby
authorized to execute the Bid dated _____, 20____, to the City of
Folsom and this Joint Venture and that his/her execution thereof, attested by the
_____ shall be the official act and deed of this Joint
Venture.”

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Joint Venture this _____ day of _____, 20____.

Managing Principal

(seal)

Joint Venture Address

SUB-BIDDER FORM

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at:

<https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRegistrationForm>

In accordance with Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each subcontractor who will perform work amounting to more than one half of one percent (0.05%) of the Total Cost Base Bid. In addition, this form will be used to determine if the bidder is responsive to Section 2.08 of the General Provisions.

Name of Sub-Bidder	Street Address of Shop, Mill, or Office (Shall be completed within 2 working days of bid opening by apparent low bidder)	License Type and Number	Dept. of Ind. Relations Reg. No.	Portion of Work to be Done by Specification Section	Percentage of Total Work

§ 7103.5. Unfair business practices claims; assignment to awarding body

(a) As used in this section:

(1) “Public works contract” means a contract awarded through competitive bids by the state or any of its political subdivisions or public agencies, on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, for the erection, construction, alteration, repair, or improvement of any structure, building, road, or other improvement of any kind.

(2) “Awarding body” means the state or the subdivision or agency awarding a public works contract.

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

(c) Subdivision (b) shall be included in full in the specifications for the public works contract or in the general provisions incorporated therein and shall be included in full in the public works contract or in the general provisions incorporated therein.

Formerly § 7103, added by Stats.1990, c. 694 (A.B.3416), § 5. Renumbered § 7103.5 and amended by Stats.1991, c. 1091 (A.B.1487), § 121.

Government Code former § 4551, added by Stats.1978, c. 414, § 1.

§4552. Assignment by bidder to purchasing body of rights under federal law arising from purchases pursuant to bid

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

The preceding provisions of this section shall be included in full in any specifications for the public purchase and shall be included in full in the bid agreement or general provisions incorporated into the bid agreement.

Added Stats 1978 Ch 414 § 1.

NONCOLLUSION AFFIDAVIT

To be Executed by Bidder and Submitted with Bid

STATE OF CALIFORNIA

COUNTY OF _____

_____, being first duly shown, deposes and says that he or she is _____ of _____, the party making the forgoing Bid that the Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham Bid, or that anyone shall refrain from bidding; that Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the Bid are true; and further, that the Bidder has not, directly or indirectly, submitted his or her Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid.

Signed: _____

Title: _____

Subscribed and sworn to before me this

_____ day of _____, 20 _____

(seal)

Notary Public

CALIFORNIA CODE SECTIONS

Public Contracts Code §7103.5. Unfair business practices claim; assignment by contractor to awarding body

(a) As used in this section:

(1) “Public works contract” means a contract awarded through competitive bids by the state or any of its political subdivisions or public agencies, on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, for the erection, construction, alteration, repair, or improvement of any structure, building, road, or other improvement of any kind.

(2) “Awarding body” means the state or the subdivision or agency awarding a public works contract.

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

(c) Subdivision (b) shall be included in full in the specifications for the public works contract or in the general provisions incorporated therein and shall be included in full in the public works contract or in the general provisions incorporated therein.

Added Stats 1978 Ch 414 § 1.

Government Code §4552. Assignment by bidder to purchasing body of rights under federal law arising from purchases pursuant to bid

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid, Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

The preceding provisions of this section shall be included in full in any specifications for the public purchase and shall be included in full in the bid agreement or general provisions incorporated into the bid agreement.

Added Stats 1978 Ch 414 § 1.

BIDDER'S BOND

**City of Folsom
Department of Parks and Recreation**

We, _____, as principal, and _____, as Surety are bound unto the City of Folsom, Department of Parks and Recreation, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid including additive alternates, if any, of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the obligee, for _____

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

for which; bids are to be opened at Folsom, CA on _____
(Insert date of bid opening)

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

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

Dated: _____, 20____

By: _____

Principal: _____

APPROVED AS TO FORM:

Surety: _____

Address: _____

Telephone: _____

City Attorney

Attorney in Fact: _____

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF CONTRACTOR AND SURETY.

WORKERS' COMPENSATION INSURANCE CERTIFICATION

TO THE CITY OF FOLSOM:

The undersigned does hereby certify that Bidder is aware of the provisions of Section 3700 et seq. of the Labor Code which require every employer to be insured against liability for workmen's compensation claims or to undertake self-insurance in accordance with the provisions of said Code, and that Bidder will comply with such provisions before commencing the performance of work on this contract.

Bidder: _____

By: _____

Title: _____

Address: _____

Date: _____

PLEASE READ CAREFULLY BEFORE SIGNING

To be signed by authorized corporate officer or partner or individual submitting the bid. If bidder is: *(example)*

1. An individual using a firm name, sign: "John Doe, an individual doing business as Blank Company."
2. An individual doing business under his/her own name, sign your name only.
3. A co-partnership, sign: "John Doe, and Richard Doe, co-partners doing business as Blank Company, by, John Doe, Co-Partner."
4. A corporation, sign: "Blank Company, by John Doe, Secretary." (or other title).

RESOLUTION OF DISPUTES REGARDING THE BIDDING PROCESS

The lack of a prompt procedure to resolve disputes regarding the bidding process would impair the City's ability to carry out its purpose of constructing this project in a timely manner. Therefore, to the maximum extent authorized by law and notwithstanding any other procedures specified in documents referenced herein, all disputes and/or protests regarding the bidding process shall be subject to the following procedure. In submitting a bid to the City for this project, the bidder agrees to comply with and to be bound by this procedure.

1. Within five days after the opening of bids, bidder shall provide a written notice to the City of any and all mistakes regarding the bid for which a bidder requests relief. The City shall not consider any requests for relief due to mistake if notice is not received within the specified time period.
2. All bidders shall be provided with notice of the date and time of the City Council meeting at which the award of the contract for this project shall be considered. All bidders will be provided with an opportunity to bring to the City Council's attention disputes and/or protests regarding the bidding process. No bidder may bring any action or proceeding challenging the bidding process unless the alleged grounds for the dispute and/or protest are presented to the City Council before or during the meeting referenced above, and before action by the City Council on award of the contract.
3. Any bidder complying with the above procedure may bring an action within sixty (60) days from the action of the City Council, in accordance with Section 860 of the California Code of Civil Procedure, to determine the validity of the City Council's action on the award of the contract. The City shall be a defendant and shall be served with the summons and complaint in the action in the manner provided by law for the service of a summons in a civil action. In any such action the summons shall be in the form prescribed in Section 861.1 of the California Code of Civil Procedure except that in addition to being directed to "all persons interested in the matter of [specifying the matter]," it shall also be directed to the City. if the bidder bringing such action fails to complete the publication and such other notice as may be prescribed by the court in accordance with Section 861 of the California Code of Civil Procedure and to file proof thereof in the action within 60 days from the filing of his complaint, the action shall be dismissed on the motion of the City unless good cause for such failure is shown by the bidder.

Contractor

Date

Signature

THE FOLLOWING FORMS TO BE FILLED OUT AND SIGNED

ONLY

IF AWARDED CONTRACT



CONSTRUCTION AGREEMENT FOR DESIGN-BUILD SERVICES

THIS AGREEMENT, dated for identification as of _____, 20____, is between the **CITY OF FOLSOM**, a municipal corporation, (hereinafter called "City"), and _____, (hereinafter called "Contractor").

The parties hereto mutually agree to the terms and condition set forth herein.

1. CONTRACT DOCUMENTS

- A. The Contract Documents referred to herein are incorporated herein by reference as if set forth in full in this Agreement. Work called for in any one Contract Document and not mentioned in another is to be performed and executed as if mentioned in all Contract Documents.
- B. The Contract Documents shall include the Notice to Contractors, the completed Proposal Form submitted by Contractor, this Agreement, the Bid Bond, the Performance Bond, the Payment Bond, the Standard Construction Specifications, the General Provisions, the Special Provisions, Exhibits, the Contract Drawings and Plans, the Technical Specifications, any project-specific specifications or documents, all duly issued Addenda, Interpretations, Field Instructions, Written Directives, Supplemental Drawings, the Contractor's Guarantee and Bond, the Contract Schedule, Storm Water Pollution Prevention Plan (whether prepared by the City or the Contractor) and any and all supplemental agreements amending or extending the Work contemplated and which may be required to complete the Work in an acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract Documents and include Change Orders.
- C. The Standard Specifications shall mean and refer to the current Standard Construction Specifications of the City of Folsom, which are incorporated herein by this reference as if set forth herein.

2. AGREEMENT CONTROLS

In the event of a conflict between the terms and conditions as set forth in this Agreement and the terms and conditions set forth in other Contract Documents, the terms and conditions set forth in this Agreement shall prevail. Unless otherwise specifically provided herein, all works and phrases defined in the Standard Specifications shall have the same meaning and intent in this Agreement.

3. SCOPE OF CONTRACT

Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor and material and transportation necessary to perform and complete in a good and workman like manner to the satisfaction of City, all the work called for, and in the manner designated in, and in strict conformity with the Project entitled:

4. CONTRACT AMOUNT AND PAYMENTS

City agrees to pay and Contractor agrees to accept, in full payment for the above work, **DOLLARS (\$)** as the stipulated sum price which Contractor bid in his Proposal Form.

5. PROGRESS AND FINAL PAYMENTS

Progress and final payments shall be in accordance with the Standard Specifications.

6. RETENTION OF SUMS CHARGED AGAINST CONTRACTOR

When, under the provisions of this Contract, City is authorized to charge any sum of money against Contractor, City may deduct and retain the amount of such charge from the amount of the next succeeding progress estimate, or from any other moneys due or that may become due to the Contractor from City. If, on completion or termination of the Contract, sums due contractor are insufficient to pay City's charges against him, City shall have the right to recover the balance from Contractor or his sureties.

7. TIME OF COMPLETION

- A. The entire work shall be brought to completion in the manner and within the time period provided for in the Contract Documents, commencing on the date of issuance of the Notice to Proceed.
- B. Failure to complete the entire work by the completion date and in the manner provided for by the Contract Documents shall subject Contractor to liquidated damages as hereinafter provided in this Agreement. Time is of the essence in these Contract Documents.

8. INSURANCE

Contractor shall maintain in full force and effect at all times during the term of the Agreement, at its sole expense, policies of insurance in accordance with the Contract Documents, including, but not limited to, Exhibit A, attached hereto and incorporated herein by reference.

9. NO WAIVER OF REMEDIES

- A. Neither the inspection by City or its agents, nor any order or certificate for the payment of money, nor any payment for, nor acceptance of the whole or any part of the work by City, nor any extensions of time, nor any position taken by City or its agents shall operate as a waiver of any provision of this Agreement or of any power herein reserved to City or any right to damages herein provided, nor shall any waiver of any breach of the Agreement be held to be a waiver of any other or subsequent breach.
- B. All remedies provided in this Agreement shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, and City shall have any and all equitable and legal remedies which it would in any case have.

10. DETERMINATION OF DAMAGES

- A. The actual fact of the occurrences of damages and the actual amount of the damages which City would suffer if the work were not completed within the specified times set forth are dependent upon many circumstances and conditions and, it is impracticable and extremely difficult to fix the actual damages. Damages which City would suffer in the event of delay include loss of the use of the project, and, in addition, expenses of prolonged employment of an architectural and engineering staff; costs of administration, inspection, and supervision; and the loss suffered by the public within the City of Folsom by reasons of the delay in the completion of the project to serve the public at the earliest possible time.
- B. Accordingly, the parties hereto agree, and by execution of this Agreement, Contractor acknowledges that he understands, has ascertained and agrees, that the amounts set forth herein

as liquidated damages shall be presumed to be that amount of damages sustained by the failure of Contractor to complete the entire work within the times specified.

11. LIQUIDATED DAMAGES

- A. The amount of the liquidated damages to be paid by Contractor to City for failure to complete the entire work in the specified number of Working or Calendar Days (as extended, if applicable) will be (\$) for each **Calendar Day**, continuing to the time at which the work is completed.
- B. Such amount is the actual cash value agreed upon as the loss to City resulting from Contractor's delay.

12. TERMINATION AFTER ALLOTTED WORKING OR CALENDAR DAYS

- A. In addition to any rights it may have, City may terminate this Contract at any time after the allotted number of Working or Calendar Days as adjusted by any extensions of time for excusable delays that may have been granted.
- B. Upon such termination, Contractor shall not be entitled to receive any compensation for services rendered by him before or after such termination, and he shall be liable to City for liquidated damages for all periods of time beyond such termination date until the work is completed.

13. CONTRACTOR BANKRUPT

- A. If Contractor should commence any proceeding under the Bankruptcy Act, or if contractor be adjudged a bankrupt, or if Contractor should make any assignment for the benefit of creditors, or if a receiver should be appointed on account of Contractor's insolvency, then the City Council may, without prejudice to any other right or remedy, terminate the Contract and complete the work by giving notice to Contractor and his surety according to the provisions of Article 5 of the General Provisions.
- B. City shall have the right to complete, or cause completion of the work, all as specified in the General Provisions of the Standard Specifications.

14. PERFORMANCE AND PAYMENT BONDS

- A. The Contractor shall, before beginning said work, file two bonds with the City, each made payable to the City. These bonds shall be issued by a Surety Company authorized to do business in the State of California, and shall be maintained during the entire life of the Contract at the expense of the Contractor.
 - 1. One bond shall be in the amount of one hundred percent (100%) of the Contract and shall guarantee the Faithful Performance of the Contract.
 - 2. The second bond shall be the Payment Bond required by Part 4, Title 15, Chapter 7, Division Three of the Civil Code of the State of California and shall be in the amount of one hundred percent (100%) of the Contract.
- B. Any alteration or alterations made in any provision of this Contract shall not operate to release any surety from liability on any bond required hereunder and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code.
- C. Bonds shall only be accepted from an "*Admitted surety insurer*," which means an insurer to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state. **Contractor must submit** the original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws or other instrument entitling or authorizing the person who executed the bond to do so.
- D. All bonds submitted shall include the following:

1. Full name and address of the Contractor Surety, and the City;
2. Contract Date;
3. Exact Contract Sum;
4. Project Name and Address;
5. Signature of the Contractor
6. Corporate Seal, if applicable;
7. Signature of Authorized Surety Representative;
8. Notarization of the Contractor and Surety;
9. Power of Attorney; and
10. Local contact for surety, with name, phone number, and address to which legal notices may be sent.

15. SUBSTITUTION OF SECURITIES OF MONEY WITHHELD

- A. At any time prior to final payment, Contractor may request substitution of securities for any money withheld by the City to ensure performance of the Contract.
- B. At the expense of the Contractor, securities equivalent to the money withheld may be deposited with the City or with an approved financial institution as escrow agent according to a separate Security Agreement.
- C. Securities eligible for substitution shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit. A fee set by the City Council shall be charged for such substitution.

16. LABOR CODE AND PUBLIC CONTRACT CODE COMPLIANCE

- A. City affirmatively identifies this project as a "public work" as that term is defined by Labor Code section 1720, and the project is, therefore, subject to prevailing wages under Labor Code section 1771.
- B. Contractor and its subcontractors shall fully comply with all the provision of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at job site and prohibitions against discrimination.
- C. Notice: This project may be subject to the skilled and trained workforce requirement under Public Contract Code section 2600. A "skilled and trained workforce" is defined by Public Contract Code section 2601(d).

17. UNFAIR COMPETITION

The following provision is included in this agreement pursuant to California Public Contract Code §7103.5.

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

18. GENERAL LIABILITY OF CONTRACTOR

Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, light, heat, utilities, transportation and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents and any applicable code or statute, whether or not specifically described herein, as long as same is reasonably inferable therefrom as being necessary to produce the intended results, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work. The mention of any specific duty or liability of Contractor and, any reference to any specific duty or liability shall be construed to be for the purpose of explanation.

19. AUTHORITY OF THE CITY

- A. The City will decide all questions regarding the quality and acceptability of materials furnished, work performed, and rate of progress of the Work. The City will decide all questions regarding the interpretation and fulfillment of the Contract on the part of the Contractor, and all questions as to the rights of different prime contractors involved with the Work. The City will determine the amount and quality of the Work performed and materials furnished for which payment is to be made under the Contract.
- B. The City will administer its authority through a duly designated representative identified at the pre-construction conference. The Contractor and the City's designated representative (the Owner's Representative) shall make good faith attempts to resolve disputes that arise during the performance of the Work.
- C. Any order given by the City not otherwise required by the Contract to be in writing shall be given or confirmed by the City in writing at the Contractor's request. Such request shall state the specific subject of the decision, order, instruction, or notice and, if it has been given orally, its date, time, place, author and recipient.
- D. Any plan or method suggested to the Contractor by the City, the Architect or Consulting Engineer, or the Owner's Representative, but not specified or required in writing, if adopted or followed in whole or in part by the Contractor, shall be used at the risk and responsibility of the Contractor. The City assumes no responsibility.

20. RESPONSIBILITY OF THE CONTRACTOR

- A. The Work shall be under the Contractor's responsible care and charge until completion and final acceptance, and the Contractor shall bear the entire risk of injury, loss, or damage to any part by any cause. The Contractor shall rebuild, repair, restore, and make good all injuries, losses or damage to any portion of the Work or the materials occasioned by any cause, and shall bear the entire expense.
- B. The mention herein of any specific duty or responsibility imposed upon the Contractor shall not be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by the Contract, said reference being made herein merely for the purpose of explaining the specific duty or responsibility.
- C. The Contractor shall do all of the work and furnish all labor, materials, tools, equipment, and appliances, except as otherwise herein expressly stipulated, necessary or proper for performing and completing the Work herein required, including any change order work or disputed work directed by the City in conformity with the true meaning and intent of the Contract Documents, within the time specified.

21. CORRECTION OF WORK

- A. The Contractor shall promptly correct all work rejected by the Owner's Representative, Project Inspector or the Architect or Consulting Engineer as defective or as failing to conform to the Contract Documents, whether observed before or after final completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected work including compensation for the Architect's, Consulting Engineer's Project Inspector's and the Owner's Representative's additional services.
- B. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within three (3) days after receipt of written notice from the City to commence and continue correction of the default or neglect with diligence and promptness, the City may, without prejudice to any other remedy it may have, correct the deficiencies and may further elect to complete that portion of the Work through such means as the City may select, including the use of a new contractor. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting the deficiencies, and any other appropriate costs, including compensation for the Architect's or Consulting Engineer's, the Project Inspector's and the Owner's Representative's additional services made necessary by the default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover that amount, the Contractor shall pay the difference to the City.
- C. If within two (2) years after the Date of Completion and acceptance of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct any or all such work, together with any other work which may be displaced in so doing, without expense to the City, promptly after receipt of a written notice from the City unless the City has previously given the Contractor a written acceptance of such condition. The City shall issue a correction notice promptly after discovering the condition. The Contractor shall notify the City upon completion of repairs. This obligation shall survive termination of the Contract with respect to work in place prior to termination.
- D. The Contractor shall bear the cost of making good work destroyed or damaged by such correction or removal.
- E. Nothing contained in this Section shall be construed to establish a period of limitation with respect to any other obligations which the Contractor might have under the Contract Documents or by operation of law. The establishment of the time period of two (2) years after the Date of Completion, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents, relates only to the specific obligation of the Contractor to correct the Work and has no relationship to the time within which an action may be commenced to establish the Contractor's liability with respect to its obligations other than specifically to correct the work

22. GUARANTEE REQUIRED

- A. In addition to any guarantees required elsewhere by the Contract Documents, the Contractor shall guarantee the Work for a minimum of two (2) years from and after the recordation of the Notice of Completion and completion of all contract obligations by the Contractor, including formal acceptance of the entire Project by the City. The Contractor specifically waives any right to claim or rely on the statutory definition of completion set forth in Civil Code section 3086. The Contractor specifically acknowledges and agrees that completion shall mean the Contractor's complete performance of all Work required by the Contract Documents, amendments, change orders, construction change directives and punch lists, and the City's formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. Such guarantee shall be made on the form provided by the City.
- B. The guarantee period for corrected defective work shall continue for a duration equivalent to the

original guarantee period.

- C. Such guarantee is in addition to, and not in lieu of, the City's rights to enforce this Contract in all respects.

23. NO CHANGES WITHOUT CONSENT

- A. No extra work shall be performed, and no change shall be made, except pursuant to a written Change Order or Proposed Change Order signed by the City, or by CCD signed by either the City or the Owner's Representative, stating that the extra work or change is authorized, and no claim for any addition to the Contract Sum or Contract Time shall be valid unless so authorized; provided, however, that nothing in this Article shall excuse the Contractor from proceeding with the prosecution of the work so changed. The Contractor shall, when required by the Owner's Representative, furnish an itemized breakdown of the quantities and prices used in computing the value of any change requested by the Contractor, or that may have been ordered by the City.
- B. Change Orders shall specify the cost adjustments associated therewith, and in no case shall the City pay or become liable to pay any sums different than those specified or those established under Sections 9.04 and 9.05.
- C. Substitutions are considered change orders.

24. CHANGE ORDERS

- A. Subject to legal requirements relating to competitive bidding, the City may require changes in, additions to, or deductions from the work to be performed or the materials to be furnished pursuant to the Contract Documents. Changes may be made pursuant to a written Change Order signed by the City, which shall state the agreement of the City, the Contractor, and the Architect or Consulting Engineer upon all of the following:
 - 1. The scope of the 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.
- B. All adjustments to the Contract Sum or the Contract Time must be approved by the City.
- C. Signature by the Contractor on the Change Order constitutes its agreement with and acceptance of the adjustments in the Contract Sum and Contract Time, if any, set forth in the Change Order as full and complete satisfaction of any direct or indirect additional cost and/or time incurred by the Contractor in connection with performance of the change work.

25. CONSTRUCTION CHANGE DIRECTIVE/CCD

Changes also may be made pursuant to a CCD, which shall direct a change in the Work and state a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. A CCD shall be used in the absence of total agreement on the terms of a Change Order, or when time does not permit processing of a Change Order prior to implementation of the change. CCD's shall be approved by the City and the Architect or Consulting Engineer, but need not be signed by the Contractor. Upon receipt of a CCD, the Contractor shall promptly proceed with the change in the work involved. It is the intent of the City that all CCD's will be converted into a Change Order. When a CCD is used because time does not permit processing of a Change Order prior to implementation of the change, signature by the Contractor on the CCD constitutes its agreement with and acceptance of the adjustments in the Contract Sum and Contract Time, if any, set forth in the CCD as full and complete satisfaction of any direct or indirect additional cost and/or time incurred by the Contractor in connection with performance of the change work.

26. EXTENSIONS OF TIME; UNAVOIDABLE DELAYS

- A. The Contractor shall not be granted an extension of time except on the issuance of a Change Order by the City, upon a finding of good cause for such extension.
- B. As used herein, the following terms shall have the following meanings:
 - 1. "Excusable Delay" means any delay in completion of the Work beyond the expiration of the Contract Time caused by conditions beyond the control and without the fault or negligence of the Contractor. These events may include strikes, embargoes, fire, unavoidable casualties, national emergency, and stormy and inclement weather conditions in which the Owner's Representative and Project Inspector agree that work on the critical path cannot continue. The financial inability of the Contractor or any Subcontractor or supplier and any default of any Subcontractor, without limitation, shall not be deemed conditions beyond the Contractor's control. An Excusable Delay may entitle the Contractor to an extension of the Contract Time, in accordance with this Section, but shall not entitle the Contractor to any adjustment of the Contract Sum.
 - 2. "Compensable Delay" means any delay in the completion of the Work beyond the expiration date of the Contract Time caused solely by the wrongful acts of the City and which delay is unreasonable under the circumstances and not within the contemplation of the parties. A Compensable Delay may entitle the Contractor to an extension of the Contract Time, in accordance with this Section and/or an adjustment of the Contract Sum. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.
 - 3. "Inexcusable Delay" means any delay in completion of the Work beyond the expiration of the Contract Time resulting from causes other than those listed in Subparagraphs A1 and A2, above. An Inexcusable Delay will not entitle the Contractor to an extension of the Contract Time or an adjustment of the Contract Sum.
- C. The Contractor may make a claim for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:
 - 1. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. Any adjustment of the Contract Sum shall be in accordance with Article 9 and shall be based only on the non-concurrent portion of any Compensable Delay.
 - 2. If an Inexcusable Delay occurs concurrently with either an Excusable Delay and/or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, by which the duration of the Excusable Delay and/or the Compensable Delay calculated in accordance with subparagraph B1, if applicable, exceeds the Inexcusable Delay. The duration of the concurrence is non-compensable.
- D. Delays in the prosecution of parts or classes of the Work which do not prevent or delay the completion of the whole Work within the Contract Time are not to be considered Excusable or Compensable.
- E. Float or slack time is the amount of time between the earliest start date and the latest start date or between the earliest finish date and the latest finish date of activities on the Contract Schedule. No time extensions or delay costs will be allowed for delays caused by the City on paths of

activities containing float, providing such delay does not exceed the float time per the latest updated version of the approved Contract Schedule.

- F. Whenever the Contractor foresees any delay in the prosecution of the Work, and in any event immediately upon the occurrence of any delay which the Contractor regards as good cause for an extension, the Contractor shall notify the Owner's Representative in writing of the delay. The notice shall specify with detail the cause asserted by the Contractor to constitute good cause for an extension together with a detailed schedule analysis showing the effect of the delay on the critical path of the Contract Schedule and a quantification of the length of the requested extension of time. Failure of the Contractor to submit such a notice within seven (7) Calendar Days after the initial occurrence of the event giving rise to the delay shall constitute a waiver by the Contractor of any request for extension, and no extension shall be granted as a consequence of such delay.
- G. The City shall have no obligation to consider any time extension request unless the Contractor has complied with the requirements of the Contract Documents, including, without limitation, giving the required seven (7) days' notice and submitting the detailed supporting schedule analysis. The City shall not be responsible or liable to the Contractor for any constructive acceleration due to failure of the City to grant time extensions under the Contract Documents, should the Contractor fail to comply with the submission and justification requirements of the Contract Documents for time extension requests. The Contractor's failure to perform in accordance with the Contract Schedule shall not be excused because the Contractor has submitted time extension requests, unless and until such requests are approved by the City.
- H. Upon receipt of a request for extension, the Owner's Representative shall conduct an investigation of the facts asserted by the Contractor to constitute good cause for an extension. The Owner's Representative shall report the results of this investigation, as well as the propriety of the time extension requested, to the Contractor in writing within ten (10) Calendar Days of receipt of the request and shall indicate whether it will recommend for or against the extension. Upon receiving the Owner's Representative's recommendation, the Contractor may either concur in the recommendation, or reject the recommendation and proceed with a notice of potential claim and claim as provided for in Article 9.

27. DISCRETIONARY TIME EXTENSIONS FOR BEST INTEREST OF THE CITY

- A. The City reserves the right to extend the time for completion of the Work if the City determines that such extension is in the best interest of the City. In the event that a discretionary extension is granted at the request of the Contractor, the City shall have the right to charge to the Contractor all or any part, as the City may deem proper, of the actual cost of construction management, engineering, inspection, supervision, incidental and other overhead expenses that accrue during the period of the extension, and to deduct all or any portion of that amount from the final payment for the Work.
- B. In the event a discretionary time extension is ordered over the objection of the Contractor, and the decision rests solely with the City and is not legally compelled for any cause, the Contractor shall be entitled to a contract change pursuant to Article 9 adjusting the price paid to reflect the actual costs incurred by the Contractor as a direct result of the delay, upon its written application therefor, accompanied with such verification of costs as the Owner's Representative requires. The decision of the City on any discretionary time extension and the costs thereof shall be final and binding.

28. TERMINATION FOR CONVENIENCE

- A. The City may at any time and for any reason, terminate, in whole or in part, Contractor's Work at the City's convenience. Termination shall be by written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue Contractor's work and the placing of orders for materials, facilities and supplies in connection therewith, and

shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to the City, or at the option of the City, the City shall have the right to assume those obligations directly, including all benefits to be derived therefrom. Contractor hereby assigns to the City all of its interest in said orders and/or contracts, and the assignment of said orders and/or contracts shall be effective upon notice of acceptance by the City in writing, and only as to those orders and/or contracts which the City designates in writing. Following receipt of notice of termination, Contractor shall thereafter do only such work as may be necessary to preserve and protect portions of its work already in progress and to protect materials and equipment on or in transit to the Project.

- B. Upon such termination, Contractor shall be entitled to payment only as follows: (1) Contractor's direct, actual cost of the Work allocable to the portion of the Work completed in conformity with the Contract, but in no event to exceed the amount of the Contract Sum allocable to the portion of the Work completed in conformity with the Contract; plus (2) previously unpaid costs of any items delivered to the Project Site which were fabricated for subsequent incorporation in the Work, but in no event to exceed the portion of the Contract Sum allocable to said items; plus (3) an allowance of ten percent (10%) of the foregoing costs for Contractor's overhead and profit; plus (4) any proven losses with respect to materials and equipment directly resulting from the termination; plus (5) reasonable demobilization costs. The costs referred to in this Section shall be calculated and documented as required for a Change Order under Article 9 of these General Provisions, except that markup shall be only as allowed by this Section. There shall be deducted from such sums the amount of any payments made to Contractor prior to the date of the termination of this Contract. Contractor shall not be entitled to any claim or claim of lien against the City for any additional compensation or damages in the event of such termination and payment beyond that provided for in this Section.
- C. In connection with any termination for convenience, Contractor shall allow the City and any of its authorized representatives to inspect, audit, or reproduce any records to the extent necessary for the City to evaluate and verify the costs incurred by Contractor in performing the Work, including direct and indirect costs such as overhead allocations. Contractor will make this material available upon 48-hours' written notice from the City. The City may inspect and copy, from time to time and at reasonable times and places, any and all information, materials and data of every kind and character (hard copy, as well as computer readable data if it exists), including without limitation, books, papers, documents, subscriptions, recordings, estimates, price quotations, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers, monthly, quarterly, yearly or other financial statements, and any and all other information or documentation that may, in the judgment of the City have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Contract Documents. Such records shall include but not be limited to, the following: accounting records, payroll records, job cost reports, job cost history, margin analysis, written policies and procedures, subcontract files (contracts, correspondence, change order files, including documentation covering negotiated settlements), backcharge logs and supporting documentation, general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends, and any other documents customarily maintained by contractors performing work on public works projects or that the City otherwise deems necessary to substantiate charges related to a Termination.
- D. If this Contract is terminated for default under Section 5.25, and if it is later determined that the default was wrongful, such default termination automatically shall be converted to and treated as a termination for convenience under this Section. In such event, Contractor shall be entitled to receive only the amounts payable under this Section, and Contractor specifically waives any claim for any other amounts or damages, including any claim for consequential damages or lost profits.

29. TERMINATION FOR CAUSE

- A. The City may terminate the Contract, pursuant to the provisions of this Article, for the following

causes:

1. The Contractor is insolvent or has made a general assignment for the benefit of creditors, or a receiver has been appointed on account of the insolvency of the Contractor.
2. The Contractor or any of Subcontractors violate any of the provisions of the Contract Documents or fail to perform the work within the time specified in the current Contract Schedule.
3. The Contractor or any of its Subcontractors should fail to make prompt payment to Subcontractors or material suppliers for material or for labor as required by statute.
4. The Contractor or Subcontractor persistently disregards laws, ordinances, or the instructions of the Owner's Representative, Architect, Consulting Engineer or the City.
5. The Contractor fails to abide by a Stop Work Notice or fails to correct rejected work or materials as required.
6. The Contractor fails to provide and keep in full force and effect all required insurance, or fails to cause all Subcontractors to so comply.
7. The Contractor fails to supply a sufficient number of properly skilled workers or proper materials.
8. The Contractor commits any substantial violation of the terms and conditions of the Contract Documents which the City, in its sole discretion, finds to be a material breach of the Contract.

- B. The City may, without prejudice to any other right or remedy, give written notice to the Contractor and its surety or sureties of its intention to terminate the Contract.
- C. Unless within seven (7) Calendar Days of the delivery of such notice, the Contractor shall cease such violation and make satisfactory arrangements for a correction thereof, which arrangements are set forth in a written agreement signed by the Contractor and the City, the Contractor's right to complete the Work shall cease and terminate.
- D. In the event of any such termination, the City shall immediately give written notice thereof to the surety and to the Contractor and the surety shall have the rights and obligations set forth in the performance bond. If the City is forced to take over the Work, it may prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and its sureties shall be liable to the City for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, the City may, without liability, take possession of and utilize in completing the Work, the Contractor's materials whether stored at the Site or elsewhere, that are necessary for completion. Contractor hereby assigns to the City all of its interest in orders and/or contracts existing at the time of termination. The assignment of said orders and/or contracts shall be effective upon notice of acceptance by the City in writing, and only as to those orders and/or contracts which the City designates in writing. Whenever the Contractor's right to proceed is terminated, the Contractor shall not be entitled to receive any further payment until the Work is finished.

30. TERMINATION AFTER CONTRACT TIME

- A. In addition to any rights it may have, the City may terminate this Contract at any time after the Contract Time, as adjusted by any extensions of time that the City may have granted.
- B. Upon such termination, in addition to the Contractor's obligations under Section 5.29 and the other provisions of the Contract Documents, the Contractor shall not be entitled to receive any compensation for services rendered before or after such termination until the Work is completed, and the Contractor shall be liable to the City for liquidated damages for all periods of time from

such termination date until the Date of Completion, as well as for all losses incurred by the City in completing the Work.

31. INDEMNIFICATION

1. Construction-related services:

- A. The Contractor shall defend, indemnify and save harmless the City, the Owner's Representative, the Architect, the Consulting Engineer and any of their respective officers, officials, agents, and employees from any and all claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with the performance or attempted performance of the provisions hereof, or in any way arising out of or connected with this Contract, including but not limited to, inverse condemnation, equitable relief, or any acts or omissions, any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the Contractor or any of its agents, employees, independent contractors, Subcontractors or suppliers; provided, further, without limiting the foregoing, that the indemnity is intended to apply to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by the Contractor, the Contractor's agents, employees, independent contractors, Subcontractors or suppliers, and the City, its agents, employees, or independent contractors.
- B. The indemnity obligation expressly extends to and includes, but is not limited to, any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of damages to adjacent property caused by the conduct of the Work.
- C. The indemnity obligation expressly extends to and includes, but is not limited to, any and all claims, demands, damages, costs, expenses, or liability occasioned as a result of the violation by the Contractor, the Contractor's agents, employees, or independent contractors, Subcontractors or suppliers of any provisions of federal, state or local law, including applicable administrative regulations.
- D. The indemnity obligation also expressly extends to and includes, but is not limited to, any claims, demands, damages, costs, expenses, or liability occasioned by injury to or death of any person, or any property damage to property owned by any person while on or about the Site or as a result of the Work, whether such persons are on or about the Site by right or not, whenever the Work is alleged to have been or may have been a contributing cause in any degree whatsoever.
- E. Nothing contained in the foregoing indemnity provisions shall be construed to require the Contractor to indemnify the City in contravention of Section 2782 of the Civil Code for the sole negligence or willful misconduct of the City or its agents, employees or independent contractors.
- F. In claims against any person or entity herein indemnified that are made by an employee of the Contractor or an employee of any of the Contractor's agents, independent contractors, Subcontractors or suppliers, a person indirectly employed by the Contractor or by any of the Contractor's agents, independent contractors, Subcontractors or suppliers, or anyone for whose acts the Contractor or any of the Contractor's agents, independent contractors, Subcontractors or suppliers may be liable, the indemnification obligation herein shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or the Contractor's agents, independent contractors, Subcontractors or suppliers under workers' compensation acts, disability acts, or other employee benefit acts.
- G. The indemnification obligations herein shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.
- H. The indemnities set forth herein shall not be limited by the insurance requirements set forth in the Contract Documents.
- I. The indemnification requirements herein set forth shall extend to claims occurring after this Contract is terminated as well as while it is in force.

2. Design-related services:

- A. To the fullest extent permitted by law, Contractor agrees to immediately indemnify, defend, and hold harmless the City, its officers, officials, employees, agents, and volunteers from and against any and all claims, losses, liability, or damages that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of Contractor, its subcontractors, sub consultants, agents, and employees ("Claims"). Contractor assumes no responsibility to indemnify City for the negligent acts or omissions or willful misconduct of City, its officers, officials, employees, agents, and volunteers. The Contractor's obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the negligence or willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of an indemnified party, then Contractor's indemnification obligation shall be in proportion to the established comparative fault of Contractor.
- B. The duty to defend is a separate and distinct obligation from Contractor's duty to indemnify. Contractor shall be obligated to defend allegations of Contractor negligence, recklessness or willful misconduct, whether Contractor is specifically identified or not in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its council members, officers, agents and employees, immediately upon tender to Contractor of the Claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Contractor are partially responsible for the claim does not relieve Contractor from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Contractor asserts in a cross-claim, counter claim, third party complaint or defense (affirmative defense or by reference in the action) that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of an indemnified party, Contractor's share of the cost to defend shall not exceed Contractor's proportionate percentage of fault, and Contractor may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs in proportion to the established comparative liability of the indemnified party.

32. ASSIGNMENT

Neither this Agreement nor any rights herein of Contractor shall be assigned without the written consent of City first obtained.

33. AMENDMENTS

Any modification or amendment of any provision of this agreement shall be in writing and must be executed by both parties hereto.

34. INCIDENTAL BENEFICIARIES

It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Contractor. Nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the City and Contractor that any such person or entity, other than City and Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

35. Ownership of Work Product

All technical data, evaluations, reports, plans and other work products of Contractor provided hereunder shall become the property of City and shall be delivered to City upon completion of the services authorized hereunder. Contractor may retain copies thereof for its files and internal use. City representatives shall have access to work products for the purpose of inspecting same and determining that the services are being performed in accordance with the terms of the Agreement. Publication of the information derived from work performed or data obtained in connection with services rendered under this Agreement must be approved in writing by City.

Both parties recognize that the City is a public entity subject to the requirements of the California Public Records Act ("PRA"). Contractor understands that the release of any written, printed, graphic, or electronically recorded information and document delivered by Contractor to the City will be governed by the PRA and agrees that the release of such material pursuant to the PRA shall not require Contractor's prior consent or approval.

35. MISCELLANEOUS PROVISIONS

- A. **Attorneys' Fees:** In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees according to law.
- B. This Agreement shall be deemed to be made in, and the rights and liabilities of the parties, and the interpretation and construction of the Agreement governed by and construed in accordance with the laws of the State of California. Any legal action arising out of this Agreement shall be filed in and adjudicated by a state court in the County of Sacramento, State of California.
- C. **Enforceability:** If any term or provision of this Agreement is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Agreement shall remain binding.
- D. **Time:** All times stated herein or in any other contract documents are of the essence.
- E. **Binding:** This Agreement shall bind and inure to the heirs, devisees, assignees and successors in interest of Contractor and to the successors in interest of City in the same manner as if such parties had been expressly named herein.
- F. **Survivorship:** Any responsibility of Contractor for warranties, insurance, indemnity, record keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration, termination or cancellation of this Agreement.
- G. **Waiver:** In the event that either City or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

36. ENTIRE AGREEMENT

This instrument and any attachments hereto constitute the entire Agreement between the City and Contractor concerning the subject matter hereof and supersedes any and all prior oral and written communications between the parties regarding the subject matter hereof.

37. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

38. COUNTERPARTS

This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all of the signatories hereto have signed a counterpart of this Agreement. All counterparts so executed shall constitute one Agreement binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the same counterpart.

SIGNATURE PAGE IMMEDIATELY FOLLOWS

IN WITNESS WHEREOF, the parties hereto have signed the Agreement on the date set forth opposite their names.

CONTRACTOR: *(Must be signed by two officers of the corporation in compliance with Corporations Code section 313.)*

_____	_____
Date	Tax I.D. Number
_____	_____
Signature	Signature
_____	_____
Print Name	Print Name
_____	_____
Title	Title

CITY OF FOLSOM, A Municipal Corporation:

_____	_____
Date	Elaine Andersen, City Manager
ATTEST:	FUNDING AVAILABLE:
_____	_____
Christa Freemantle, City Clerk	Stacey Tamagni, Finance Director
_____	_____
ORIGINAL APPROVED AS TO CONTENT:	ORIGINAL APPROVED AS TO FORM:
_____	_____
, Director	Steven Wang, City Attorney
_____	_____
Date	Date

NOTICE: SIGNATURE(S) ON BEHALF OF CONSULTANT MUST BE NOTARIZED.

A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of contractor. This section provides, at part (b): "Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made."

EXHIBIT A
INSURANCE

NOTE: The word "Contractor" in this Exhibit refers to either "Contractor" or "Contractor" as the term is used in the Agreement/Contract to which this Exhibit is attached.

A. During the term of this Agreement, Contractor shall maintain in full force and effect at all times during the term of the contract, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:

- a. General liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
- e. If a general aggregate limit of liability is used, the minimum general aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the general aggregate limit shall apply separately to the project that is the subject of the contract.
- f. If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- g. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

2. Automobile Liability:

- a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
- b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
- c. The limits of liability per accident shall not be less than:

Combined Single Limit	One Million Dollars (\$1,000,000)
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- d. If Automobile Liability coverage, as required above, is provided by the Commercial General Liability form, the General Liability policy shall include an endorsement providing automobile liability as required above.
3. Workers' Compensation
 - a. Workers' Compensation Insurance, with coverage as required by the State of California (unless the Contractor is a qualified self-insurer with the State of California), and Employer's Liability coverage.
 - b. Employer's Liability Coverage with a limit not less than \$1,000,000 per accident for bodily injury and disease.
 - c. Contractor shall sign and file with the City department responsible for this Agreement/Contract the Worker's Compensation Certificate contained in the Project Manual.
4. Insurance Required in the Supplementary Conditions

Contractor shall be required to comply with all conditions as stipulated in the Standard Construction Specifications, any supplementary conditions and any special provisions as applicable.
5. Professional Liability Insurance

If required errors and omissions, malpractice or professional liability insurance with coverage of not less than \$1,000,000 per claim.
6. Other Insurance Provisions
 - a. The Contractor's General Liability and Automobile Liability policies shall contain, or be endorsed to contain, the following provisions:
 - i. The City, its officials, employees, agents and volunteers shall be covered and specifically named as additional insureds on a separate endorsement as respects liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied, or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor in a form acceptable to the City Attorney.
 - ii. The Endorsement requirement may be satisfied with express provisions in the insurance policy(ies) which identifies any person or entity required to be included as an insured under the policy. A copy of the declarations page identifying the policy number, and pertinent provisions in the policy providing additional insured coverage shall be provided to the City.
 - iii. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
 - b. For any claims related to the project, the Contractor's General Liability and Automobile insurance coverage shall be primary insurance in their coverage of the City and its officers, officials, employees, agents, or volunteers, and any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting or other provisions of the policies on the part of the Contractor, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
 - d. The Contractor's Workers Compensation and Employer's Liability policies shall contain an endorsement that waives any rights of subrogation against the City, its

officers, officials, employees, agents, and volunteers.

- e. Each insurance policy shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, non-renewed, or materially changed except after 30 days prior written notice by certified mail has been given to the City. Ten days prior written notice by certified mail shall be given to the City in the event of cancellation due to nonpayment of premium.
7. Acceptability of Insurers
Insurance is to be placed with insurers with **a Bests' rating of no less than A:VII.**
8. The Contractor shall furnish the City with Certificates of Insurance and endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this section, the Standard Specifications, Special Provisions and/or any Supplementary Conditions. **The Contractor shall furnish complete, certified copies of all required insurance policies, including original endorsements specifically required hereunder if requested.**
9. The Contractor shall report, by telephone to the Project Manager within 24 hours, and also report in writing to the City within 48 hours, after Contractor or any Subcontractors or agents have knowledge of, any accident or occurrence involving death of or serious injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property of the City or others, arising out of any work done by or on behalf of the Contractor as part of the contract.
10. Such report shall contain:
 - a. the date and time of the occurrence,
 - b. the names and addresses of all persons involved, and
 - c. a description of the accident or occurrence and the nature and extent of the injury or damage.
11. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
12. If the Contractor fails to procure or maintain insurance as required by this section, the Standard Specifications, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Contractor under the contract.
13. Failure of the City to obtain such insurance shall in no way relieve the Contractor from any of its responsibilities under the contract.
14. The making of progress payments to the Contractor shall not be construed as relieving the Contractor or its Subcontractors of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
15. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
16. In the event Contractor carries Excess Liability Coverage, the Excess Liability Coverage shall apply to any and all claims related to the project on a primary and non-contributory basis, and the City's insurance or self-insurance coverage shall be excess to the Contractor's Excess Liability Coverage.

PAYMENT BOND

BOND NO.: _____

PREMIUM: _____

City of Folsom

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF FOLSOM (hereinafter referred to as "CITY") has awarded to _____, (hereinafter designated as "Principal") an agreement for the City of Folsom Sports Courts Resurfacing Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as the "Contract"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said Contract providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we, the undersigned Principal and

_____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of _____ DOLLARS, (\$_____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Work contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein. In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations

entitled to make claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2022, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

APPROVED AS TO FORM

Address: _____

City Attorney

Telephone: _____

Attorney in Fact: _____

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.

PERFORMANCE BOND

BOND NO.: _____

PREMIUM: _____

City of Folsom

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF FOLSOM (hereinafter referred to as "CITY") has awarded to _____, hereinafter designated as the "Principal" a contract for the City of Folsom Sports Court Resurfacing Project (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and

_____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the CITY in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the two-year guarantee of all materials and workmanship; and shall indemnify and save harmless the CITY, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by CITY in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the CITY's rights or Principal's or Surety's obligations under

the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Principal shall be, and is declared by the CITY to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the CITY's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the CITY, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the CITY to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the CITY under the Contract and any modification thereto, less any amount previously paid by the CITY to Principal and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the CITY may reject any design-builder, contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the CITY, when declaring Principal in default, notifies Surety of the CITY's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2022, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

APPROVED AS TO FORM

Address: _____

City Attorney

Telephone: _____

Attorney in Fact: _____

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.

GUARANTEE FORM

_____ hereby unconditionally guarantees that the Work performed for the (**Folsom City Hall Boiler & HVAC Replacement Design-Build Project**), has been done in accordance with the requirements of the Contract therefore and further guarantees the Work of the Contract to be and remain free of defects in workmanship and materials for a period of **two (2) years** from and after the recordation of the Notice of Completion of the Project and completion of all Contract obligations by the Contractor, including formal acceptance of the entire Project by the City of Folsom, unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. The Contractor specifically waives any right to claim or rely on the statutory definition of completion set forth in Civil Code section 3086. The Contractor specifically acknowledges and agrees that completion shall mean the Contractor's complete performance of all Work required by the Contract Documents, amendments, change orders, construction change directives and punch lists, and the City of Folsom's formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. The Contractor hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Contract or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to the City of Folsom, ordinary wear and tear and unusual abuse and neglect only excepted. The Contractor has provided contract bonds, which will remain in full force and effect during the guarantee period.

The Contractor further agrees that within ten (10) calendar days after being notified in writing by the City of Folsom of any Work not in accordance with the requirements of the contract or any defects in the Work, it will commence and prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a period of time stipulated in writing. In the event it fails to so comply, Contractor does hereby authorize the City of Folsom to proceed to have such Work done at the Contractor's expense and it will pay the cost thereof upon demand. The City of Folsom shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon the Contractor's refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees of the City of Folsom, or its property or licensees, the City of Folsom may undertake at the Contractor's expense without prior notice, all Work necessary to correct such hazardous condition when it was caused by the Work of the Contractor not being in accordance with the requirements of

this contract, or being defective, and to charge the same to the Contractor as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing the City of Folsom's rights to enforce all terms of the Contract referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, the City of Folsom's rights on such contract.

CONTRACTOR'S SIGNATURE

PRINT NAME

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between _____
_____ whose address is _____,
hereinafter called Owner, _____ whose address is _____,
_____, hereinafter called Contractor, and _____
_____ whose address is _____,
_____, hereinafter called Escrow Agent.

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

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

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

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

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

5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of the Contractor and shall be

subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

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

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

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

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

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

On behalf of Owner:

On behalf of Contractor:

Title

Title

Name

Name

Signature

Signature

Address

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

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

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

Owner:

Contractor:

Title

Title

Name

Name

Signature

Signature

**SUPPLEMENTARY CONDITIONS
FOR
CITY OF FOLSOM
CITY HALL HVAC & BOILER REPLACEMENT DESIGN-BUILD PROJECT**

1. Summary

- A. The following modifies and supplements the City of Folsom Department of Public Works Standard Construction Specifications, which are a part of this Contract. The above named General Conditions are modified as follows:
 - 1) Where any part of the General Conditions is modified or deleted, unaltered provisions shall remain in effect.

2. Specifications

- A. The work to be performed under this contract shall be done in accordance with the Supplementary Conditions contained herein. In these Supplementary Conditions, reference is made to the most current editions of:
- B. City of Folsom Standard Construction Specifications referred to herein as Standard Specifications, and
- C. California Building Code 2016 Edition as adopted by the City of Folsom effective January 2017 including but not limited to Chapter 1609.5 and Chapter 33.
- D. State Specifications, State of California.
- E. The Proposal Specifications shall govern first, followed by the Plans, Supplementary Conditions, Standard Specifications and State Specifications respectively.

3. List of Subcontractors

- A. The Contractor shall perform, with the Contractor's own organization and with workers under the Contractor's immediate supervision, work of a value not less than 25 percent of the value of all work embraced in the contract. All other requirements of **Section 2.05** of the General Provisions shall remain in effect as a part of this Contract.

4. Completion Time

- A. The time limit for the completion of all work is **60 (Sixty) calendar days** from the Notice to Proceed.

5. Interpretation of Contract Documents

- A. No oral representations or interpretation will be made to any bidder as to the meaning of the contract documents.
- B. Requests for interpretation shall be made in writing and delivered to the City at least five (5) days before the time announced for opening the proposals.
- C. Interpretation, where necessary, will be made by the City in the form of an addendum to the contract documents and, when issued, will be sent as promptly as is practicable to all parties to whom the bid documents have been issued. All such addenda shall become part of the contract.
- D. Requests for information regarding this procedure or other similar information shall be directed to Chris O'Keefe, Facilities Maintenance Supervisor, City of Folsom, 50 Natoma Street, Folsom CA 95630, 916-461- 6684 / email COkeefe@folsom.ca.us.
- E. It shall also be the bidder's responsibility to call to the attention of the Project Manager any missing pages or drawings in the contract documents including the addenda. These items shall be brought to the attention of the Project Manager at least one (1) week prior to the bid opening date.

- F. The Contractor will be furnished, free of charge, five (5) copies of Project Manuals for execution of the Work.
- G. Any work called for in the Drawings and not mentioned in the specifications, or vice versa, shall be performed as though fully set forth in both.
- H. Work not particularly detailed, marked, or specified shall be the same as similar parts that are detailed, marked or specified.
- I. In case of conflict between the Drawings and Specifications, the Drawings shall govern in matters of quantity, the Specifications in matters of quality.
- J. The general character of the detail work is shown on the Contract Drawings.
 - 1) The Contractor will furnish shop drawings and additional details, if necessary, to more fully explain the work and it shall be considered a part of the Contract.
 - 2) Any work executed before receipt of such details, if not in accordance with it, shall be removed and replaced, or adjusted, as directed, without expense to the Owner.
 - a. Should any detail submitted later than the Contract Drawings, be in the opinion of the Contractor, more elaborate than the Contract Drawings and the Specifications indicate, written notice thereof shall be given to the Owner within five days of receipt of same.
 - b. The claim will be considered, and, if justified, said detail drawings will be amended or the extra work authorized; non-receipt of such notice shall relieve the Owner of any claim.

6. Review of Contractor's Information (Submittals)

- A. When review and checking for acceptance is required of any drawing, or information regarding materials and equipment, the Contractor shall prepare or secure, and submit for review, three (3) copies.
- B. Deliver submittals to City of Folsom Parks & Recreation Department at 50 Natoma Street, Folsom, California 95630. Attention: Chris O'Keefe, Facilities Maintenance Supervisor Submittals may also be sent electronically to cokeefe@folsom.ca.us
- C. The Project Manager, after taking appropriate action, will return one (1)-marked copy to the Contractor. The City of Folsom submittal review is performed to determine that the Submittal is in conformance with the design intent.
 - 1) "Design intent" and "design concept" shall mean the general purpose of the design or plan.
 - 2) It shall not encompass particular calculations, dimensions, quantities, or other means by which the Contractor intends to carry out the plan."
- D. Transmit each item under City of Folsom - accepted form. Bind submittals with index tabs. Identify:
 - 1) Project
 - 2) Contractor
 - 3) Subcontractor
 - 4) Drawing sheet and detail number submittal refers to
 - 5) Specification section number, as appropriate
 - 6) Deviations from Contract Documents
 - 7) Provide space for City of Folsom review stamps
- E. Product Data Submittals: Each copy of product data shall be marked to identify:
 - 1) Applicable products, models, options, which bid item the submittal is related to
 - 2) Performance data

- 3) Information unique to the Work
- 4) Manufacturers' installation instructions
- 5) Major supplier
- 6) Manufacturers' samples of standard colors, textures, and patterns for City of Folsom's selection (City of Folsom shall make selection of colors)

7. Substitutions

- A. Document each request with complete data substantiating compliance of proposed substitution with Contract Documents.
 - 1) Request constitutes a representation that Contractor:
 - a. Has investigated proposed product and determined that it meets or exceeds, in all respects, specified product.
 - b. Will provide the same warranty for substitution as for specified product.
 - c. Will coordinate installation and make other changes that may be required for Work to be complete in all respects at no additional cost to the City.
 - d. Waives claims for additional costs and/or contract time which may subsequently become apparent.
- B. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals without separate written request, or when acceptance will require substantial revision of Contract Documents.
- C. City of Folsom will determine acceptability of proposed substitution.
 - 1) If, upon City of Folsom review of a substitution, it is determined by the City of Folsom that the substitution is not acceptable, for whatever reason, the Contractor shall supply the specified product or products.
- D. The City of Folsom can, at its option, require as a condition of acceptance of a substitution that the Contractor provide a credit to the City of Folsom for the difference in cost of product(s) or components, or systems proposed as a substitution.

8. Schedule of Values

- A. The Schedule of Values shall be submitted to the Project Manager along with the signed Agreement.
- B. Project Manager may request copies of all Subcontractor contracts to substantiate the Schedule of Values as submitted by the Contractor.
- C. Include sufficient detail under each specification section to identify materials and quantities; use additional sections as required to address items not identified under sections listed.
- D. The schedules shall be revised, as the project progresses, to list change orders, for each application for payment.

9. Shop Drawings:

- A. Before submission of each Shop Drawing or sample, the Contractor shall determine and verify all:
 - 1) Calculations
 - 2) Quantities
 - 3) Dimensions
 - 4) Specified performance criteria
 - 5) Installation requirements
 - 6) Materials

- 7) Catalog numbers
 - 8) Similar data with respect thereto
 - B. Contractor shall review or coordinate each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the work and contract documents.
 - C. Contractor will stamp his approval on each sheet of Shop Drawings and verify the review in writing.
 - D. At the time of each submission, the Contractor shall give the City of Folsom specific written notice of each variation, deviation, or change that the Shop Drawings or samples may have made from the requirements of the Contract Documents and, in addition, shall note specifically every variation on each Shop Drawing submitted to the City of Folsom for review and approval.
10. **Review of Shop Drawings:**
- A. Shop Drawings will not be checked for exactness, accuracy or correctness.
 - B. The City of Folsom is entitled to rely on the Shop Drawings submitted by the Contractor as exact, accurate, and correct drawings.
 - C. The City of Folsom review of Shop Drawings for deviation, variations and changes shall be limited to the deviations, variations and changes of which the Contractor has notified the City of Folsom in writing.
 - D. Such deviation, variation and changes shall be shown on the Shop Drawings by means of a cloud or darkening of the area requiring review.
 - E. Absent written notice and clouding, City of Folsom shall have no liability for review of any deviation, variation, or changes reflected in the Shop Drawings.
11. **Record Drawings**
- A. The Contractor shall maintain a neatly and accurately marked set of record drawings showing the final locations and layout of all mechanical, electrical, and instrumentation equipment; piping and conduit; structures; and other facilities.
 - B. Drawings shall be kept current weekly, with all work instructions and change orders; mechanical, electrical, and instrumentation equipment accommodations; and construction adjustment.
 - C. Drawings shall be subject to the inspection of the Project Manager at all times and progress payments, or portions thereof, may be withheld if drawings are not accurate and current.
 - D. The Contractor will supply one (1) set of Record Drawings on screened mylars to the City. The Contractor is responsible for the cost of this and any additional sets.
 - E. Prior to acceptance of the Record Drawings, the Contractor shall deliver to the Project Manager two (2) blue print sets of neatly marked record drawings accurately showing the information required above. All markings shall be neatly drafted using mylar pencil or indelible ink; smudgable or smearable pencil or pen marks will not be accepted. The City shall review for completeness and accuracy, comment / approve, and return to the Contractor for revisions if necessary to the final mylar Record Drawings. Submit final Record Drawings prior to receipt of final payment.
12. **Materials and Equipment**
- A. Promptly inspect shipments to assure that products comply with requirements, quantities are correct, and products are undamaged.
 - B. The City of Folsom may reject as non-complying such material and products that do not bear identification satisfactory to the Project Manager as to manufacturer, grade, quality, and other pertinent information.

- C. Storage: Except as otherwise approved by the Project Manager, determine and comply with manufacturer's recommendations on product handling, storage and protection with seals and labels intact and legible until time of use.
 - 1) Store sensitive products in weather-tight enclosures; maintain within temperature and humidity ranges required by manufacturer's instructions.
 - 2) For exterior storage of fabricated products, place on sloped supports above ground. Cover products subject to deterioration with impervious sheet covering; provide ventilation to avoid condensation.
 - 3) Arrange storage to provide access for inspection. Periodically inspect to assure products are undamaged, and are maintained under required conditions.
 - 4) To facilitate efficient construction progression, as well as ordering and delivery of materials, the City may pay for stored materials with each progress payment under this contract. Discretion for this decision shall lie with the Park Planning Superintendent.
- D. In event of damage, promptly make replacements and repairs to the approval of the City of Folsom and at no additional cost to the City of Folsom.
- E. Promptly remove damaged materials and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the City of Folsom.
- F. Additional time required to secure replacements and to make repairs will not be considered by the City of Folsom to justify an extension in the Contract Time of Completion.
- G. After installation, provide coverings to protect products from damage from traffic and construction operations, remove when no longer needed.

13. Manufacturer's Directions

- A. Manufactured articles, material, and equipment shall be applied, installed, connected, erected, adjusted, tested, used, cleaned, and conditioned as recommended by the manufacturer unless specified to the contrary.
- B. Copies of the manufacturer's installation instructions and procedures shall be submitted prior to the installation of manufacturer's articles, material and equipment.

14. Protection of Existing Improvements

- A. Existing improvements, utilities and adjacent property shall be protected from damage resulting from the Contractor's operations.
- B. All trees, shrubbery, fences, walls and other improvements including roof areas not a part of this project, existing pavements and sidewalks, shall be protected from damage by the Contractor throughout the construction period.
- C. All painted or other disfiguring markings on the pavement, sidewalk or gutters shall be removed by the Contractor before acceptance of the work.
- D. The cost for protection of existing improvements shall be included with those bid items the bidder deems appropriate; the Contractor shall be liable for costs of repairing damage to existing improvements and roof area not a part of this project.

15. Construction Facilities and Temporary Controls

- A. The Contractor shall provide and maintain the following facilities throughout the construction of the project:
- B. Temporary Roof Protection: If a weather event (rain, etc.) occurs at any time during the construction period, the contractor is responsible for providing temporary rain protection for the City Hall. Boiler/HVAC equipment. Temporary rain protection means absolutely no water

intrusion into the building. This temporary rain protection shall be fully secured in place and remain in place until said weather event is completely over.

- C. Provide construction fencing as required to prevent public entry to construction areas and to protect existing facilities and adjacent properties from damage from construction operations.
 - 1) The contractor shall provide for public access around the perimeter of the area at all times
 - 2) Equipment/vehicular and pedestrian gates with keyed locks; provide keys to the City of Folsom Project Inspector and Project Manager.
 - 3) **All gates and fences shall be securely locked, or securely attached at the conclusion of each day's work.** Provide high visibility fence around trees and plants designated to remain.
 - 4) Protect against vehicular traffic, dumping, chemically injurious materials and puddling or continuous running water.
 - 5) Contractor shall maintain security at all times until project acceptance by the City.
- D. Full compensation for furnishing all labor, materials, tools, equipment and incidentals and for doing all work involved in providing construction facilities and temporary controls shall be considered as included in the prices paid for various contract items of work and no additional compensation will be allowed, therefore.

16. Temporary Electricity

- A. The Contractor is responsible for providing portable, temporary electrical power as required to perform the proposed work if existing electrical power is unavailable.

17. Temporary Water

- A. Temporary water connections for construction: Including connection to existing hose bibs so that water is available by use of hoses. City of Folsom will pay for water used.

18. Project Closeout

- A. The Contractor shall comply with procedures stated in General Specifications and General Provisions of the Project Manual prior to issuance of Certificate of Substantial Completion.
- B. When Contractor considers Work has reached final completion, submit written certification that Contract Documents have been reviewed, Work has been inspected, and that Work is complete in accordance with Project Manual and ready for City of Folsom inspection.
- C. In addition to submittals required by the conditions of the Project Manual, provide submittals required by governing authorities, and submit a final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
- D. Final cleaning, per **Section 7.27** of the General Provisions, shall be complete prior to final inspection.
 - 1) Clean equipment and fixtures to a sanitary condition, clean or replace filters on mechanical equipment. Clean roof drainage systems.
 - 2) Clean site; sweep paved areas, rake clean other surfaces.
 - 3) Remove waste and surplus materials, rubbish, and construction facilities from the Project and from the site.
 - 4) Remove temporary materials, equipment, services and construction prior to Substantial Completion inspection.
 - 5) The Contractor shall clean and repair damage caused by installation or use of temporary facilities.
 - 6) Restore existing facilities used during construction to specified, or to original, condition.

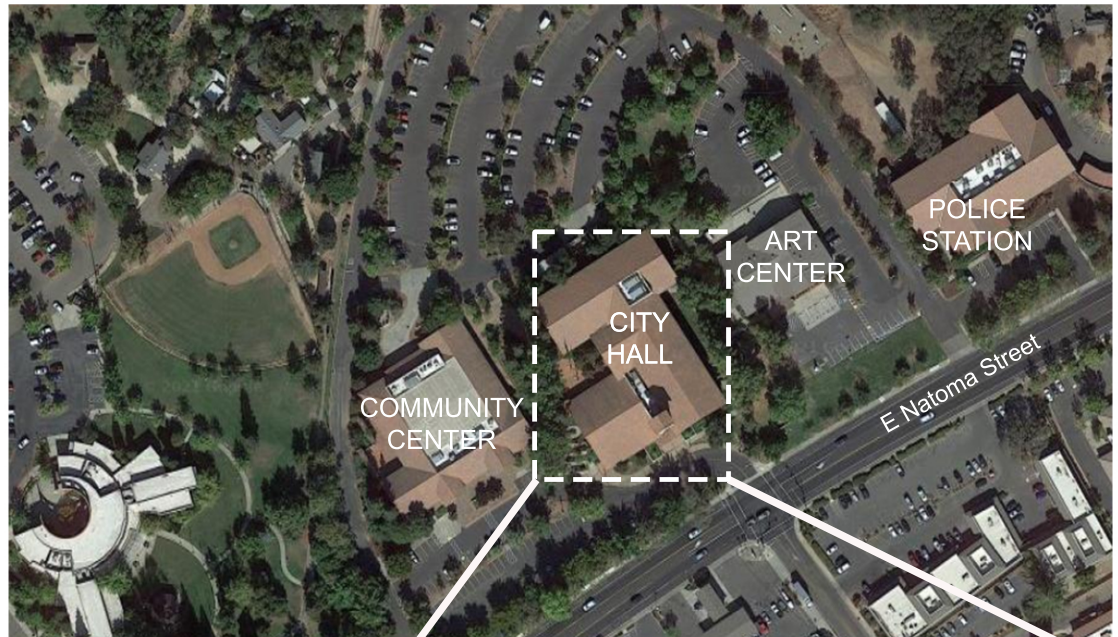
- E. Record drawings shall be provided, in accordance with paragraph VI-E of these general requirements, with transmittal letter containing date, Project title, Contractor's name and address, list of documents, and signature of Contractor.
- F. Full compensation for furnishing all labor, materials, tools, equipment and incidentals and for doing all work involved in project closeout shall be considered as included in the prices paid for various contract items of work and no additional compensation will be allowed therefore.

19. Construction and Demolition Debris

- A. The Contractor shall insure compliance with City of Folsom Ordinance No. 1056.
- B. The Contractor shall contract with a single City-approved and permitted Construction and Debris Hauler.
- C. The Construction and Debris Hauler is responsible for the payment of Construction and Demolition Debris Administrative Fees with the City of Folsom Utilities Department.

END SUPPLEMENTARY CONDITIONS

Folsom City Hall Design-Build Boiler & HVAC Replacement Project



Existing HVAC Units

Existing HVAC Units



Appendix B:
Folsom City Hall HVAC Location Map

Attachment
Commissioning Checklist for Each HVAC Unit (to be provided with Submittal)

PROJECT: _____
Equipment: _____
Name/Tag: _____ Location: _____

ITEM	?	COMMENTS
PRE-START-UP INSPECTION		
Commissioning lock-out procedures reviewed		
Operation and maintenance information		
Mounting/support system and vibration isolation		
Seismic restraints		
Equipment guards		
Alignment & V-belt tension		
Freedom of rotation		
Lubrication		
Plenums clean and free of loose material		
Temporary start-up filters		
Fire & balance dampers positioned		
Access doors, Insulation, and interior lights		
Filter bank, DP switch gauge and photohelics		
Local valving/piping (gas, condensate, pans, drains)		
Motorized dampers		
D/X expansion (cooling) coil and compressor		
D/X condensing coil and fans		
Gas piping and valving complete		
Gas inspection certificate		
Regulatory authority approved installation and burner control (certificate available)		
Building cleanliness		
Electrical wiring complete		
Overload protection (sized correctly)		
Disconnect switch (tested)		
Local control module with DDC interface		
Control system - point to point checks complete		
START-UP		
Start-up by manufacturer's representative with report and certificate or log provided		
Direction of rotation		
Electrical interlocks - stop/start		
Local air leakage acceptable		
Vibration & noise level acceptable		
Motor Amps - Rated: _____ Actual: _____		
Motor Volts - Rated: _____ Actual: _____		
Final operating filters installed		