

# CITY OF SONORA

## NOTICE TO BIDDERS

**NOTICE IS HEREBY GIVEN** that the City of Sonora, State of California, will receive bids for the furnishing of all labor, materials, equipment, transportation and services for the construction of:

### **Ed Center Re-Roof and Exterior Rehabilitation Project**

#### **LOCATION:**

326 N. Washington Street, Sonora, CA

#### **PROJECT DESCRIPTION:**

The project consists of - exterior alterations to include removal of the existing roofing, sheathing, flashing and damaged wood siding boards and trim and replacement with new materials. Structural repairs to the existing roof structure may be required prior to re-roofing. Repainting the exterior of the building. Testing for hazardous materials is to be provided by contractor as part of the base bid.

The successful bidder will obtain all required permits and pay all fees; all City permits will be issued on a no-fee basis. Bidder to specify all warranty information within the Proposal/Bid.

Each bid is to be in strict accordance with the Project Plans, Specifications and Project Manual (hereinafter called the "Proposal Requirements") on file at the Community Development Department, 94 N. Washington Street, Sonora, California.

Proposal Requirements may be examined at the Community Development Department and copies may be obtained at:

Sonora Blueprint and Copy Company, 730 E. Mono Way, Sonora, CA 95370, (209) 532-5223 at a cost of \$20 for one set of Proposal Requirements which includes one set of reduced plans (11"X17"), Notice to Bidders, the Project Manual and a separate Proposal (Bid) Form, plus shipping where necessary. Full sized plans (24"X36"), additional reduced plans and a CD with digital pdf files of the Proposal Requirements with plan files are available to purchasers of one full set of Proposal Requirements at the following costs, plus shipping where necessary: \$20 per set of full sized plans, \$5 per set of reduced plans, and \$5 for a CD with digital pdf files of the Proposal Requirements with plan files.

#### **TIME OF WORK:**

Work is anticipated to begin on or before October 16, 2017. The number of working days allowed for this project is 45 working days. Working days will start with the date indicated in the Notice to Proceed. A working day is defined as any day except Saturdays, Sundays, legal holidays and days when a suspension is specifically authorized by the City.

Within the City of Sonora, construction days and times are limited to Monday through Friday between 7:00 a.m. to 7:00 p.m., Saturday 8:00 a.m. to 5:00 p.m., and Sundays, and Federal Holidays, 10:00 a.m. to 3:00 p.m. as provided under Section 8.20.040 of the Sonora Municipal Code.

#### **ENGINEERS ESTIMATE:**

There is no Engineers Estimate available for this project.

## **PROPOSAL/BID:**

One Alternative Bid item is included within the Proposal Requirements which may be elected by the City. Determination of the Low Bidder will be made on the basis of the Total Bid, Base Bid plus Additive Alternate 1. Proposal is to include the following:

### Base Bid-

Base Bid is to include all project costs to complete the project less exterior paint preparation and painting. All exterior work is to be paint ready. Testing for hazardous materials is to be provided by Contractor and included as part of the base bid.

As part of the Bidder's base bid, the bidder shall include:

Replacement of 200 sq. ft. of damaged board siding to match existing.

Replacement of 50 linear ft. of damaged vertical trim board.

Replacement of 100 sq. ft. of damage soffit and fascia board.

### Additive Alternate 1-

Additive Alternate 1 bid is to include paint preparation and painting of the exterior of the building.

### Additional Work Unit Costs:

If concealed damage is discovered the Bid will include unit costs covering all labor and materials for the following:

Price per sq. ft. for replacement of existing damaged board siding in-kind.

Price per sq. ft. for replacement of existing damaged trim boards in-kind.

Price per sq. ft. for replacement of existing damaged roofing substrate plywood in-kind.

Price per sq. ft. for replacement of existing damaged spaced wall or roof sheathing in-kind.

Price per sq. ft. for replacement of existing damaged soffit in-kind.

Price per sq. ft. for replacement of existing damaged fascia board in-kind.

## **MANDATORY PRE-BID MEETING/WALK-THROUGH:**

A walk-through will be held on Tuesday, September 19, 2017 at 1:30 p.m. The building is available to be viewed from the street at all other times.

## **PROJECT MANAGER:**

All questions related to the project plans and specifications or the bidding process should be directed to Rachele Kellogg, Community Development Director, (209) 532-3508, [rkellogg@sonoraca.com](mailto:rkellogg@sonoraca.com).

Planholders on the project should register their contact information with the Project Manager by email. The Project Manager will maintain a planholders list and will distribute any Addendums, if necessary, by email to planholders and other parties who have made specific requests.

## **PREVAILING WAGE AND DIR REGISTRATION:**

Bidders are advised that this Project is a "public work" for purposes of the California Labor Code, which requires the payment of prevailing wages. Pursuant to the Labor Code of the State of California, or local law thereto (when applicable), the City has ascertained the general prevailing rate of per diem wages and rates for holidays and overtime work in the locality in which this work is to be performed, for each craft, classification or type of laborer, worker or mechanic needed to execute the project Contract.

Notice is hereby given that, in accordance with Section 1773.2 of the Labor Code, copies of the general prevailing rate, as determined by the Director of the Department of Industrial Relations, are on file in the Community Development Department at 94 N. Washington Street, Sonora, CA. It shall be mandatory upon the Contractor, and upon any subcontractor under it, to pay not less than the said specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. A copy of the applicable prevailing wage rates shall be posted at each job site.

The project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). All contractors and subcontractors who bid or work on this project must be currently registered with the DIR under Section 1725.5 of the California Labor Code, and will be required to furnish electronic certified payroll records to the Labor Commissioner (aka Division of Labor Standards Enforcement) as required by the Labor Commissioner under Section 1776 of the California Labor Code.

#### **BONDING REQUIREMENTS:**

Each bid must be accompanied by cash, a certified or cashier's check, or bidder's bond made payable to the City of Sonora for an amount equal to at least ten percent (10%) of the amount bid, such guarantee to be forfeited should the bidder to whom the contract is awarded fail to furnish the required Performance and Payment Bonds, if applicable, and enter into a contract with the City within the time provided under City Requirements.

For bids in excess of \$25,000, the successful bidder will be required to furnish a Faithful Performance Bond in an amount equal to one hundred percent (100%) of the Contract price and a Payment Bond in an amount equal to one hundred percent (100%) of the Contract price. All bonds shall be in accordance with the laws of the State of California. If signed by an "Attorney-in-Fact" on behalf of the bonding company, there must be attached to the bond the usual form of "Power of Attorney" evidencing and certifying the authority of such "attorney-in-fact" to so sign. Performance and Payment Bonds shall be dated as of the same date of the contract and shall be furnished by the Contractor at the time the contract is executed.

#### **INSURANCE REQUIREMENTS:**

The Contractor, prior to the start of work, shall comply with the requirements under Attachment A-1, City of Sonora Standard Insurance Requirements.

#### **SUBLETTING AND SUBCONTRACTING:**

The Contractor shall provide the name, contractor license number and the location of the place of business of all subcontractors. Any additions or changes in subcontractors will conform to requirements set forth in Public Contract Code Section 4100, et seq. Any change must be in writing and approved in advance by the City.

#### **FAIR EMPLOYMENT PRACTICES:**

In connection with the performance of work under the construction Contract, the Contractor will not willfully discriminate against any employee or applicant for employment because of race, sex, color, religion, ancestry or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, religion, ancestry or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**BID PROCESS/OPENING:**

No bid will be considered unless it is made on the Proposal (Bid) Form furnished by the City with the Proposal Requirements. The bid is to be submitted in a sealed envelope with the project name, Bid Date and time clearly marked on the outside of the envelope. No faxed or emailed bids will be accepted. Bid proposals shall be submitted to the City Administration Office on or before **1 p.m. on Wednesday, the 27<sup>h</sup> of September, 2017 and will be opened in public at 1 p.m. on** that day in the City Administration Conference Room, 94 North Washington Street, Sonora, California, and then and there read and recorded. Any bid received after the time specified herein will be returned to the bidder unopened. Partial, incomplete or non-responsive Bids will not be considered. The City of Sonora reserves the right to reject any and all bids and to waive any informality or irregularity in the bidding. Bids shall be valid for sixty (60) days after the bid opening date. The award, if made, will be made to the lowest responsible bidder.

No bid will be accepted from a Contractor who is not licensed in accordance with the provisions of Chapter 9 of Division 3 of the Business and Professions Code or on the State Debarred List.

**CONTRACT:**

A sample of the City’s Construction Contract, Attachment B-1, is included which will be completed by the City upon award of the contract. The contract shall be signed by the successful bidder and returned, together with the required bonds, schedule of work, and certificates of insurance within ten (10) calendar days after the Contractor has received written notice of the award. No proposal shall be binding upon the City until the execution of the contract. Failure to execute the contract and file an acceptable insurance certificate shall be just cause for annulment of the award and forfeiture of the proposal guarantee.

Timothy A. Miller,  
City Administrator  
City of Sonora

**Bid Date, Time & Location**  
**Date: September 27, 2017**  
**Time: 1 p.m.**  
**Location: City of Sonora,**  
**Administration Conference**  
**Room, 94 N. Washington St.**  
**Sonora, CA**

Notice of Availability of Bid Documents Publication Dates:

September 12, 2017 & September 19, 2017  
The Union Democrat, Sonora, CA

Attachment A-1  
**Standard Insurance Requirements**

Contractor at its own expense, shall procure, and maintain for the duration of the Agreement, the following insurance policies and endorsements with insurers licensed in the State of California possessing a Best's rating of no less than A:VII:

- a) Workers' Compensation Coverage - Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
- b) General Liability Coverage - Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. Contractor's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, agents and volunteers shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.
- c) Automobile Liability Coverage - Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident. If Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.
- d) Builder's Risk Insurance - Upon commencement of construction and with approval of City, Contractor shall obtain and maintain Builder's Risk/Course of Construction insurance. Policy shall be provided for replacement value on an "all-risk" basis. The City shall be named as Loss Payee on the policy and there shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and limits. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City.
- e) Contractors Pollution Liability - Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than one million dollars (\$1,000,000) per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

- f) Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
- i. The City of Sonora, its officers, officials, employees, agents and volunteers are to be covered as additional insureds (“City of Sonora”).
  - ii. This policy shall be considered and include a provision that it is the primary policy as respects the City of Sonora as an additional insured party and shall not include any special limitations to coverage provided to the City of Sonora as an additional insured party. Any insurance maintained by the City of Sonora, including any self-insured retention the City of Sonora may have, shall be considered excess insurance only and shall not contribute with it.
  - iii. This insurance provider shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
  - iv. The insurer waives all rights of subrogation against the City of Sonora as an additional insured party.
  - v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City of Sonora as an additional insured party.
  - vi. The insurance policy and endorsements shall not be canceled or non-renewed without first providing thirty (30) calendar days written notice to the City of Sonora’s Community Development Department by certified mail, return receipt requested, at 94 N. Washington Street, Sonora, CA 95370.
- g) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the City of Sonora. At the City of Sonora’s options, *Contractor* shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- h) Evidence of Insurance: Contractor shall provide policies and certificates of insurance with original endorsements or other evidence of insurance coverage as required by the City of Sonora. Required evidence of insurance shall be filed with the City of Sonora’s Community Development Department on or before commencement of performance of this Contract. Current evidence of insurance shall be kept on file with the City of Sonora’s Community Development Department at all times during the term of this Contract.
- i) Unsatisfactory Policies: If at any time any of the policies or endorsements are unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the City of Sonora, a new policy or endorsement shall be promptly obtained and evidence submitted to the City of Sonora for approval.
- j) Failure to Comply: Upon failure to comply with any of these insurance requirements, this Contract may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

SAMPLE CONSTRUCTION CONTRACT

Note: Sample form only - to be filled in by City upon award of contract.

CITY OF SONORA  
CONSTRUCTION CONTRACT

FOR: (Project) Ed Center Re-Roof and Exterior Rehabilitation Project

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of

\_\_\_\_\_, 20 \_\_\_\_, by and between the City of Sonora, a municipal corporation of the State of California, hereinafter referred to as "Owner" and \_\_\_\_\_ hereinafter referred to as the "Contractor."

**W I T N E S S E T H:**

**THAT THE PARTIES HERETO** have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

1. **THE CONTRACT DOCUMENTS.** The Construction Contract consists of the following documents, to wit:

Notice to Bidders; Project Manual; Bid Documents; Accepted Bid; Payment Bond; Faithful Performance Bond; the Plans and Specifications for the project; and Addendums issued prior to bid date; and this agreement.

Any and all obligations of the Owner and the Contractor are fully set forth and described herein.

All of the above documents are intended to cooperate so that the work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are sometimes hereinafter referred to as the Contract Documents. In the case of the conflict between the Plans and Specifications on one hand, and this Agreement on the other, the Plans and Specifications shall prevail.

2. **THE WORK.** Said Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation and material necessary to perform and complete in a good and workerlike manner the construction of

\_\_\_\_\_ as called for, and in the manner designated in, and in strict conformity with the Contract Documents. It is understood and agreed that said tools, be furnished and said work performed and completed as required in said Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner, or its representatives.

3. **CONTRACT PRICE.** The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of \_\_\_\_\_ subject to additions and deletions as provided in the Contract Documents.

4. **DISPUTES PERTAINING TO PAYMENT FOR WORK.** Should any dispute arise respecting the true value of any work done, or if any work is omitted, or of any extra work which said Contractor may be required to do, or respecting the size of any payment to said Contractor during the performance of this Agreement, said dispute shall be decided by Owner's representative, and the decision of the latter shall be final and conclusive.

5. **PERMITS: COMPLIANCE WITH LAW.** The Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety. All City permits will be issued on a no-fee basis.

6. **INSPECTION BY OWNER.** The Contractor shall at all times maintain proper facilities and provide safe access for inspection by the Owner to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval thereof or consent thereto by the latter. Should any such work be covered up without such notice, approval, or consent, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

7. **EXTRA OR ADDITIONAL WORK AND CHANGES.** Should said Owner at any time during the progress of said work request any alterations, deviations, additions or omissions from said Specifications or Plans or other Contract Documents, it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of said contract price, as the case may be, by a fair and reasonable valuation, agreed to in writing between the parties hereto. No extra work shall be performed or changes be made hereto. No extra work shall be performed or changes be made unless in pursuance of a written order from the Owner, stating that the extra work or changes is authorized and no claim for an addition to the contract sum shall be valid unless so ordered.

8. **TIME OF COMPLETION.** All work under this Agreement shall be completed within 45 working days of the date set forth in the Notice to Proceed.

If said Contractor shall be delayed in said work by acts or neglect of the Owner, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts by others, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, or by any cause which the owner shall decide to justify the delay, the time of completion shall be extended for such reasonable time as the Owner may decide. Extensions in time must be requested by the Contractor within ten (10) calendar days of the time the delay occurs in order to receive consideration.

This Paragraph Eight (8) does not exclude the recovery of damages for delay by either party under the provisions of the Contract Documents.

9. **TERMINATION OR BREACH.** If the Contractor should be adjudged a bankrupt or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or if it or any of its subcontractors should violate any of the provisions of the Agreement, the owner may serve written notice upon it and its surety of its intention to terminate the Agreement, such notice to contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) calendar days after serving of such notice, such violation shall cease and arrangement satisfactory to Owner for correction thereof be made, the Agreement shall, upon the expiration of said ten (10) calendar days, cease and terminate. In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Agreement; provided however, that, if the surety does not give the



Owner written notice of its intention to take over and perform the Agreement or does not commence performance thereof within thirty (30) calendar days from the date of the service of such notice, the Owner may take over the work and prosecute the same to completion by contract or any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and its surety shall be liable to the owner for any excess cost occasioned the Owner thereby, and in such event the Owner may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work and necessary thereof.

10. **OWNER'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF.** In addition to the amount which the owner may retain under Paragraph 18 of this Agreement until the final completion and acceptance of all work covered by the Agreement, the Owner may withhold from payment to the Contractor such an amount or amounts as in its judgment may be necessary to pay just claims against the Contractor or any subcontractors for labor claims against the Contractor or any subcontractors for labor and services rendered and materials furnished in or about the work. The Owner may apply such withheld amounts to the payment of such claims at its discretion. In so doing, the Owner shall be deemed the agent of Contractor and any payment so made by the Owner shall be considered as a payment made under the Agreement by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims.

11. **ASSIGNMENT OF CONTRACT.** Neither this Agreement, nor any part thereof, no monies due or to become due thereunder may be assigned by the Contractor without the prior written consent of the Owner.

12. **COMPLIANCE WITH SPECIFICATIONS OF MATERIALS.** Whenever in the Specifications, any material or process is indicated or specified by patent or proprietary name, or by name of manufacturer, such Specifications must be met by the Contractor, unless Owner agrees in writing to some other material, process or article offered by Contractor which is equal in all respects to the one specified.

13. **CONTRACT SECURITY.** The Contractor shall furnish a surety bond in the amount at least equal to 100% of the Contract as security for the faithful performance of the Agreement. The Contractor shall also furnish a separate surety bond in an amount at least equal to 100% of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Agreement, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond.

14. **INSURANCE.** The Contractor shall not commence work under this Agreement until he has obtained all insurance coverage required under the Contract Documents.

15. **HOLD HARMLESS.** The Contractor shall indemnify, defend, save, protect and hold harmless the City and all of its officers, employees and agents against any and all demands, losses, claims, costs, suits, or liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of the Contractor, its officers, employees, agents, contractors, or consultants. The Contractor shall reimburse the City for any expenditures, including reasonable attorney's fees, the City may make by reason of such Liability matters. The Contractor's obligations under this section shall exist regardless of concurrent negligence on the part of the City or any other person; provided, however, that the Contractor shall not be required to indemnify the City for the proportion of Liability if a court determines it is attributable to the negligence or willful misconduct of another party. If indemnification becomes necessary, the City Council shall have the absolute right and discretion to approve or disprove of any and all counsel

employed to defend the City. This indemnification shall survive termination of this agreement.

6. **WAGE RATES.** Pursuant to the Labor Code of the State of California, or local law thereto applicable, the Owner has ascertained the general prevailing rate of per diem wages and rates for holidays and overtime work in the locality in which this work is to be performed, for each craft, classification or type of laborer, worker or mechanic needed to execute this Agreement. The prevailing wages so determined are as set forth in the Notice to Contractors. Neither the Notice to Contractors nor this Agreement shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor under it may base any claim against the Owner.

It shall be mandatory upon the Contractor and upon any subcontractor under it, to pay not less than the said specified rates to all laborers, workers, and mechanics employed in the execution of the Agreement. It is further expressly stipulated that the Contractor shall, as a penalty to the Owner, forfeit not more than two hundred dollars (\$200.00) as determined by the Labor Commissioner, for each calendar day, or portion thereof, for each laborer, worker or mechanic paid less than the stipulated prevailing rates for any work done under this Agreement by it or by any subcontractor under it; and the Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for the Contractor or any subcontractor to employ on the project under this Agreement any person in a trade or occupation (except executives, supervisory, administrative, clerical or other non-manual workers as such) for which no minimum wage rate is herein specified, the Contractor shall immediately notify the Owner who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish the contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

A hardcopy of the transmittal documents for electronically filed Certified Payrolls, pursuant to Section 1776 of the Labor Code, covering work on the project for any given progress payment period shall be forwarded to the Project Manager within 15 days of the end of such progress payment period. Full copies of the Certified Payrolls shall be furnished to the Project Manager upon specific request.

17. **ACCIDENT PREVENTION.** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of all applicable Federal, State and County laws, building and construction codes shall be observed. Machinery equipment and other hazards shall be guarded or eliminated in accordance with the safety provisions of CAL/OSHA regulations of the State of California.

18. **PAYMENT.** The payment of progress payments by the Owner shall not be construed as an absolute acceptance of the work done up to the time of such payments, but the entire work is to be subjected to the inspection and approval of the Owner, and subject to whatever inspection and approval may be required by law.

On, or before the last Monday of the each month in which work has been completed, the Contractor shall prepare an invoice for all work since the previous billing and covering work completed up to the previous Friday. The invoice shall quantify the various items of work completed based upon the approved breakdown of work, show approved change orders, total amount of the billing, sum of all previous payments, and the total contract amount. Said invoice shall be submitted to the Project Manager. After review, the Project Manager shall approve the invoice as is, or approve the invoice with changes he/she deems necessary. The Project Manager shall complete and approve a City Payment Request indicating the amount of the approved payment and forward it to the City Administrative Services Director, payment will be made within 30 days.

Where invoices are not complete, or where the Project Manager disputes certain items or amounts on the invoice, the Contractor shall be advised (within 10 days of invoice submission), and the City

Payment Request withheld. If the disputed amount is not resolved within 10 days, the Project Manager may prepare a Payment Request for the undisputed amount and withhold the disputed amount until resolved.

The City shall retain five percent (5%) of the value of the work and materials so estimated to have been furnished, delivered and used, as part security for the fulfillment of the Contract by the Contractor, and shall pay monthly to the Contractor, while carrying on the work, the balance not retained, as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provisions of the contract. No such estimates of payment shall be required to be made when, in the judgment of the Project Manager, the work is not proceeding in accordance with the provisions of this Contract. No estimate or payment shall be construed to be an acceptance of any defective work or improper material not any part of the work or improvement.

The City may, at its option and at any time, retain out of any amounts due the Contractor, 1) sums sufficient to cover any unpaid claims which are not covered by insurance covering the City, its officers and employees, provided by the Contractor, and 2) sums sufficient to cover claims, filed pursuant to Section 3082, et seq, of the Civil Code, and 3) any other sums which the City is authorized or required to withhold under any applicable laws. The City shall withhold and retain from payments due the Contractor under the contract, all amounts which have been forfeited pursuant to the applicable provisions of Labor Code, provided that no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Law Enforcement of the State of California, or by the City.

**Final Payment and Claims.** Within thirty (30) calendar days after receipt of notice of the Project Manager's acceptance of the project, the Contractor shall prepare and submit to the Project Manager a final invoice covering all work completed under the contract. Said final invoice shall include a written statement of disputed amounts and unresolved claims for additional compensation above the total contract amount, if such claims are to be considered. No claim shall be considered which is not included on said written statement of claims, nor will any claim be allowed which was not properly noticed under other provisions of these specifications. Where said final invoice contains no claims or disputed amounts, the Project Manager shall process the Final Payment, less required retention, in accordance with the above.

Where said final invoice contains claims and/or disputed amounts, the Project Manager shall consider the claims and disputed amounts and notify the Contractor of his/her determination. Claims filed by the Contractor shall be in sufficient detail to enable the Project Manager to ascertain the basis amount of said claims. It will be the responsibility of the Contractor to furnish with a reasonable time such further information and details as may be required by the Project Manager to determine the facts or contentions involved in the Contractor's claims. Failure to submit such information will be sufficient cause for denying the claims.

The Project Manager may resolve any claims or disputed amounts not involving an increase in total contract amount (including previously approved change orders.) A Final Payment, less required retention, in the amount up to total contract amount may be processed in accordance with the above, and amounts in excess of the total contract amount which remain in dispute referred to the City Administrator with report for a claims review. The City Administrator may make a final determination of any claims after review or may refer the claims to the City Council for final determination of the claim. When referred to the City Council, the City Council shall hear and consider the claim, and shall have full authority to approve the claim, compromise, arbitrate, otherwise settle the claim, or reject it.

**Release of Retention.** Within thirty-five (35) calendar days after acceptance of the work by the City Council and the filing of a Notice of Completion, the Project Manager will make a final estimate, in writing, of the quantities of work done under the contract, the value of such work and claims which have been approved and based upon a final Contractor invoice. The Project Manager shall complete and approve a City Payment Request indicating the amount of the approved payment, and the date, or

conditions upon which payment is to be made. The date shall be at least thirty-five (35) calendar days nor more than sixty (60) calendar days after acceptance of the work and recordation of a Notice of Completion, unless Contractor action is required to receive final retention payment. Such request shall be submitted to the Administrative Services Director for approval, with the amount of payment being the amount due, after deducting therefrom all amounts due under the provisions of the contract, any known unresolved claims pursuant to Section 30 e), and 150 percent of any unresolved claims or disputed amounts for uncompleted work pursuant to Section 30 f) and Public Contract Code Section 7107.

All prior estimates and payments shall be subject to correction in the final estimate and payment. No payment made hereunder shall be construed to be an approval or acceptance of any defective work or improper materials.

19. **CONTRACTOR'S GUARANTEE.** The Owner shall not in any way or manner be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work or equipment or any part thereof, or in, on or about the same during its construction and before its final acceptance. Contractor unqualifiedly guarantees the first class quality of all workmanship and of all materials, apparatus and equipment used or installed by it or by any subcontractor or supplier in the project which is the subject of this Agreement, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event the Contractor unqualifiedly guarantees such lesser quality. In case of any defect in the work, materials, apparatus or equipment, whether latent or patent, revealed to the Owner within one (1) year of the date of acceptance of the completion of this Agreement by the Owner, the Contractor will forthwith remedy such defect or defects without cost to the Owner.

20. **LIQUIDATED DAMAGES.** Completion on time shall be of the essence of this Agreement. If the Contractor fails to complete, within the time fixed for such completion, the work hereinbefore mentioned and described and hereby contracted to be done and performed, it shall become liable to the Owner for liquidated damages in the sum of \$200 for each day which said work shall remain uncompleted beyond such time for completed or lawful extension thereof, which sum shall be presumed to be in the amount of damage thereby sustained by Owner, since it would be impracticable or extremely difficult to fix the actual damages; and the amount of liquidated damages may be deducted by Owner from monies due the Contractor hereunder, its assigns and successors at the time of completion, and its sureties shall be liable to the Owner for any excess.

IN WITNESS WHEREOF the parties hereto have set their hands the day and year first above written.

CONTRACTOR:

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

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

OWNER

By \_\_\_\_\_ Date  
Timothy A. Miller, City Administrator

