

# **SPECIFICATIONS and CONTRACT DOCUMENTS**

**for**

## **COUNCIL CHAMBER BUILDING ROOF REPLACEMENT PROJECT**



**MORGAN HILL, CALIFORNIA  
PUBLIC SERVICES DEPARTMENT**

**Bids Due:**

**Wednesday, June 11, 2025 @ 11:30 a.m.**

via U.S. Mail, Overnight Delivery or Hand Delivery  
Morgan Hill City Hall-Development Services Center  
17575 Peak Avenue, Morgan Hill 95037

**Bid Opening:**

**Wednesday, June 11, 2025 @ 11:30 a.m.**

Morgan Hill City Hall-Development Services Center  
17575 Peak Avenue, Morgan Hill 95037

**Mandatory Bidders' Conference and Job Walk:**

**Monday, June 2, 2025 @ 10:30 a.m.**

Morgan Hill Council Chamber Building  
17555 Peak Avenue, Morgan Hill 95037

**Project #: CSD 2025-012**

May 2025

## LOCATION MAP



## TABLE OF CONTENTS

LOCATION MAP .....	2
TABLE OF CONTENTS .....	i
NOTICE INVITING BIDS .....	1
INSTRUCTIONS TO BIDDERS .....	4
BID PROPOSAL .....	13
BID SCHEDULE I – GENERAL .....	16
SUBCONTRACTOR LIST .....	18
NONCOLLUSION DECLARATION .....	19
BID BOND .....	20
BIDDER’S QUESTIONNAIRE .....	22
CONTRACT .....	26
PAYMENT BOND .....	32
PERFORMANCE BOND .....	34
GENERAL CONDITIONS .....	37
<b>Article 1 - Definitions .....</b>	<b>37</b>
1.1 Definitions .....	37
<b>Article 2 - Roles and Responsibilities .....</b>	<b>41</b>
2.1 City .....	41
2.2 Contractor .....	41
2.3 Subcontractors .....	45
2.4 Coordination of Work .....	46
2.5 Submittals .....	47
2.6 Shop Drawings .....	48
2.7 Access to Work .....	48
2.8 Personnel .....	48
<b>Article 3 - Contract Documents .....</b>	<b>49</b>
3.1 Interpretation of Contract Documents .....	49
3.2 Order of Precedence .....	50
3.3 Caltrans Standard Specifications .....	50
3.4 For Reference Only .....	51
3.5 Current Versions .....	51
3.6 Conformed Copies .....	52
3.7 Ownership .....	52
<b>Article 4 - Bonds, Indemnity, and Insurance .....</b>	<b>52</b>
4.1 Payment and Performance Bonds .....	52
4.2 Indemnity .....	52
4.3 Insurance .....	53
<b>Article 5 - Contract Time .....</b>	<b>57</b>
5.1 Time is of the Essence .....	57
5.2 Schedule Requirements .....	58
5.3 Delay and Extensions of Contract Time .....	60
5.4 Liquidated Damages .....	65
<b>Article 6 - Contract Modification .....</b>	<b>66</b>
6.1 Contract Modification .....	66
6.2 Contractor Change Order Requests .....	68
6.3 Adjustments to Contract Price .....	69
6.4 Unilateral Change Order .....	70
6.5 Non-Compliance Deemed Waiver .....	70
<b>Article 7 - General Construction Provisions .....</b>	<b>70</b>
7.1 Permits, Fees, Business License, and Taxes .....	70
7.2 Temporary Facilities .....	70
7.3 Noninterference and Site Management .....	71

7.4	Signs.....	72
7.5	Project Site and Nearby Property Protections. ....	72
7.6	Materials and Equipment.....	74
7.7	Substitutions.....	74
7.8	Testing and Inspection. ....	75
7.9	Project Site Conditions and Maintenance. ....	77
7.10	Instructions and Manuals. ....	79
7.11	As-built Drawings. ....	79
7.12	Existing Utilities. ....	80
7.13	Notice of Excavation.....	80
7.14	Trenching and Excavations of Four Feet or More.....	81
7.15	Trenching of Five Feet or More.....	81
7.16	New Utility Connections .....	82
7.17	Lines and Grades. ....	82
7.18	Historic or Archeological Items.....	82
7.19	Environmental Control.....	83
7.20	Noise Control.....	83
7.21	Mined Materials. ....	83
<b>Article 8</b>	<b>- Payment .....</b>	<b>83</b>
8.1	Schedule of Values. ....	83
8.2	Progress Payments.....	84
8.3	Adjustment of Payment Application. ....	84
8.4	Early Occupancy. ....	86
8.5	Retention. ....	86
8.6	Payment to Subcontractors and Suppliers.....	87
8.7	Final Payment. ....	87
8.8	Release of Claims. ....	88
8.9	Warranty of Title.....	88
	CONTRACT BALANCE FORM.....	89
<b>Article 9</b>	<b>- Labor Provisions.....</b>	<b>90</b>
9.1	Discrimination Prohibited.....	90
9.2	Labor Code Requirements. ....	90
9.3	Prevailing Wages .....	90
9.4	Payroll Records.....	91
9.5	Labor Compliance. ....	91
9.6	Wage Theft Prevention.....	92
<b>Article 10</b>	<b>- Safety Provisions.....</b>	<b>93</b>
10.1	Safety Precautions and Programs. ....	93
10.2	Hazardous Materials. ....	94
10.3	Material Safety. ....	94
10.4	Hazardous Condition.....	95
10.5	Emergencies. ....	95
<b>Article 11</b>	<b>- Completion and Warranty Provisions.....</b>	<b>95</b>
11.1	Final Completion. ....	95
11.2	Warranty. ....	96
11.3	Use Prior to Final Completion. ....	97
11.4	Substantial Completion. ....	98
<b>Article 12</b>	<b>- Dispute Resolution .....</b>	<b>98</b>
12.1	Claims.....	98
12.2	Claims Submission.....	99
12.3	City's Response. ....	101
12.4	Meet and Confer.....	102
<b>Article 13</b>	<b>- Suspension and Termination.....</b>	<b>104</b>
13.1	Suspension for Cause. ....	104
13.2	Suspension for Convenience. ....	105

13.3	Termination for Default.....	105
13.4	Termination for Convenience.....	107
13.5	Actions Upon Termination for Default or Convenience.....	107
<b>Article 14</b>	<b>- Miscellaneous Provisions .....</b>	<b>109</b>
14.1	Assignment of Unfair Business Practice Claims .....	109
14.2	Provisions Deemed Inserted. ....	109
14.3	Waiver. ....	109
14.4	Titles, Headings, and Groupings.....	109
14.5	Statutory and Regulatory References. ....	109
14.6	Survival.....	110
<b>SPECIAL CONDITIONS</b>	<b>.....</b>	<b>111</b>
<b>TECHNICAL SPECIFICATIONS</b>	<b>.....</b>	<b>1</b>
<b>PART 1 GENERAL</b>	<b>.....</b>	<b>4</b>
1.1	SECTION INCLUDES .....	4
A.	Formed clay roof tiles and roof system components.....	4
B.	Metal roof flashing. ....	4
C.	Underlayments and self-seal membrane. ....	4
D.	Related roof accessories.....	4
1.2	RELATED SECTIONS .....	4
A.	Section 06100 - Rough Carpentry; Roof sheathing and nailers.....	4
B.	Section 07220 - Roof and Deck Insulation.....	4
C.	Section 07600 - Flashing and Sheet Metal. ....	4
D.	Section 07710 - Roof Specialties; Roof gutters and downspouts. ....	4
E.	Section 07720 - Roof Accessories.....	4
F.	Division 15 - Mechanical: Mechanical work projecting through roof. ....	4
G.	Division 16: - Electrical: Electrical work projecting through roof.....	4
1.3	REFERENCES.....	4
A.	ASTM C 144 - Standard Specification for Aggregate for Masonry Mortar.....	4
B.	ASTM C 150 - Standard Specification for Portland Cement. ....	4
C.	ASTM C 1167 - Standard Specification for Clay Roof Tiles. ....	4
D.	ASTM D 226 - Standard Specification for Asphalt-Saturated Organic Felt Used in Roofing and Waterproofing.....	4
E.	ASTM D 1002 - Standard Test Method for Apparent Shear Strength of Single-Lap-Joint Adhesively Bonded Metal Specimens by Tension Loading. ....	5
F.	ASTM D 2626 - Standard Specification for Asphalt-Saturated and Coated Organic Felt Base Sheet Used in Roofing.....	5
G.	ASTM D 2822 - Standard Specification for Asphalt Roof Cement. ....	5
H.	IAPMO UES Evaluation Report 0411 - Clay Roof Tiles.....	5
I.	IAPMO UES ER-2015 - TRI Concrete and Clay Roof Tile Installation Manual. ....	5

J.	California Title 24 - California's Energy Efficiency Standards for Residential and Nonresidential Buildings. ....	5
K.	TRI Cold and Snow Concrete and Clay Tile Design Criteria for Cold and Snow Regions. ...	5
L.	TRI Concrete and Clay Roof Tile Installation Manual Fifth Edition.....	5
M.	FRSA/TRI Florida High Wind Tile Installation Manual, Revised Sixth Edition, 2020. ....	5
1.4	DESIGN REQUIREMENTS.....	5
A.	USTile Clay Roof Tile materials and installation shall conform to the requirements of IAPMO UER-411.....	5
B.	Roofing tile materials and installation shall conform to the requirements of the applicable building code.....	5
1.5	SUBMITTALS .....	5
A.	Product Data: Manufacturer's data sheets on each product to be used, including: .....	5
B.	Shop Drawings: Indicate metal flashing profiles, joint locations, fastening locations, and installation details. Indicate tile layout with location of cut and special shaped tiles identified.. ....	5
C.	Selection Samples: For each finish product specified, two complete sets of tile colors representing manufacturer's full range of available colors and patterns.....	5
D.	Verification Samples: For each finish product specified, two full size samples representing actual product, color, and patterns. ....	5
E.	Certificates of Compliance: Submit to certify compliance with referenced standards. ...	5
1.6	QUALITY ASSURANCE.....	5
A.	Manufacturer Qualifications: Minimum five years documented experience producing concrete roof tile and member of Tile Roof Institute. ....	5
B.	Installer Qualifications: Minimum five years documented experience installing products specified in this section. ....	5
1.7	DELIVERY, STORAGE, AND HANDLING.....	6
A.	Store products in manufacturer's unopened packaging with labels intact until ready for installation.....	6
B.	Deliver products to project site in manufacturer's unopened pallets, labeled with data indicating compliance with specified requirements. ....	6
C.	Maintain dry storage area for products of this section until installation of products.....	6
1.8	PROJECT CONDITIONS .....	6
A.	Maintain environmental conditions (temperature, humidity, and ventilation) within limits recommended by manufacturer for optimum results. Do not install products under environmental conditions outside manufacturer's absolute limits.....	6
B.	Do not overload the roof. Distribute stacks of tile uniformly on roof at not greater than 12 inches (305 mm) in height.....	6
1.9	WARRANTY .....	6



A. Roof Tile: Westlake Royal Roofing's Transferable Limited 50-year USTile Clay Product warranty. ....	6
B. Underlayment: Westlake Royal TileSeal HT Self-Adhering Underlayment 30 Year Limited Manufacturer's Warranty.....	6
C. Underlayment: GatorSeal Granular Heavy Duty Self-Adhering Underlayment 20 Year Limited Manufacturer's Warranty.....	6
D. Underlayment: Westlake Royal Ply 40 Underlayment 10 Year Limited Manufacturer's Warranty. ....	6
E. Installation Warranty: Warrants products of this section, as installed, to be in accord with the Contract Documents and free from faults and defects in materials and workmanship for a period of 3 years after completion. ....	6
1.10 EXTRA MATERIALS .....	6
A. Provide an additional 1 percent of installed roof tiles, but not less than one full square, for Owner's use in roof maintenance.....	6
B. Furnish extra materials packaged with protective covering for storage and identified with labels clearly describing contents. ....	6
<b>PART 2 PRODUCTS.....</b>	<b>6</b>
2.1 MANUFACTURERS.....	6
A. Acceptable Manufacturer: Westlake Royal Roofing Solutions, which is located at: 2801 Post Oak, Suite 600, Houston, TX 77056; Toll Free: 800-658-8004; Email: request info (Shannon.Delgado@westlake.net); Web: <a href="https://westlakeroyalroofing.com">https://westlakeroyalroofing.com</a> .....	6
2.2 CLAY ROOF TILE .....	7
A. USTile General:.....	7
B. One-Piece Mission "S" Clay Roofing Tile with matching hip, ridge, rakes, boosters and birdstops: Standard Weight Collection. ....	7
C. One-Piece Mission "S" Clay Roofing Tile with matching hip, ridge, rakes, boosters and birdstops: Texas Standard Weight Collection Class 2 Hail Rated Tile. ....	7
2.3 ACCESSORY MATERIALS .....	7
A. Underlayment: .....	7
B. Battens: .....	7
C. Fasteners: Sized to penetrate deck minimum 3/4 inch (19 mm) or through thickness of deck or batten. ....	7
D. Rake and Gable End:.....	7
E. v/ Flashings:.....	8
F. Mortar materials, plastic cement, and sealant: Code approved adhesive suitable to bond to clay roof tile. ....	8
G. Nailers:.....	8
<b>PART 3 EXECUTION.....</b>	<b>8</b>
3.1 EXAMINATION.....	8

A. Do not begin installation until substrates have been properly prepared.....	8
B. Verify surfaces are uniform free of ridges, warp, or voids, smooth, clean, and dry.....	8
C. If substrate preparation is the responsibility of another installer, notify Architect of unsatisfactory preparation before proceeding .....	8
3.2    PREPARATION.....	8
A. Clean surfaces thoroughly prior to installation.....	8
B. Prepare surfaces using the methods recommended by the manufacturer for achieving the best result under the project conditions. ....	8
3.3    INSTALLATION - GENERAL .....	8
A. Install in accordance with manufacturer's instructions and the following:.....	8
3.4    INSTALLATION:.....	8
A. Underlayment: Install in accordance with the manufacturer's instructions. ....	8
B. Flashings: Install Ribbed Valley Metal according to Westlake Royal Roofing's installation instructions.....	8
C. Birdstops, boosters and starters for profiled tiles only:.....	9
D. Eave Closures:.....	9
E. Fasteners: .....	9
F. Install field tile in courses beginning at eave working up incline of roof deck. ....	9
G. Flashing at Curb Mounted Skylights and Other Items: .....	10
H. Flashing at Plumbing Stacks, Pipes, Turbines, Vents, etc.:.....	10
I. Coatings: Apply color coordinated paint to all exposed metal flashings. ....	10
3.5    CLEANING .....	10
A. Remove all broken tile, debris, and excess tile from roof.....	10
B. Sweep cut tiles clean. ....	10
3.6    REPAIR AND REPLACEMENT .....	10
A. Damaged Tile:.....	10
B. Damaged Small Valley and Hip Cuts:.....	10
3.7    PROTECTION .....	10
A. Protect installed products until completion of project.....	10
B. Touch-up, repair or replace damaged products before Substantial Completion. ....	10
<b>PART 4 GENERAL .....</b>	<b>10</b>
1.    SECTION INCLUDES .....	10
Traditional dome unit skylight with formed curb counterflashing for mounting on site-built or prefabricated roof curbs, for flat, low-slope and steep-slope roofing applications....	10
2.    RELATED REQUIREMENTS.....	10
Section 061053 "Miscellaneous Rough Carpentry" for site-built wood roof curbs and nailers for unit skylights. ....	10
Division 07 roofing section for flashing and roofing terminations at unit skylight curbs. ....	10



Section 077200 "Roof Accessories" for manufactured metal roof curbs for unit skylights..	10
3. REFERENCE STANDARDS.....	11
specifications, unless otherwise required by building code in force. ....	11
American Architectural Manufacturers Association ( <a href="http://www.aama.net">www.aama.net</a> ), Window & Door Manufacturers Association ( <a href="http://www.wdma.com">www.wdma.com</a> ), Canadian Standards Association ( <a href="http://www.csagroup.org/us/en/services">www.csagroup.org/us/en/services</a> ).....	11
ASTM International: <a href="http://www.astm.org">www.astm.org</a> :.....	11
Code of Federal Regulations:.....	11
Illuminating Engineering Society of North America (IESNA): <a href="http://www.ies.org">www.ies.org</a> :.....	11
Leadership in Energy and Environmental Design (LEED): <a href="http://www.usgbc.org/leed">www.usgbc.org/leed</a> .....	11
National Fenestration Rating Council: <a href="http://www.nfrccommunity.org">www.nfrccommunity.org</a> : .....	11
National Fire Protection Association: <a href="http://www.nfpa.org">www.nfpa.org</a> :.....	11
4. COORDINATION .....	11
Coordinate dimensions, locations, and details of skylight curbs [specified in Section 061053 "Miscellaneous Carpentry"] [specified in Section 077200 "Roof Accessories"] with unit skylight curb flashings. Verify requirements for roofing system terminations.....	11
Coordinate unit skylight interior termination locations with structural layout, ceiling layouts, and other ceiling-mounted items. ....	11
5. PREINSTALLATION MEETINGS .....	12
Preinstallation Conference: Conduct conference at Project site prior to delivery of unit skylight and installation of roof deck. ....	12
6. ACTION SUBMITTALS .....	12
Product Data: For unit skylights. Include standard construction details, product performance characteristics, and material descriptions, dimensions of individual components and profiles, and finishes. ....	12
LEED Submittals:.....	12
Shop Drawings: For unit skylight work. Include plans, elevations, sections, details, and connections to supporting structure and other adjoining work. ....	12
7. INFORMATIONAL SUBMITTALS .....	12
8. CLOSEOUT SUBMITTALS .....	12
Operation and Maintenance Data.....	12
9. QUALITY ASSURANCE.....	12
Manufacturer Qualifications: A qualified manufacturer listed in this Section with minimum 30 years' experience in the US manufacturing similar products in successful use on similar projects and able to provide unit skylights meeting requirements. ....	12
10. WARRANTY .....	12
Manufacturer's Warranty: Manufacturer's standard form in which manufacturer agrees to repair or replace components of skylights that fail in materials or workmanship under normal use within specified warranty period. ....	12

<b>PART 5 PRODUCTS</b> .....	<b>13</b>
1. MANUFACTURERS.....	13
Basis-of-Design Product: Subject to compliance with requirements, provide products of <b>VELUX America LLC</b> , Greenwood, SC 29648, <a href="http://www.veluxusa.com">www.veluxusa.com</a> .....	13
Substitutions: See Article 7 – General Construction Provisions; 7.7 Substitutions.....	13
Source Limitations: Obtain unit skylights through single source from single manufacturer.....	13
2. ECOSKY TRADITIONAL DOME UNIT SKYLIGHT ([Curb Mount Model CMT-] [Deck Mount Model DMT-]) .....	13
System Description: Traditional dome, [curb] [deck] mounted fixed skylight utilizing extruded aluminum frame counter-flashing with welded corners, a PVC inner frame allowing condensation drainage, structural sealant, [integral double sided insulated aluminum curb] and accessories, as required to meet installation and performance requirements indicated. Traditional dome skylights shall be suitable for installation on roof pitches ranging from 0 degrees up to 60 degrees from horizontal.....	13
Thermoformed Traditional Dome: Outer dome shall be formed from smooth sheet and not prismatic in order to transmit all incident daylight through outer dome.....	14
Aluminum Frame Counter-flashing: Maintenance-free, extruded aluminum, grade 6063-T6, 0.08 inch (2.0 mm) thick with [mill] [neutral grey powder coat] finish. Counter-flashing frames completely welded in corners and counter flashes curb a minimum of 1.625 inches (41 mm). Provide aluminum frame with at least 0.5 inch (12 mm) continuous ledge on each side of the skylight that is a pinch free access for stacking, manual transportation and mounting of skylights.....	14
100% Thermally Broken PVC inner-frame for Condensation Drainage: Factory applied white PVC inner-frame assembly providing a thermal break weather seal and drainage for condensation. The inner-frame design allows positive condensation to the exterior of the curb without exposed drainage openings in the aluminum frame that can introduce air infiltration into the skylight. The PVC inner-frame construction consists of coextruded fins allowing for a dry installation of skylight to the curb, eliminating weather seal strips or caulking at the top of the curb. ....	14
Structural Sealant: Factory applied InstantGlaze sealant, bonding the dome to the aluminum frame and suitable for external exposure. ....	14
2. ACCESSORIES-CURBS:.....	14
Steel Curb: Curb width and length designation shall be sized as indicated on drawings Curb height shall be [9] [12] [16] [18] inches and nominal curb thickness shall be 1.5 inches.....	14
b. Aluminum Curb: Factory insulated aluminum curb, 1.5 inches in thickness with 22 gauge (0.025”) white finished aluminum interior and 20 gauge (0.032” mill finished aluminum exterior. Curb factory insulated with 1.5 inches of expanded polystyrene board having a 5.8 R-value. Width and length of curb shall be as indicated with [9] [12] [16] inch curb height. Curb roof mounting flange shall be a minimum 2.75 inches in width. Basis of Design: VELUX America LLC, Model CCAW. ....	15
3. ACCESSORIES-FALL PROTECTION AND SECURITY .....	15

Interior safety screen accessory: Fall protection safety screen constructed from 0.1875 inch steel mesh with a 6 inch on center grid spacing welded to 18 gauge steel z-bar support frame continuous on each side with welded corners. Interior safety screen frame mounts to top of 1.5 inches curb with safety screen mesh located not more than 1.5 inches below top of curb. Safety screen factory are galvanized finish. Safety screen shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Interior safety screen accessory width and length designation shall be sized as indicated on drawings Basis of Design: VELUX America LLC, Model CRGA xxxx ICD.15	
Exterior safety screen accessory: Fall protection screen attaches directly to the skylight frame and provides fall protection coverage over the exterior of the skylight dome. Safety screen constructed from a minimum 0.1875 inches steel mesh with a 4 inch on center grid spacing. Exterior safety screen shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Safety screen accessory width and length designation shall be sized as indicated on drawings Basis of Design: VELUX America LLC, Model CAE. ....	15
Interior security bars accessory: Security bars accessory constructed from 0.5 inch cold rolled steel [with a 8 inch on-center grid spacing welded to 18 gauge steel z-bar support frame continuous on each side with welded corners.] [with 5 inch on-center spacing parallel to short side welded to 0.125 inch steel z-bar support frame continuous along sides.] Accessory frame mounts to top of 1.5 inches curb with security bars located less than 1 inch below top of curb. Security bars accessory has a galvanized finish. Internal security bars accessory shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Size shall be as indicated on drawings Basis of Design: VELUX America LLC, Model CRGA BB or CRGA SB. ....	15
4. PERFORMANCE REQUIREMENTS .....	15
Daylighting: Provide daylighting photometric performance comparable to basis of design product at layout indicated, based upon daylighting profile of March 21, 9:00 am local time, at Project location by simulation in accordance with IESNA guidelines.....	15
Dome Smoke Density Rating: Testing in accordance with ASTM D 2843 with a documented performance value less than or equal to 75. ....	15
Dome Self-Ignition Temperature: Tested in accordance with ASTM D 1929 with a documented performance value greater than or equal to 650 degrees Fahrenheit.....	15
Energy Performance ratings for any size commercial [CMT- curb] [DMT- deck] mounted unit skylight with traditional dome as follows: .....	16
Fall Protection Standard Compliance: 29 CFR 1910.29: Skylight [dome], [safety screen] [security bars] tested to support a minimum of 400 pounds over 1 square foot of the surface. ....	16
5. MATERIALS .....	16
Joint Sealants: As specified in Section 079200 "Joint Sealants." .....	16

Mastic Sealants: Polyisobutylene; nonhardening, nonskinning, nondrying, nonmigrating sealant. ....	16
6. FINISHES .....	16
Comply with NAAMM's "Metal Finishes Manual for Architectural and Metal Products" for recommendations for applying and designating finishes. ....	16
Appearance of Finished Work: Noticeable variations in same piece are not acceptable. Variations in appearance of adjoining components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast. ....	16
3. EXECUTION .....	16
1. EXAMINATION .....	16
Examine openings, substrates, structural support, anchorage, and conditions, with Installer present, for compliance with requirements for installation tolerances and other conditions affecting performance of the Work.....	16
Proceed with unit skylight installation only after unsatisfactory conditions have been corrected. ....	16
2. INSTALLATION .....	16
Install unit skylights in accordance with manufacturer's written instructions and approved shop drawings. Coordinate installation of units with installation of substrates, air and vapor retarders, roof insulation, roofing membrane, and flashing as required to ensure that each element of the Work performs properly and that finished installation is weather tight. ....	16
Where metal surfaces of unit skylights will contact incompatible metal or corrosive substrates, including preservative-treated wood, apply bituminous coating on concealed metal surfaces, or provide other permanent separation recommended in writing by unit skylight manufacturer. ....	17
For custom flashings, install unit skylight curb counter-flashing to produce weatherproof seal with curb and overlap with roofing system termination at top of curb. ....	17
3. FIELD QUALITY CONTROL .....	17
Work will be considered defective if it does not pass inspections. ....	17
Additional testing and inspections, at Contractor's expense, will be performed to determine compliance of replaced or additional work with specified requirements. ....	17
Prepare inspection reports.....	17
4. CLEANING AND PROTECTION.....	17
Clean exposed unit skylight surfaces according to manufacturer's written instructions. Touch up damaged metal coatings and finishes. Remove excess sealants, glazing materials, dirt, and other substances.....	17
Replace glazing that has been damaged during construction period. ....	17
Protect unit skylight surfaces from contact with contaminating substances resulting from construction operations. ....	17

## NOTICE INVITING BIDS

1. **Bid Submission.** The City of Morgan Hill ("City"), will accept sealed bids for its Council Chamber Roof Replacement Project ("Project"), by or before Wednesday, June 11, 2025, at 11:30 a.m., at CITY HALL-DEVELOPMENT SERVICES CENTER, located at 17575 PEAK AVENUE MORGAN HILL, California, at which time the bids will be publicly opened and read aloud.

2. **Project Information.**

**2.1 Location and Description.** The Project is located at the Morgan Hill Council Chamber Building – 17555 Peak Avenue, Morgan Hill, CA 95037, and is described as follows:

The removal and replacement of approximately 18,000 SF of roof including clay tiles, roofing squares, underlayment, sheet metal and accessories.

**2.2 Time for Final Completion.** The Project must be fully completed within **45 calendar days** from the start date set forth in the Notice to Proceed. City anticipates that the Work will begin in July 2025, but the anticipated start date is provided solely for convenience and is neither certain nor binding.

3. **License and Registration Requirements.**

**3.1 License.** This Project requires a valid California Contractor's State Licensing Board (CSLB) contractor's license for the following classification(s): **C-39** Roofing contractor OR **B** General Building contractor **with C-39 subcontractor**

**3.2 DIR Registration.** City will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work pursuant to Labor Code Section 1725.5, subject to limited legal exceptions.

4. **Contract Documents.** The plans, specifications, bid forms and contract documents for the Project, and any addenda thereto ("Contract Documents") may be obtained from the City of Morgan Hill, at 17575 Peak Avenue, Morgan Hill, CA, (408) 778-6480. Electronic copies of the Contract Documents are available on USB thumb drive for twenty-five dollars (\$25.00). If mailing by USPS, a ten-dollar (\$10.00) charge will be added. To download plans and specifications at no charge, register at [www.publicpurchase.com](http://www.publicpurchase.com).

5. **Bid Proposal and Security.**

**5.1 Bid Proposal Form.** Each Bid must be submitted using the Bid Proposal form provided with the Contract Documents.

**5.2 Bid Security.** The Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's or certified check made payable to City of Morgan Hill, or a bid bond executed by a surety licensed to do business in the State of California on the Bid Bond form included with the Contract Documents. The bid security must guarantee that within ten (10) days after City issues the Notice of Award, the successful bidder will execute the Contract and submit payment and performance bonds, insurance certificates and endorsements, valid Certificates of Reported Compliance as required under the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), if applicable, and any other submittals required by the Contract Documents and the Notice of Award.

## **6. Prevailing Wage Requirements.**

**6.1 General.** Pursuant to California Labor Code Section 1720 *et seq.*, this Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.

**6.2 Rates.** The prevailing rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

**6.3 Compliance.** The Contract will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations, pursuant to Labor Code Section 1771.4.

- 7. Performance and Payment Bonds.** The successful bidder will be required to provide performance and payment bonds each for one hundred percent of the Contract Price as further described in the Contract Documents.
- 8. Substitution of Securities.** Substitution of appropriate securities in lieu of retention amounts from progress payments is permitted under Public Contract Code Section 22300.
- 9. Subcontractor List.** Each Subcontractor must be registered with the DIR to perform work on public projects. Each bidder must submit a completed Subcontractor List form with its Bid Proposal, including the name, location of the place of business, California contractor license number and DIR

registration number and percentage of the Work to be performed (based on the base bid price) for each Subcontractor who will perform Work or service or fabricate or install Work for the prime contractor in excess of one-half (1/2) of one percent (1%) of the bid price, using the Subcontractor List form included with the Contract Documents. For street or highway construction, this requirement applies to any subcontract of \$10,000 or more.

10. **Instructions to Bidders.** All bidders should carefully review the Instructions to Bidders for more detailed information before submitting a Bid Proposal. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, as defined therein, including this Notice Inviting Bids.
11. **Mandatory Bidders' Conference and Job Walk.** A bidders' conference and job walk will be held on **Monday, June 2, 2025 at 10:30 a.m.**, at the following location: **Council Chamber Building at 17555 Peak Avenue, Morgan Hill** for the purpose of acquainting all prospective bidders with the Contract Documents and the Worksite. **The bidders' conference is mandatory.** A bidder who fails to attend the mandatory bidders' conference may be disqualified from bidding.

By: Michelle Bigelow, City Clerk

Publication Dates: 1) May 23, 2025

2) May 30, 2025

END OF NOTICE INVITING BIDS



## INSTRUCTIONS TO BIDDERS

Each Bid Proposal submitted to the City of Morgan Hill ("City") for its Council Chamber Building Roof Replacement ("Project") must be submitted in accordance with the following instructions and requirements:

### 1. Bid Submission.

**1.1 General.** Each Bid Proposal must be signed, sealed and submitted to City, using the form provided in the Contract Documents, by or before the date and time set forth in Section 1 of the Notice Inviting Bids, or as amended by subsequent addendum. Faxed or emailed Bid Proposals will not be accepted, unless otherwise specified. Late submissions will be returned unopened. City reserves the right to postpone the date or time for receiving or opening bids. Each bidder is solely responsible for all of its costs to prepare and submit its bid and by submitting a bid waives any right to recover those costs from City. The bid price(s) must include all costs to perform the Work as specified, including all labor, materials, supplies, and equipment and all other direct or indirect costs such as applicable federal, state and local taxes, insurance and overhead.

**1.2 Bid Envelope.** The envelope containing the sealed Bid Proposal and all required forms and attachments must be clearly labeled and addressed as follows:

BID PROPOSAL  
Morgan Hill Development Services Center  
Council Chamber Building Roof Replacement  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
Attention: Bid Opening  
Bid Date: Wednesday, June 11, 2025  
Bid Time: 11:30 a.m.

The envelope must also be clearly labeled, as follows, with the bidder's name, address, and its registration number with the California Department of Industrial Relations ("DIR") for bidding on public works contracts (Labor Code sections 1725.5 and 1771.1):

*[Contractor company name]*  
*[Street address]*  
*[City, state, zip code]*  
DIR Registration No. \_\_\_\_\_

**1.3 DIR Registration.** Subject to limited legal exceptions for joint venture bids and federally-funded projects, City will not accept a Bid Proposal from a bidder without proof that the bidder is registered with the DIR to perform public work under Labor Code Section 1725.5. If City is unable to confirm that the bidder is currently registered with the DIR, City may disqualify the bidder and return its bid unopened (Labor Code Section 1725.5 and 1771.1(a)).

- 2. Bid Proposal Form and Enclosures.** Each Bid Proposal must be completed in ink using the Bid Proposal form included with the Contract Documents. The Bid Proposal form must be fully completed without interlineations, alterations, or erasures. Any necessary corrections must be clear and legible and must be initialed by the bidder's authorized representative. A Bid Proposal submitted with exceptions or terms such as "negotiable," "will negotiate," or similar, will be considered nonresponsive. Each Bid Proposal must be accompanied by bid security, as set forth in Section 4 below, and by a completed Subcontractor List and NonCollusion Declaration using the forms included with the Contract Documents, and any other required enclosures, as applicable.
  - 3. Authorization and Execution.** Each Bid Proposal must be signed by the bidder's authorized representative. A Bid Proposal submitted by a partnership must be signed in the partnership name by a general partner with authority to bind the partnership. A Bid Proposal submitted by a limited liability company (LLC) must be signed in the name of the LLC by a member or manager with authority to bind the LLC. A Bid Proposal submitted by a corporation must be signed with the legal name of the corporation, followed by the signature and title of an officer of the corporation with full authority to bind the corporation to the terms of the Bid Proposal.
  - 4. Bid Security.** Each Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's check or certified check, made payable to the City, or bid bond using the form included in the Contract Documents and executed by a surety licensed to do business in the State of California. The bid security must guarantee that, within ten days after issuance of the Notice of Award, the bidder will: execute and submit the enclosed Contract for the bid price; submit payment and performance bonds for 100% of the maximum Contract Price; submit the insurance certificates and endorsements; and submit valid Certificates of Reported Compliance as required by the Off-Road Regulation, if applicable, and any other submittals, if any, required by the Contract Documents or the Notice of Award.
- 4.1 Withdrawal of Bid Proposals.** A Bid Proposal may not be withdrawn for a period of 90 days after the bid opening without forfeiture of

the bid security, except as authorized for material error under Public Contract Code Section 5100 *et seq.*

5. **Requests for Information.** Questions or requests for clarifications regarding the Project, the bid procedures, or any of the Contract Documents must be submitted in writing to Cynthia Iwanaga, Management Analyst at [cynthia.iwanaga@morganhill.ca.gov](mailto:cynthia.iwanaga@morganhill.ca.gov). Oral responses are not authorized and are not binding on the City. **Bidders should submit written inquiries no later than Wednesday, June 4, 2025 @ 5:00 p.m. to [cynthia.iwanaga@morganhill.ca.gov](mailto:cynthia.iwanaga@morganhill.ca.gov).** Questions received after the deadline may not be addressed before the bid due date. An interpretation or clarification by City in response to a written inquiry will be issued in an addendum.

6. **Pre-Bid Investigation.**

**6.1 General.** Each bidder is solely responsible at its sole expense for diligent and thorough review of the Contract Documents, examination of the Project site, and reasonable and prudent inquiry concerning known and potential site and area conditions prior to submitting a Bid Proposal. Each bidder is responsible for knowledge of conditions and requirements which reasonable review and investigation would have disclosed. However, except for any areas that are open to the public at large, bidders may not enter property owned or leased by the City or the Project site without prior written authorization from City.

**6.2 Document Review.** Each bidder is responsible for review of the Contract Documents and any informational documents provided “For Reference Only,” e.g., as-builts, technical reports, test data, and the like. A bidder is responsible for notifying City of any errors or omissions, inconsistencies, or conflicts it discovers in the Contract Documents prior to submitting a Bid Proposal, subject to the limitations of Public Contract Code Section 1104. Notification of any such errors, omissions, inconsistencies, or conflicts must be submitted in writing to the City no later than five Working Days before the scheduled bid opening. (See Section 5, above.) City expressly disclaims responsibility for assumptions a bidder might draw from the presence or absence of information provided by City.

**6.3 Project Site.** Questions regarding the availability of soil test data, water table elevations, and the like should be submitted to the City in writing, as specified in Section 5, above. Any subsurface exploration at the Project site must be done at the bidder’s expense, but only with prior written authorization from City. All soil data and analyses available for inspection or provided in the Contract Documents apply only to the test hole locations. Any water table elevation indicated by a soil test report existed on the date the test hole was drilled. The bidder is responsible for determining and

allowing for any differing soil or water table conditions during construction. Because groundwater levels may fluctuate, difference(s) in elevation between ground water shown in soil boring logs and ground water actually encountered during Project construction will not be considered changed Project site conditions. Actual locations and depths must be determined by bidder's field investigation. The bidder may request access to underlying or background information on the Project site in City's possession that is necessary for the bidder to form its own conclusions, including, if available, record drawings or other documents indicating the location of subsurface lines, utilities, or other structures.

**6.4 Utility Company Standards.** The Project must be completed in a manner that satisfies the standards and requirements of any affected utility companies or agencies (collectively, "utility owners"). The successful bidder may be required by the third-party utility owners to provide detailed plans prepared by a California registered civil engineer showing the necessary temporary support of the utilities during coordinated construction work. Bidders are directed to contact the affected third-party utility owners about their requirements before submitting a Bid Proposal.

7. **Bidders Interested in More Than One Bid.** No person, firm, or corporation may submit or be a party to more than one Bid Proposal unless alternate bids are specifically called for. However, a person, firm, or corporation that has submitted a subcontract proposal or quote to a bidder may submit subcontract proposals or quotes to other bidders.
  8. **Addenda.** Subject to the limitations of Public Contract Code section 4104.5, City reserves the right to issue addenda prior to bid time. Any addenda issued prior to the bid opening are part of the Contract Documents. Each bidder is solely responsible for ensuring it has received and reviewed all addenda prior to submitting its bid. Bidders should check City's website periodically for any addenda or updates on the Project at: <http://www.publicpurchase.com>.
  9. **Brand Designations and "Or Equal" Substitutions.** Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate quality and type of item or service desired, and bidders may request use of any equal material, product, thing, or service. All data substantiating the proposed substitute as an "equal" item or service must be submitted with the written request for substitution. This provision does not apply to materials, products, things, or services that may lawfully be designated by a specific brand or trade name under Public Contract Code Section 3400(c).
- 9.1 Pre-Bid Requests.** Any request for submission made before the Contract is awarded must be submitted to the City Engineer at least ten (10)

days before the opening of bids so that all interested bidders may be notified of any approved alternative.

**9.2 Post-Award Requests.** After the Contract is awarded, Contractor may submit a substitution within fourteen (14) days after the date of award of the Contract, or as specified in the Special Conditions.

- 10. Bid Protest.** Any bid protest against another bidder must be submitted in writing and received by City at the City Attorney's Office at 17575 Peak Avenue, Morgan Hill, CA, (Fax: (408) 779-1592 or Email to [cityattorney@morganhill.ca.gov](mailto:cityattorney@morganhill.ca.gov)), before 5:00 p.m. no later than two Working Days following bid opening ("Bid Protest Deadline") and must comply with the following requirements:

**10.1 General.** Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by City, the protesting bidder must submit a non-refundable fee in the amount specified by City, based upon City's reasonable costs to administer the bid protest. Any such fee must be submitted to City no later than the Bid Protest Deadline, unless otherwise specified. For purposes of this Section 10, a "Working Day" means a day that City is open for normal business, and excludes weekends and holidays observed by City. Pursuant to Public Contract Code Section 4104, inadvertent omission of a Subcontractor's DIR registration number on the Subcontractor List form is not grounds for a bid protest, provided it is corrected within 24 hours of the bid opening or as otherwise provided under Labor Code Section 1771.1(b).

**10.2 Protest Contents.** The bid protest must contain a complete statement of the basis for the protest and must include all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the protesting bidder and any person submitting the protest on behalf of or as an authorized representative of the protesting bidder.

**10.3 Copy to Protested Bidder.** Upon submission of its bid protest to City, the protesting bidder must also concurrently transmit the protest and all supporting documents to the protested bidder, and to any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest, by email or hand delivery to ensure delivery before the Bid Protest Deadline.

**10.4 Response to Protest.** The protested bidder may submit a written response to the protest, provided the response is received by City before 5:00 p.m., within two Working Days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the “Response Deadline”). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person responding on behalf of or representing the protested bidder if different from the protested bidder.

**10.5 Copy to Protesting Bidder.** Upon submission of its response to the bid protest to City, the protested bidder must also concurrently transmit by email or hand delivery, by or before the Response Deadline, a copy of its response and all supporting documents to the protesting bidder and to any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

**10.6 Exclusive Remedy.** The procedure and time limits set forth in this Section are mandatory and are the bidder’s sole and exclusive remedy in the event of a bid protest. A bidder’s failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

**10.7 Right to Award.** City reserves the right, acting in its sole discretion, to reject any bid protest that it determines lacks merit, to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a Notice to Proceed with the Work notwithstanding any pending or continuing challenge to its determination.

- 11. Reservation of Rights.** City reserves the unfettered right, acting in its sole discretion, to waive or to decline to waive any immaterial bid irregularities; to accept or reject any or all bids; to cancel or reschedule the bid; to postpone or abandon the Project entirely; or to perform all or part of the Work with its own forces. The Contract will be awarded, if at all, within ninety days after opening of bids or as otherwise specified in the Special Conditions, to the responsible bidder that submitted the lowest responsive bid. Any planned start date for the Project represents the City’s expectations at the time the Notice Inviting Bids was first issued. City is not bound to issue a Notice to Proceed by or before such planned start date, and it reserves the right to issue the Notice to Proceed when the City determines, in its sole discretion, the appropriate time for commencing the Work. The City expressly disclaims responsibility for any assumptions a bidder might draw from the presence or absence of information provided by the City in any form. Each bidder is solely responsible for its costs to prepare and submit a bid, including site investigation costs.

12. **Bonds.** Within ten calendar days following City's issuance of the Notice of Award to the apparent low bidder, the bidder must submit payment and performance bonds to City as specified in the Contract Documents using the bond forms included in the Contract Documents. All required bonds must be calculated on the maximum total Contract Price as awarded, including additive alternates, if applicable.
13. **License(s).** The successful bidder and its Subcontractor(s) must possess the California contractor's license(s) in the classification(s) required by law to perform the Work. The successful bidder must also obtain a City business license within ten days following City's issuance of the Notice of Award. Subcontractors must also obtain a City business license before performing any Work.
14. **Ineligible Subcontractor.** Any Subcontractor who is ineligible to perform work on a public works project under Labor Code Sections 1777.1 or 1777.7 is prohibited from performing work on this Project.
15. **In-Use Off-Road Diesel-Fueled Fleets.** If the Project involves the use of vehicles subject to the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), then within ten calendar days following City's issuance of the Notice of Potential Award to the successful bidder, the bidder must submit to City valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the Off-Road Regulation, unless exempt under the Off-Road Regulation.
16. **Additive and Deductive Alternates.** As required by Public Contract Code Section 20103.8, if this bid solicitation includes additive or deductive items, the method checked below will be used to determine the lowest bid. If no method is checked, subparagraph (a) will be used to determine the lowest bid. City retains the right to add to or deduct from the Contract any of the additive or deductive alternates included in the Bid Proposal.

  X   (a) The lowest bid will be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.

       (b) The lowest bid will be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation or Bid Proposal as being used for the purpose of determining the lowest bid price.

       (c) The lowest bid will be the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a specifically identified list of those items that, when in the solicitation, and added to, or



subtracted from, the base contract, are less than, or equal to, a funding amount publicly disclosed by City before the first bid is opened.

\_\_\_\_\_ (d) The lowest bid will be determined in a manner that prevents any information that would identify any of the bidders or the proposed subcontractors or suppliers from being revealed to City before the ranking of all bidders from lowest to highest has been determined.

17. **Bidder's Questionnaire.** A completed, signed Bidder's Questionnaire using the form provided with the Contract Documents and including all required attachments must be submitted within 48 hours following a request by City. A bid that does not fully comply with this requirement may be rejected as nonresponsive. A bidder who submits a Bidder's Questionnaire which is subsequently determined to contain false or misleading information, or material omissions, may be disqualified as non-responsible.
18. **Bid Schedule.** Each bidder must complete the Bid Schedule form with unit prices as indicated, and submit the completed Bid Schedule with its Bid Proposal.
  1. **Incorrect Totals.** In the event a computational error for any bid item (base bid or alternate) results in an incorrect extended total for that item, the submitted base bid or bid alternate total will be adjusted to reflect the corrected amount as the product of the estimated quantity and the unit cost. In the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid, and the amount entered as the base bid on the Bid Proposal form, the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid will be deemed the base bid price. Likewise, in the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for any bid alternate, and the amount entered for the alternate on the Bid Proposal form, the actual total of the itemized prices shown on the Bid Schedule for that alternate will be deemed the alternate price. Nothing in this provision is intended to prevent a bidder from requesting to withdraw its bid for material error under Public Contract Code § 5100 et seq.
  2. **Estimated Quantities.** The quantities shown on the Bid Schedule are estimated and the actual quantities required to perform the Work may be greater or less than the estimated amount. The Contract Price will be adjusted to reflect the actual quantities required for the Work based on the itemized or unit prices provided in the Bid Schedule, with no allowance for anticipated profit for quantities that are deleted or decreased, and no increase in the unit price, and

without regard to the percentage increase or decrease of the estimated quantity and the actual quantity.

- 19. Estimated Cost.** The estimated construction cost is \$346,000 to \$361,000.

---

END OF INSTRUCTIONS TO BIDDERS

**BID PROPOSAL**  
**COUNCIL CHAMBER BLDG. ROOF REPLACEMENT PROJECT**

\_\_\_\_\_ (“Bidder”) hereby submits this Bid Proposal to the City of Morgan Hill (“City”) for the above-referenced project (“Project”) in response to the Notice Inviting Bids and in accordance with the Contract Documents referenced therein.

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

\$ \_\_\_\_\_.

2. **Addenda.** Bidder agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Bid. Bidder waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Bidder specifically acknowledges receipt of the following addenda:

Addendum:	Date Received:	Addendum:	Date Received:
#01	_____	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

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

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

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

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

- 3.4 Responsibility for Bid.** Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid. All statements and information provided in this Bid Proposal and enclosures are true and correct to the best of Bidder's knowledge.
- 3.5 Nondiscrimination.** In preparing this Bid, the Bidder has not engaged in discrimination against any prospective or present employee or Subcontractor on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status.
- 3.6 Iran Contracting Act if the Contract Price Exceeds \$1,000,000.** Bidder certifies that it is not identified on a list created under the Iran Contracting Act, Public Contract Code Section 2200 *et seq.* (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 4. Award of Contract.** By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, then within ten days following issuance of the Notice of Award to Bidder, Bidder will do all of the following:
- 4.1 Execute Contract.** Enter into the Contract with City in accordance with the terms of this Bid Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;
- 4.2 Submit Required Bonds.** Submit to City a payment bond and a performance bond, each for one hundred percent (100%) of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents;
- 4.3 Insurance Requirements.** Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents; and
- 4.4 Certificates of Reported Compliance.** Submit to City valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, if the Project involves the use of vehicles subject to the Off-Road Regulation. (See Section 16 of the Instructions to Bidders.)
- 5. Wage Theft Prevention.** All Bidders are expected to have read and understand the "Wage Theft Prevention Policy" adopted by the City Council on July 26, 2017 as further described in Section 9.6 of the General Conditions.

The undersigned Bidder certifies that neither Bidder nor its principals have been found by a final court judgement or final administrative action of an investigatory agency to have violated federal, state or local wage and hour laws within the past five years from the date of the submitted bid. Bidder or its principals who are unable to so certify, must disclose wage and hour violations, and shall provide a copy of (i) the court order and judgment and/or final administrative decision; and (ii) documents demonstrating either that the order/judgment has been satisfied, or if the order/judgment has not been fully satisfied, a written and signed description of Bidder's efforts to date to satisfy the order/judgment. Signing this bid shall constitute signature of this Certification.

The City, at its sole discretion, may disqualify a bidder based on one or more disclosed judgments consistent with the criteria set forth in the Policy.

6. **Bid Security.** As a guarantee that if awarded the Contract, Bidder will perform its obligations under Section 4 above Bidder is enclosing bid security in the amount of ten percent (10%) of its maximum bid amount in one of the following forms (check one):

\_\_\_\_\_ A cashier's check or certified check payable to City of Morgan Hill and issued by \_\_\_\_\_ Bank in the amount of \$\_\_\_\_\_.

\_\_\_\_\_ A bid bond, using the Bid Bond form included with the Contract Documents, payable to City of Morgan Hill and executed by a surety licensed to do business in the State of California.

This Bid Proposal is hereby submitted on \_\_\_\_\_, 20\_\_:

s/ \_\_\_\_\_

\_\_\_\_\_  
Name and Title [print]

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
CSLB License # & Classification;  
Expiration Date

\_\_\_\_\_  
DIR Registration #      Exp. Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

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

\_\_\_\_\_  
Email address

END OF BID PROPOSAL

## BID SCHEDULE I – GENERAL

### COUNCIL CHAMBER BUILDING ROOF REPLACEMENT

NAME OF BIDDER: \_\_\_\_\_

**This Bid Schedule must be completed and included with the sealed Bid Proposal.** Pricing must be provided for each Bid Item as indicated. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total Amount" column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal Form. Quantities shown are required for bid purposes and may or may not be final pay quantities. Actual quantities, if different, must be substantiated during the Project by the Contractor (either by field measurement, trucking tags, or other means acceptable to the City's Project Manager).

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

Bid Item No.	Description of Bid Item	Estimated Quantity/Unit of Measure	Unit Price	Extended Total Amount
<b>Tile Roof/Low Sloped Roof Replacement Per Specifications</b>				
1	Remove & Replace Tile Per Specifications & Scope	Approximately 14,520 SF	\$	\$
2	Low Sloped Roof Replacement Cost per Specifications	Approximately 3,700 SF	\$	\$
<b>Line-Item Costs</b>				
3	Cost to replace built-in gutters with 24 gauge bonderized sheet metal	Approximately 550 LF	\$	\$
4	Cost to add & install gutter screens at all gutters	550 LF	\$	\$
5	New Bilco Roof Hatch supply & Install cost each	EA	\$	\$
6	New SafePro Safety Hatch Rail supply & install cost each	EA	\$	\$
Bid Schedule I Total				

\*Final Pay Quantity

**TOTAL BASE BID:** Items 1 through 6 inclusive: \$ \_\_\_\_\_

**Note:** The amount entered as the "Total Base Bid" should be identical to the Base Bid amount entered in Section 1 of the Bid Proposal form.

**HOURLY RATES per person hour:**

#	Description	Hourly Rate
1	Laborer Shop Rate (M-F: 8:00 a.m. – 5:00 p.m.)	\$
2	Apprentice Shop Rate (M-F: 8:00 a.m. – 5:00 p.m.)	\$
3	Journeyman Shop Rate (M-F: 8:00 a.m. -5:00 p.m.)	\$
4	Laborer Overtime Rate (M-F: 5:00 p.m. – 8:00 a.m..)	\$
5	Apprentice Overtime Rate (M-F: 5:00 p.m. – 8:00 a.m.)	\$
6	Journeyman Overtime Rate (M-F: 5:00 p.m. -8:00 a.m.)	\$

**BID ALTERNATES.** Bidder submits the following prices for the specified bid alternates:

#	Description	ADD Amount
Bid Alternate #1	Tile Roof/Low Sloped Roof Replacement per Specification Provide and Install R-10 Rigid Polyiso Insulation to meet CA Title 24 Cost per SF	PER SF
Bid Alternate #2	Framing & Sheathing at Transition/Upper Tile Roof to Lower Tile Roof – Amount to be field verified – Cost per SF	PER SF
Bid Alternate #3	Cost to replace 5/8" plywood sheathing – Cost per sheet each	PER SHEET EA

END OF BID SCHEDULE



## SUBCONTRACTOR LIST

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

**Bidders: Please print legibly. Illegible forms may be rejected.**

☐ Check box if no subcontractors.

DESCRIPTION OF WORK	SUBCONTRACTOR NAME	CALIFORNIA CSLB CONTRACTOR LICENSE NUMBER	DIR PW CONTRACTOR NO.	LOCATION OF BUSINESS	LOCAL VENDOR <sup>2</sup> YES/NO	PERCENT OF WORK

END OF SUBCONTRACTOR LIST

<sup>1</sup> For street or highway construction this requirement applies to any subcontract of \$10,000 or more.

<sup>2</sup> A Subcontractor is considered local if its principal place of business is within the city limits of Morgan Hill.

## NONCOLLUSION DECLARATION

(To be executed by bidder and submitted with bid)

State of California	)	ss.
	)	
County of _____	)	

The undersigned declares:

I am the \_\_\_\_\_ [title] of  
\_\_\_\_\_ [business name], the party making the  
foregoing bid.

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

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_  
[date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

s/ \_\_\_\_\_

\_\_\_\_\_  
Name [print]

## BID BOND

\_\_\_\_\_ (“Bidder”) has submitted a bid, dated \_\_\_\_\_, 20\_\_\_\_ (“Bid”), to the City of Morgan Hill (“City”) for work on the Morgan Hill Council Chamber Building Roof Replacement (“Project”). Under this duly executed bid bond (“Bid Bond”), Bidder as Principal and \_\_\_\_\_, its surety (“Surety”), are bound to City as obligee in the penal sum of ten percent (10%) of the maximum amount of the Bid (the “Bond Sum”). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. **Submittals.** Within ten days following issuance of the Notice of Award to Bidder, Bidder must submit to City the following:
  - 2.1 **Contract.** The executed Contract, using the form provided by City in the Project contract documents (“Contract Documents”);
  - 2.2 **Payment Bond.** A payment bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
  - 2.3 **Performance Bond.** A performance bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents;
  - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents; and
  - 2.5 **Certificates of Reported Compliance.** Valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) (“Off-Road Regulation”), if the Project involves the use of vehicles subject to the Off-Road Regulation; and any other documents required by the Instructions to Bidders or Notice of Award.
3. **Enforcement.** If Bidder fails to execute the Contract or to submit the bonds, insurance certificates and endorsements, and valid Certificates of Reported Compliance, as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

- 4. Duration and Waiver.** If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise it will remain in full force and effect for ninety days following the bid opening or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code Sections 2819 and 2845.

This Bid Bond is entered into and is effective on \_\_\_\_\_, 20\_\_\_\_\_.

SURETY:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

(Attach Acknowledgement, Notary Seal, and Attorney-In-Fact Certificate)

CONTRACTOR:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Donald A. Larkin, City Attorney

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

## BIDDER'S QUESTIONNAIRE

### MORGAN HILL COUNCIL CHAMBER BLDG. ROOF REPLACEMENT

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

#### Part 1: General Information

Bidder Business Name: \_\_\_\_\_ ("Bidder")

Check One: ☐ Corporation State of Incorporation \_\_\_\_\_  
☐ Limited Liability Company/State of Formation \_\_\_\_\_  
☐ Partnership  
☐ Sole Proprietorship  
☐ Joint Venture of: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

Main Office Address:

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Local Office Address and Phone: \_\_\_\_\_

\_\_\_\_\_

Website address: \_\_\_\_\_

Owner of Business: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Contact phone and email: \_\_\_\_\_

Bidder's California Contractor's License Number(s): \_\_\_\_\_

Bidder's DIR Registration Number: \_\_\_\_\_

## **Part 2: Bidder Experience**

1. How many years has Bidder been in business under its present business name?  
\_\_\_\_\_ years

2. Has Bidder completed projects similar in type and size to this Project as a general contractor? ☐ Yes ☐ No

3. Has Bidder ever been disqualified from a bid on grounds that it is not responsible, or otherwise disqualified or debarred from bidding under state or federal law?

☐ Yes ☐ No

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

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

☐ Yes ☐ No

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

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

5.1 Six most recently completed public works projects within the last three years;

5.2 Three largest completed projects within the last three years; and

5.3 Any project which is similar to this Project including scope and character of the work.

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

- 6.1 Project name
- 6.2 Location
- 6.3 Owner
- 6.4 Owner contact (name, address, email, and phone number)
- 6.5 Prime contractor, if applicable (name, address, email, and phone number);
- 6.6 Architect or engineer name
- 6.7 Architect or engineer contact (name, email and phone number)
- 6.8 Project and/or construction manager (name and current phone number)
- 6.9 Description of project, scope of work performed
- 6.10 Initial contract value (at time of bid award)
- 6.11 Final cost of construction (including change orders)
- 6.12 Original scheduled completion date
- 6.13 Time extensions granted (number of days)
- 6.14 Actual date of completion
- 6.15 Number and amount of stop notices or mechanic's liens filed
- 6.16 Amount of liquidated damages assessed against Bidder
- 6.17 Nature and resolution of any project-related claim, lawsuit, mediation and/or arbitration involving Bidder.

### Part 3: Safety

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

Year	EMR

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

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



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

☐ Yes    ☐ No

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

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

_____	_____	_____
Name	Title	Email

_____	_____	_____
Name	Title	Email

#### Part 4: Verification

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

Signature: \_\_\_\_\_

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

By [name, title]: \_\_\_\_\_

END OF BIDDER'S QUESTIONNAIRE

## CONTRACT

This public works contract ("Contract") is entered into by and between the City of Morgan Hill ("City") and \_\_\_\_\_ a (State of formation)(type of entity) [CONTRACTOR NAME] ("Contractor") for work on the \_\_\_\_\_ COUNCIL CHAMBER BUILDING ROOF REPLACEMENT Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct on the Project. On June 18, 2025, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below. City has elected to include the following Project alternate(s) in the Contract: \_\_\_\_\_ (If the bid documents request bid alternates and City elects to include alternates in the Contract, identify the additive or deductive alternates.)
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
  - 2.1 Notice Inviting Bids;
  - 2.2 Instructions to Bidders;
  - 2.3 Addenda, if any;
  - 2.4 Bid Proposal and attachments thereto;
  - 2.5 Contract;
  - 2.6 Payment and Performance Bonds;
  - 2.7 General Conditions;
  - 2.8 Special Conditions;
  - 2.9 Project Plans and Specifications;
  - 2.10 Change Orders, if any;
  - 2.11 Notice of Award;
  - 2.12 Notice to Proceed; and
  - 2.13 The following: Group 7 Consultants' Roof Inspection and Condition Report for Morgan Hill City Council Chambers dated March 19, 2025.
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor [CONTRACT VALUE TEXT] Dollars (\$[##,###,###]) (the "Contract Price"), for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, federal, state and local taxes, insurance, bonds, and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project, meeting all requirements for Final Completion, within **45** calendar days from the start date set forth in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** As further specified in Section 5.4 of the General Conditions, if Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of Five Hundred Dollars (\$500.00) per day for each day of unexcused delay in achieving Final Completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract. Contract Price will be reduced accordingly.
7. **Labor Code Compliance.**
- 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.
- 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
- 7.3 **DIR Registration.** City will not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code Section 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Pursuant to Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. **Conflicts of Interest.** Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code Section 1090 *et seq.*, or the Political Reform Act, as set forth in Government Code Section 81000 *et seq.* and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.
10. **Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.
11. **Notice.** Any notice required by the Contract Documents must be made in writing, signed, dated, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037  
Phone: (408) 779-7259  
Attn: City Clerk  
Email: michelle.bigelow@morganhill.ca.gov  
Copy to: chris.ghione@morganhill.ca.gov

Contractor:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Copy to: \_\_\_\_\_

## 12. General Provisions.

**12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.

**12.2 Third Party Beneficiaries.** There are no intended third-party beneficiaries to this Contract.

- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Santa Clara County, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure Section 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Santa Clara County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents, is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code Section 2200 *et seq.* (the “Act”), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporations Code Section 313. If Contractor is a partnership, signature by a general partner with authority to bind the partnership is required. If Contractor is a limited liability company (LLC), a signature by a member or manager with authority to bind the LLC is required.
- 12.9 Electronic Signatures.** Unless otherwise prohibited by law or City policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the City.
- 12.10 Notice of Security and/or Privacy Incident.** If Contractor, or its subcontractor, suspect, discover or are notified of a data security incident or potential breach of security and/or privacy relating to City PII, PHI and/or PCI, Contractor shall immediately, but in no event later than forty-eight (48) hours from suspicion, discovery or notification of the incident or potential breach, notify City of such incident or potential breach. Contractor shall, upon City’s request, investigate such

incident or potential breach, inform the City of the results of any such investigation, and assist the City in maintaining the confidentiality of such information. In addition to the foregoing, Contractor shall provide City with any assistance necessary to comply with any state and/or federal laws requiring the provision of notice of any privacy incident or security breach with respect to any City PII, PHI and/or PCI to the affected or impacted individuals and/or organizations, in addition to any notification to applicable state and federal agencies. Contractor agrees that it shall reimburse City for all expenses, costs, attorneys' fees, and resulting fines, penalties, and damages associated with such incident, breach, investigation and/or notification.

*[Signatures are on the following page.]*

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:  
(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND  
2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

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

**CITY OF MORGAN HILL:**

\_\_\_\_\_  
Christina J. Turner  
City Manager

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

**Attest:**

\_\_\_\_\_  
Michelle Bigelow  
City Clerk

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

**Approved as to Form:**

\_\_\_\_\_  
Donald A. Larkin  
City Attorney

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

**CONTRACTOR:  
[CONTRACTOR NAME]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name/Title [print]

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

*Corporate entities must provide a  
second signature:*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name/Title [print]

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

\_\_\_\_\_  
Contractor's License Number(s)

\_\_\_\_\_  
Expiration Date(s)

Seal:

\_\_\_\_\_  
Contractor's DIR Registration Number(s)

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

END OF CONTRACT

## PAYMENT BOND

The City of Morgan Hill ("City") and [CONTRACTOR NAME] ("Contractor") have entered into a contract for work on the COUNCIL CHAMBER BUILDING ROOF REPLACEMENT ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

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



Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

6. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.
7. **Effective Date; Execution.** This Bond is entered into and is effective on \_\_\_\_\_, 20\_\_.

SURETY:

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

CONTRACTOR:

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

(Attach Acknowledgment with Notary  
Seal and Power of Attorney)

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Donald A. Larkin, City Attorney

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

END OF PAYMENT BOND

## PERFORMANCE BOND

The City of Morgan Hill ("City") and [CONTRACTOR NAME] ("Contractor") have entered into a contract for work on the COUNCIL CHAMBER BUILDING ROOF REPLACEMENT ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to City as obligee for an amount not less than [CONTRACT VALUE TEXT] Dollars (\$[\$#,###,###]) (the "Bond Sum") to ensure Contractor's faithful performance of its obligations under the Contract. By executing this Bond, Contractor and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.
2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations under this bond will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code Sections 2819 and 2845.
4. **Application of Contract Balance.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which City is entitled under the terms of the Contract.
5. **Contractor Default.** Upon written notification from City that Contractor is in default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
  - 5.1 Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

**5.2** Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense, or

**5.3** Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.

**6. Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

**7. Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

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

*[Signatures are on the following page.]*

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

SURETY:

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

CONTRACTOR:

s/ \_\_\_\_\_

Name: \_\_\_\_\_

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

(Attach Acknowledgment with Notary  
Seal and Power of Attorney)

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Donald A. Larkin, City Attorney

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

END OF PERFORMANCE BOND

## GENERAL CONDITIONS

### Article 1 - Definitions

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

**Allowance** means a specific amount that must be included in the Bid Proposal for Work that may or may not be included in the Project, depending on conditions that will not become known until after bids are opened. If the Contract Price includes an Allowance and the cost of performing the Work covered by that Allowance is greater or less than the Allowance, the Contract Price will be increased or decreased accordingly.

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

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

**City** means the City of Morgan Hill, acting through its City Council, officers, employees, City Engineer, and any other authorized representatives.

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

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

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

**Contract Documents** means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal and attachments thereto; the Contract; the Notice of Award and Notice to Proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Plans and

Specifications; any Change Orders; and any other documents that are clearly and unambiguously made part of the Contract Documents. The Contract Documents do not include documents provided "For Reference Only," or documents that are intended solely to provide information regarding existing conditions.

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

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

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

**Day** means a calendar day unless otherwise specified.

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

**DIR** means the California Department of Industrial Relations.

**Drawings** has the same meaning as Plans.

**Engineer** means the City Engineer for the City of Morgan Hill and his or her authorized delegee(s).

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

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

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

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

**Furnish** means to purchase and deliver for the Project.

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

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

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

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

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

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

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

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

**Project** means the public works project referenced in the Contract.

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

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

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

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

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

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

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

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

**Technical Specifications** has the same meaning as Specifications.

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

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

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



## Article 2 - Roles and Responsibilities

### 2.1 City.

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

(B) **Engineer.** The Engineer, acting within the authority conferred by the City Council, is responsible for administration of the Project on behalf of City, including authority to provide directions to the Design Professional and to Contractor to ensure proper and timely completion of the Project. The Engineer's decisions are final and conclusive within the scope of his or her authority, including interpretation of the Contract Documents.

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

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

### 2.2 Contractor.

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

(B) **Responsibility for the Work and Risk of Loss.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate

the efficient and timely completion of the Work. Contractor is solely responsible for, and required to exercise full control over the Work, including the construction means, methods, techniques, sequences, procedures, safety precautions and programs, and coordination of all portions of the Work with that of all other contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions. Contractor's responsibilities extend to any plan, method or sequence suggested, but not required by City or specified in the Contract Documents. From the date of commencement of the Work until either the date on which City formally accepts the Project or the effective date of termination of the Contract, whichever is later, Contractor bears all risks of injury or damage to the Work and the materials and equipment delivered to any Worksite, by any cause including fire, earthquake, wind, weather, vandalism or theft, subject to the limitations of Laws, including Public Contract Code section 7105.

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

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent acceptable to City, and assistants, as necessary, who must be physically present at the Project site while any aspect of the Work is being performed. The superintendent must have full authority to act and communicate on behalf of Contractor, and Contractor will be bound by the superintendent's communications to City. City's approval of the superintendent is required before the Work commences. If City is not satisfied with the superintendent's performance, City may request a qualified replacement of the superintendent. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of Contract Time, until an approved superintendent is physically present to supervise the Work. Contractor must provide written notice to City, as soon as practicable, before replacing the superintendent.

(E) **Standards.** Contractor must, at all times, ensure that the Work is performed in an efficient, skillful manner following best practices and in full compliance with the Contract Documents, Laws, and applicable manufacturer's recommendations. Contractor has a material and ongoing obligation to provide true and complete information, to the best of its

knowledge, with respect to all records, documents, or communications pertaining to the Project, including oral or written reports, statements, certifications, Change Order requests, or Claims.

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

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

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

(I) **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by City to be deficient or defective in any way, including workmanship, materials, parts, or equipment. Workmanship, materials, parts, or equipment that do not conform to the requirements under the Contract Documents, as determined by City, will be considered defective and subject to rejection. Contractor must also promptly correct, at Contractor's sole expense, any Work performed beyond the lines and grades shown on the Plans or established

by City, and any Extra Work performed without City's prior written approval. If Contractor fails to correct or to take reasonable steps toward correcting defective Work within five days following notice from City, or within the time specified in City's notice to correct, City may elect to have the defective Work corrected by its own forces or by a third party, in which case the cost of correction will be deducted from the Contract Price. If City elects to correct defective Work due to Contractor's failure or refusal to do so, City or its agents will have the right to take possession of and use any equipment, supplies, or materials available at the Project site or any Worksite on City property, in order to effectuate the correction, at no extra cost to City. Contractor's warranty obligations under Section 11.2, Warranty, will not be waived nor limited by City's actions to correct defective Work under these circumstances. Alternatively, City may elect to retain defective Work, and deduct the difference in value, as determined by the Engineer, from payments otherwise due to Contractor. This paragraph applies to any defective Work performed by Contractor during the one-year warranty period under Section 11.2.

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

- (1) Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as Extra Work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.
- (2) Contractor must continue to maintain its Project-related records in an organized manner for a period of five years after City's acceptance of the Project or following Contract termination, whichever occurs first. Subject to prior notice to Contractor, City is entitled to inspect or audit any of Contractor's records relating to the Project or to investigate Contractor's plant or equipment during Contractor's normal business hours. Contractor's records may also be subject to

examination and audit by the California State Auditor, pursuant to Government Code § 8546.7. The record-keeping requirements set forth in this subsection 2.2(J) will survive expiration or termination of the Contract.

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

## 2.3 Subcontractors.

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

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

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

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

## 2.4 Coordination of Work.

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

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

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

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

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

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

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

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

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

(F) **Enforcement.** Any Work performed or any material furnished, installed, fabricated, or used without City's prior acceptance of a required submittal is performed or provided at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing

and replacing such Work or material, repairs to other affected portions of the Work or material, and the cost of additional time or services required of City, including costs for the Design Professional, Project Manager, or Inspector.

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

**2.6 Shop Drawings.** When Shop Drawings are required by the Specifications or requested by the Engineer, they must be prepared according to best practices at Contractor's expense. The Shop Drawings must be of a size and scale to clearly show all necessary details. Unless otherwise specified by City, Shop Drawings must be provided to the Engineer for review and acceptance at least 30 days before the Work will be performed. If City requires changes, the corrected Shop Drawings must be resubmitted to the Engineer for review within the time specified by the Engineer. For all Project components requiring Shop Drawings, Contractor will not furnish materials or perform any Work until the Shop Drawings for those components are accepted by City. Contractor is responsible for any errors or omissions in the Shop Drawings, shop fits and field corrections; any deviations from the Contract Documents; and for the results obtained by the use of Shop Drawings. Acceptance of Shop Drawings by City does not relieve Contractor of Contractor's responsibility.

**2.7 Access to Work.** Contractor must afford prompt and safe access to any Worksite by City and its employees, agents, or consultants authorized by City; and upon request by City, Contractor must promptly arrange for City representatives to visit or inspect manufacturing sites or fabrication facilities for items to be incorporated into the Work.

**2.8 Personnel.** Contractor and its Subcontractors must employ only competent and skillful personnel to perform the Work. Contractor and its Subcontractor's supervisors, security or safety personnel, and employees who have unescorted access to the Project site must possess proficiency in English sufficient to read, understand, receive, and implement oral or written communications or instructions relating to their respective job functions, including safety and security requirements. Upon written notification from the Engineer, Contractor and its Subcontractors must immediately discharge any personnel who are incompetent, disorderly, disruptive, threatening, abusive, or profane, or otherwise refuse or fail to comply with the requirements of the Contract Documents or Laws, including Laws pertaining to health and safety. Any such discharged personnel may not be re-employed or permitted on the Project in any capacity without City's prior written consent.



## Article 3 - Contract Documents

### 3.1 Interpretation of Contract Documents.

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

(B) ***Duty to Notify and Seek Direction.*** If Contractor becomes aware of a changed condition in the Project, or of any ambiguity, conflict, inconsistency, discrepancy, omission, or error in the Contract Documents, including the Plans or Specifications, Contractor must promptly submit a Request for Information to the Engineer and wait for a response from City before proceeding further with the related Work. The RFI must notify the City of the issue and request clarification, interpretation, or direction. The Engineer's clarification, interpretation, or direction will be final and binding on Contractor. If Contractor proceeds with the related Work before obtaining City's response, Contractor will be responsible for any resulting costs, including the cost of correcting any incorrect or defective Work that results. Timely submission of a clear and complete RFI is essential to avoiding delay. Delay resulting from Contractor's failure to submit a timely and complete RFI to the Engineer is Non-Excusable Delay. If Contractor believes that City's response to an RFI justifies a change to the Contract Price or Contract Time, Contractor must perform the Work as directed, but may submit a timely Change Order request in accordance with the Contract Documents. (See Articles 5 and 6.)

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

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

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

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

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

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

**3.3 Caltrans Standard Specifications.** Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including "Standard Specifications," "Caltrans Specifications," "State

Specifications,” or “CSS,” means the most current edition of Caltrans’ Standard Specifications, unless otherwise specified (“Caltrans Standard Specifications”), including the most current amendments as of the date that Contractor’s bid was submitted for this Project. The following provisions apply to use of or reference to the Caltrans Standard Specifications or Special Provisions:

(A) **Limitations.** None of the “General Provisions” of the Caltrans Standard Specifications, i.e., sections 1 through 9, applies to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

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

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

- (1) Any reference to the “Engineer” is deemed to mean the City Engineer.
- (2) Any reference to the “Special Provisions” is deemed to mean the Special Conditions, unless the Caltrans Special Provisions are expressly included in the Contract Documents listed in Section 2 of the Contract.
- (3) Any reference to the “Department” or “State” is deemed to mean City.

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

**3.5 Current Versions.** Unless otherwise specified by City, any reference to standard specifications, technical specifications, or any City or state codes or

regulations means the latest specification, code or regulation in effect on the date the Contract is signed.

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

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

## **Article 4 - Bonds, Indemnity, and Insurance**

**4.1 Payment and Performance Bonds.** Within ten days following issuance of the Notice of Award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100 percent of the Contract Price, and each executed by Contractor and its surety using the bond forms included with the Contract Documents.

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

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

**4.2 Indemnity.** To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants, (individually, an "Indemnatee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses

(including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of Contractor under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnatee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this Contract will be deemed a material breach of this Contract. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code Section 9201. Contractor waives any right to express or implied indemnity against any Indemnatee. Contractor's indemnity obligations under this Contract will survive the expiration or any early termination of the Contract.

**4.3 Insurance.** No later than ten days following issuance of the Notice of Award, Contractor must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements acceptable to City. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract through the date of City's acceptance of the Project. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, City may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for default. Contractor further understands that City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Contractor, at any time as deemed necessary to protect the interests of City. The procurement of the required insurance will not be construed to limit Contractor's liability under this Contract or to fulfill Contractor's indemnification obligations under this Contract.

(A) **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by City. If the City's Risk Manager determines that the deductibles and/or self-insured retentions are unacceptably high, at City's option, Contractor must either reduce or eliminate the deductibles and/or self-insured retentions as they apply to City and all required Additional Insured; or must provide a financial guarantee, to City's satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.

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

- (1) **Commercial General Liability Insurance (“CGL”).** Contractor shall maintain CGL and must include coverage for liability arising from Contractor’s or its Subcontractor’s acts or omissions in the performance of the Work against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) two million dollars (\$2,000,000.00) combined single limit each occurrence and either a general aggregate limit of four million dollars (\$4,000,000.00) or a general aggregate limit of two million dollars (\$2,000,000.00) as applied on a “per project” or “per location” basis, or (ii) the maximum amount of such insurance available to Contractor under Contractor’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.
  - a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
  - b. CGL policy must include contractor’s protected coverage, blanket contractual, and completed operations.
- (2) **Builder’s Risk Insurance:** The Builder’s Risk Insurance policy must be issued on occurrence basis, for all-risk coverage (including Flood and Earthquake) on a one hundred percent (100%) completed value basis on the insurable portion of the Project for the benefit of City.
- (3) **Workers’ Compensation Insurance and Employer’s Liability:** Contractor shall maintain Workers Compensation coverage, as required by law. The policy must comply with the requirements of the California Workers’ Compensation Insurance and Safety Act and provide protection in the minimum amount of: (i) One Million Dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to Contractor under Contractor’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.
- (4) **Automobile Liability:** Contractor shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Contractor does not own automobiles, then Contractor shall

maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) **One Million Dollars (\$1,000,000.00)** combined single limit, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- (5) **Pollution (Environmental) Liability:** If the performance of Contractor's work or service under this Contract involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, Contractor shall procure and maintain Pollution Liability covering Contractor's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Contract. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) **One Million Dollars (\$1,000,000.00)** for any one accident or occurrence, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(6) **Professional Liability:**

- a. If the performance of Contractor's work or service under this Contract involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, legal services, and appraisers), Contractor shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) **One Million Dollars (\$1,000,000.00)** each claim, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if Contractor maintains a claims-made policy, Contractor shall provide written evidence of such insurance to City for at least five (5) years after the completion of work performed under this Contract.
- b. If the performance of Contractor's work or service under this Contract relates to Information Technology or related services (examples include, but are not limited to computer

programmers, hardware engineers, or other systems consultants), Contractor shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) One Million Dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(C) **Required Endorsements.** Contractor must provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

- (1) For all Policies except Builder's Risk and Professional Liability:
  - a. "Waiver of Subrogation" endorsements providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.
- (2) General Liability, Automobile, and Pollution Liability:
  - a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations and at least as broad as ISO Form CG 20 37 for completed operations.
  - b. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.
- (3) General Liability:
  - a. "Separation of Insureds" endorsements stating that the inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(D) **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project,



including those requirements related to the additional insureds and waiver of subrogation. Contractor must confirm that each Subcontractor has complied with requirements as outlined herein. The insurance requirements for Subcontractors do not replace or limit the Contractor's insurance obligations.

(E) **Qualification of Insurers.** All insurance required pursuant to this Contract must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better.

(F) **Certificates.** Contractor must furnish City with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, Contractor shall promptly furnish City of Morgan Hill with copies of all policies outlined herein. No policy subject to Contractor's Contract with City shall be reduced, canceled, allowed to expire, or materially changed except after thirty (30) days' notice by the insurer to City, unless due to non-payment of premiums, in which case ten (10) days written notice must be made to City. Certificates, including renewal certificates, may be mailed electronically to [riskmgmt@morganhill.ca.gov](mailto:riskmgmt@morganhill.ca.gov) or delivered to the Certificate Holder address as follows:

City of Morgan Hill  
Attn: Risk Management  
17575 Peak Avenue  
Morgan Hill, CA 95037

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

## **Article 5 - Contract Time**

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

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

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

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

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

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

must be dated, provided in the format specified in the Contract Documents or as required by City, and must include, at a minimum, a description of the activity, the start and completion dates of the activity, and the duration of the activity.

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

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

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

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

(2) *Failure to Submit Schedule.* Reliable, up-to-date schedules are essential to efficient and cost-effective administration of the Project and timely completion. If Contractor fails to submit a schedule within the time periods specified in this Section, or submits a schedule to which City has noted exceptions that are not corrected, City may withhold up to five percent from payment(s) otherwise due to

Contractor until the exceptions are resolved, the schedule is corrected and resubmitted, and City has accepted the schedule. In addition, Contractor's failure to comply with the schedule requirements in this Section 5.2 will be deemed a material default and a waiver of any claims for Excusable Delay or loss of productivity arising during any period when Contractor is out of compliance, subject only to the limits of Public Contract Code Section 7102.

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

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

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

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

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

### 5.3 Delay and Extensions of Contract Time.

(A) **Notice of Delay.** If Contractor becomes aware of any actual or potential delay affecting the critical path, Contractor must promptly notify

the Engineer in writing, regardless of the nature or cause of the delay, so that City has a reasonable opportunity to mitigate or avoid the delay.

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

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

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

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

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

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

- (1) weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten years;
- (2) Contractor’s failure to order equipment and materials sufficiently in advance of the time needed for completion of the Work within the Contract Time;
- (3) Contractor’s failure to provide adequate notification to utility companies or agencies for connections or services necessary for completion of the Work within the Contract Time;
- (4) foreseeable conditions which Contractor could have ascertained from reasonably diligent inspection of the Project site or review of the Contract Documents or other information provided or available to the Contractor;
- (5) Contractor’s failure, refusal, or financial inability to perform the Work within the Contract Time, including insufficient funds to pay its Subcontractors or suppliers;
- (6) performance or non-performance by Contractor’s Subcontractors or suppliers;
- (7) the time required to respond to excessive RFIs (see Section 2.5(G));
- (8) delayed submission of required submittals, or the time required for correction and resubmission of defective submittals;
- (9) time required for repair of, re-testing, or re-inspection of defective Work;
- (10) enforcement of Laws by City, or outside agencies with jurisdiction over the Work; or

- (11) City's exercise or enforcement of any of its rights or Contractor's duties pursuant to the Contract Documents, including correction of defective Work, extra inspections or testing due to non-compliance with Contract requirements, safety compliance, environmental compliance, or rejection and return of defective or deficient submittals.

(E) **Compensable Delay.** Pursuant to Public Contract Code Section 7102, in addition to entitlement to an extension of Contract Time, Contractor is entitled to compensation for costs incurred due to delay caused solely by City, when that delay is unreasonable under the circumstances involved and not within the contemplation of the parties ("Compensable Delay"). Contractor is not entitled to an extension of Contract Time or recovery of costs for Compensable Delay that is concurrent with Non-Excusable Delay. Delay due to Weather Delay Days, in excess of normal for a given month, as set forth in Section 5.3(C), is not Compensable Delay, and will only entitle Contractor to an extension of time commensurate with the time lost due to such delay.

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

(G) **Request for Extension of Contract Time or Recoverable Costs.** A request for an extension of Contract Time or any associated Recoverable Costs must be submitted in writing to City within 14 calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or any entitlement to the Contract Time extension or to the Recoverable Costs will be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6, below. Strict compliance with these requirements is necessary to ensure that any delay or consequences of delay may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project and timely performance of the Work. Any request for an extension of Contract Time or Recoverable Costs that does not strictly comply with all of the requirements of Article 5 and Article 6 will be deemed waived.

- (1) **Required Contents.** The request must include a detailed description of the cause(s) of the delay, and must also describe the measures that Contractor has taken to mitigate

the delay and/or its effects, including efforts to mitigate the cost impact of the delay, such as by workforce management, or by a change in sequencing. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor's plan for continued mitigation of the delay or its effects.

- (2) *Delay Days and Costs.* The request must specify the number of days of Excusable Delay claimed, or provide a realistic estimate if the duration of the delay is not yet known. If the Contractor believes it is entitled to Recoverable Costs for Compensable Delay, the request must specify the amount of and basis for the Recoverable Costs that are claimed or provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known. The maximum extension of Contract Time will be the number of days, if any, by which an Excusable Delay or a Compensable Delay exceeds any concurrent Non-Excusable Delay. Contractor is entitled to an extension of Contract Time, or compensation for Recoverable Costs, only if, and only to the extent that, such delay will unavoidably delay Final Completion.
- (3) *Supporting Documentation.* The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including scheduling and cost impacts, with a time impact analysis using critical path methodology, and demonstrating the unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to City.
- (4) *Burden of Proof.* Contractor has the burden of proving that the delay was an Excusable Delay or Compensable Delay, as defined above; Contractor has fully complied with its scheduling obligations in Section 5.2, Schedule Requirements; Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts; the delay will unavoidably result in delaying Final Completion; and any Recoverable Costs claimed by Contractor were actually incurred and were reasonable under the circumstances.
- (5) *Legal Compliance.* Nothing in this Section 5.3 is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code Section 7102.



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

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

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

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

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

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

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

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

## **Article 6 - Contract Modification**

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

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

(B) **Disputes.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to City-directed change in the Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute. Likewise, in the event that City and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents or constitute Extra Work, or otherwise dispute the interpretation of any portion(s) of the Contract Documents, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to

diligently prosecute the performance and timely completion of the Work, including the Work in dispute, as directed by City. If Contractor refuses to perform the Work in dispute, City may, acting in its sole discretion, elect to delete the Work from the Contract and reduce the Contract Price accordingly, and self-perform the Work or direct that the Work be performed by others. Alternatively, City may elect to terminate the Contract for convenience or for cause. Contractor's sole recourse for an unresolved dispute related to changes in the Work or performance of any Extra Work is to comply with the dispute resolution provisions set forth in Article 12, below.

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

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

(E) **Remedy for Non-Compliance.** Contractor's failure to promptly comply with a City-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, City may, at its

sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor's sole expense, and may deduct the cost from the Contract Price.

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

(A) **Time for Submission.** Any request for a change in the Contract Price or the Contract Time must be submitted in writing to the Engineer within 14 calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time. If City requests that Contractor propose the terms of a Change Order, unless otherwise specified in City's request, Contractor must provide the Engineer with a written proposal for the change in the Contract Price or Contract Time within five working days of receiving City's request, in a form satisfactory to the Engineer.

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

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

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

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

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes

referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived.”

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

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

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

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

(1) All direct labor costs provided by the Contractor, excluding superintendence, project management, or administrative costs plus 15 percent markup;

(2) All direct material costs provided by the Contractor, including sales tax, plus 15 percent markup;

(3) All direct plant and equipment rental costs provided by the Contractor, plus 15 percent markup;

(4) All direct additional subcontract costs plus ten percent markup for Work performed by Subcontractors; and

(5) Increased bond or insurance premium costs computed at 1.5% percent of the total of the previous four sums.

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

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

## **Article 7 - General Construction Provisions**

### **7.1 Permits, Fees, Business License, and Taxes.**

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

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

**7.2 Temporary Facilities.** Contractor must provide, at Contractor's sole expense, any and all temporary facilities for the Project, including an onsite staging area for materials and equipment, a field office, sanitary facilities, utilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any incidental utility services. The location of all temporary facilities must be approved by the City prior to installation. Temporary facilities must be safe and adequate for the intended use, and installed and maintained in accordance with Laws

and the Contract Documents. Contractor must fence and screen the Project site and, if applicable, any separate Worksites, including the staging area, and its operation must minimize inconvenience to neighboring properties. Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

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

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

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

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

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

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

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

**7.5 Project Site and Nearby Property Protections.**

(A) **General.** Contractor is responsible at all times, on a 24-hour basis and at its sole cost for protecting the Work, the Project site, and the materials and equipment to be incorporated into the Work until the City has accepted the Project, excluding any exceptions to acceptance, if any. Except as specifically authorized by City, Contractor must confine its operations to the area of the Project site indicated in the Plans and Specifications. Contractor is liable for any damage caused by Contractor or its Subcontractors to the Work, City's property, the property of adjacent or nearby property owners and the work or personal property of other contractors working for City, including damage related to Contractor's failure to adequately secure the Work or any Worksite.

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

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

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

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



repair or replace the damaged property from payment otherwise due to Contractor.

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

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

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

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

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

report, if applicable. If Contractor is required to file an accident report with another government agency, Contractor will provide a copy of the report to City.

## **7.6 Materials and Equipment.**

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

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

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

## **7.7 Substitutions.**

(A) **"Or Equal."** Any Specification designating a material, product, or thing (collectively "item") or service by specific brand or trade name,

followed by the words “or equal,” is intended only to indicate the quality and type of item or service desired, and Contractor may request use of any equal item or service. Unless otherwise stated in the Specifications, any reference to a specific brand or trade name for an item or service that is used solely for the purpose of describing the type of item or service desired, will be deemed to be followed by the words “or equal.” A substitution will only be approved if it is a true “equal” item or service in every aspect of design, function, and quality, as determined by City, including dimensions, weight, maintenance requirements, durability, fit with other elements, and schedule impacts.

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

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

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

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

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

## **7.8 Testing and Inspection.**

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

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

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

(1) Contractor will be responsible for the costs of any subsequent inspections or tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

(2) Contractor will be responsible for inspection costs, at City's hourly rates, for inspection time lost because the Work is not ready, or Contractor fails to appear for a scheduled inspection.

(3) If any portion of the Work that is subject to inspection or testing is covered or concealed by Contractor prior to the inspection or testing, Contractor will bear the cost of making that portion of the Work available for the inspection or testing required by the Contract Documents, and any associated repair or remediation costs.

(4) Contractor is responsible for properly shoring all compaction test sites deeper than five feet below grade, as required under Section 7.15 below.

(5) Any Work or material that is defective or fails to comply with the requirements of the Contract Documents must be promptly repaired, removed, replaced, or corrected by Contractor, at Contractor's sole expense, even if that Work or material was previously inspected or included in a progress payment

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

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

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

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

(A) **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws. Contractor must comply with all Laws, including the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.).

(B) **Dust and Debris.** Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use the minimum necessary. Contractor must take all necessary steps to keep wastewater out of streets, gutters, or storm drains. See Section 7.19,

Environmental Control. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project site and any dirt deposited on public streets.

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

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

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

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

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

alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by City.

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

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

(A) **Submittal Requirements.** The instructions and manuals, along with any required guarantees, must be delivered to City for review, prior to requesting final inspection pursuant to Section 11.1(A), unless otherwise specified.

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

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

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

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

## **7.12 Existing Utilities.**

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

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

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



submitted to Engineer an inquiry identification number from Underground Services Alert.

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

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

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

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

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

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

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

**7.15 Trenching of Five Feet or More.** As required by Labor Code Section 6705, if the Contract Price exceeds \$25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to City for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other

provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a California registered civil or structural engineer. Use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

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

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

**7.18 Historic or Archeological Items.**

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

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

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

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

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

**7.20 Noise Control.** Contractor must comply with all applicable noise control Laws. Noise control requirements apply to all equipment used for the Work or related to the Work, including trucks, transit mixers or transient equipment that may or may not be owned by Contractor.

**7.21 Mined Materials.** Pursuant to Public Contract Code § 20676, Contractor will not purchase any sand, gravel, or other minerals for the Work from an operation subject to the Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 *et seq.*), unless the Contractor certifies, under penalty of perjury, that the minerals are from a mining operation included on the AB 3098 List, which may be accessed online at: <https://www.conservation.ca.gov/smgb/Pages/AB-3098-List.aspx>

## **Article 8 - Payment**

**8.1 Schedule of Values.** Prior to submitting its first application for payment, Contractor must prepare and submit to the Project Manager a schedule of values apportioned to the various divisions and phases of the Work, including mobilization and demobilization. If a Bid Schedule was submitted with Contractor's bid, the amounts in the schedule of values must be consistent with the Bid Schedule. Each line item contained in the schedule

of values must be assigned a value such that the total of all items equals the Contract Price. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's bid.

(A) **Measurements for Unit Price Work.** Materials and items of Work to be paid for on the basis of unit pricing will be measured according to the methods specified in the Contract Documents.

(B) **Deleted or Reduced Work.** Contractor will not be compensated for Work that City has deleted or reduced in scope, except for any labor, material or equipment costs for such Work that Contractor reasonably incurred before Contractor learned that the Work could be deleted or reduced. Contractor will only be compensated for those actual, direct and documented costs incurred, and will not be entitled to any mark up for overhead or lost profits.

**8.2 Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.

(A) **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Project site, as well as authorized and approved Change Orders. Each payment application must be supported by the unit prices submitted with Contractor's Bid Schedule and/or schedule of values and any other substantiating data required by the Contract Documents. **Each application for payment shall be accompanied by completed "Contract Balance Form," a copy of which is provided at the end of Article 8.**

(B) **Payment of Undisputed Amounts.** City will pay the undisputed amount due within thirty days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code Section 20104.50. City will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may deduct or withhold additional amounts as set forth in Section 8.3, below.

**8.3 Adjustment of Payment Application.** City may adjust or reject the amount requested in a payment application, including application for Final Payment, in whole or in part, if the amount requested is disputed or unsubstantiated. Contractor will be notified in writing of the basis for the modification to the amount requested. City may also deduct or withhold from payment

otherwise due based upon any of the circumstances and amounts listed below. Sums withheld from payment otherwise due will be released when the basis for that withholding has been remedied and no longer exists.

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

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

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

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

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

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

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

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

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

(J) For any other fines, payments, or penalties assessed against the City relating to Contractor's acts or omissions, including violations of Laws, City may withhold or deduct such amounts from payment otherwise due to Contractor.

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

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

**8.5 Retention.** City will retain five percent of the full amount due on each progress payment (i.e., the amount due before any withholding or deductions pursuant to Section 8.3, Adjustment of Payment Application), or the percentage stated in the Notice Inviting Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work. Contractor is not entitled to any reduction in the rate of withholding at any time, nor to release of any retention before 35 days following City's recordation of the Notice of Completion, subject to the terms of Public Contract Code § 7107..

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

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

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

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

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

**8.7 Final Payment.** Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final Payment. If Contractor fails to submit a timely application for Final Payment, City reserves the right to unilaterally process and issue Final Payment without an application from Contractor in order to close out the Project. For the purposes of determining the deadline for Claim

submission pursuant to Article 12, the date of Final Payment is deemed to be the date that City acts to release undisputed retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment or that no undisputed funds remain available for Final Payment due to offsetting withholdings or deductions pursuant to Section 8.3, Adjustment of Payment Application. If the amount due from Contractor to City exceeds the amount of Final Payment, City retains the right to recover the balance from Contractor or its sureties.

- 8.8 Release of Claims.** City may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing City with a written waiver and release of all claims against City arising from or related to the portion of Work covered by those undisputed amounts, subject to the limitations of Public Contract Code Section 7100. Any disputed amounts may be specifically excluded from the release.
- 8.9 Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to City free of any claims, liens, or encumbrances upon payment to Contractor.



## CONTRACT BALANCE FORM

### COUNCIL CHAMBER BUILDING ROOF REPLACEMENT

*Note: A detailed invoice MUST be attached to this Contract Balance Form.*

---

---

CONTRACTOR NAME: \_\_\_\_\_ DATE: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_ TELEPHONE NO.: \_\_\_\_\_  
\_\_\_\_\_  
FAX NO.: \_\_\_\_\_  
\_\_\_\_\_  
PROJECT NO.: \_\_\_\_\_  
INVOICE NO.: \_\_\_\_\_

---

---

1. ORIGINAL CONTRACT AMOUNT: \$ \_\_\_\_\_  
2. APPROVED CHANGE ORDERS TOTAL: \$ \_\_\_\_\_  
3. REVISED CONTRACT AMOUNT: (1+2) \$ \_\_\_\_\_  
4. PREVIOUS BALANCE PAID: \$ \_\_\_\_\_  
5. REMAINING BALANCE: (3-4) \$ \_\_\_\_\_  
6. CURRENT PROGRESS PAYMENT DUE: \$ \_\_\_\_\_  
(before retention)  
7. 5% RETENTION FROM WORK DONE: (-) \$ \_\_\_\_\_  
8. CURRENT BALANCE DUE: (6-7) \$ \_\_\_\_\_  
9. REMAINING BALANCE OF REVISED (5-8) \$ \_\_\_\_\_  
(including retention)

## Article 9 - Labor Provisions

**9.1 Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Government Code Section 12900 *et seq.*), Government Code Section 11135, and Labor Code Sections 1735, 1777.5, 1777.6, and 3077.5.

### 9.2 Labor Code Requirements.

(A) ***Eight Hour Day.*** Pursuant to Labor Code Section 1810, eight hours of labor constitute a legal day's work under this Contract.

(B) ***Penalty.*** Pursuant to Labor Code Section 1813, Contractor will forfeit to City as a penalty, the sum of \$25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code Section 1815.

(C) ***Apprentices.*** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code Section 1777.5, which is fully incorporated by reference.

(D) ***Notices.*** Pursuant to Labor Code Section 1771.4, Contractor is required to post all job site notices prescribed by Laws.

**9.3 Prevailing Wages.** Each worker performing Work under this Contract that is covered under Labor Code Sections 1720, 1720.3, or 1720.9, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Project site.

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

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

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

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

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

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

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

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

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

**9.6 Wage Theft Prevention.** Compliance with Wage and Hour Laws: Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a “final judgment, decision, or order” refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against Contractor and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT CONTRACTOR OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Contractor or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed, Contractor shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. Contractor and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require Contractor to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City’s Right to Withhold Payment: Where Contractor or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold

payment to Contractor until such judgment, decision or order has been satisfied in full.

**Material Breach:** Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

**Notice to City Related to Wage Theft Prevention:** Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

## **Article 10 - Safety Provisions**

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

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

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

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

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

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

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

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

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

any potential hazards, and requirements for proper handling, protections, and disposal.

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

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

## **Article 11 - Completion and Warranty Provisions**

### **11.1 Final Completion.**

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

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

and manuals as required under Section 7.10, and complete, final as-built drawings as required under Section 7.11, all to City's satisfaction.

(C) **Acceptance.** The Project will be considered accepted upon City Council action during a public meeting to accept the Project, unless the Engineer is authorized to accept the Project, in which case the Project will be considered accepted upon the date of the Engineer's issuance of a written notice of acceptance. In order to avoid delay of Project close out, the City may elect, acting in its sole discretion, to accept the Project as complete subject to exceptions for punch list items that are not completed within the time specified in the punch list.

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

## **11.2 Warranty.**

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

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



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

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

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

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

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

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

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

City will notify Contractor in writing of its intent to occupy or make use of the Project or any portions of the Project, pursuant to this provision.

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

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

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

## **Article 12 - Dispute Resolution**

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

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

(B) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount, and applies in addition to the provisions of Public Contract Code Section 9204

and Sections 20104 *et seq.*, which are incorporated herein by this reference.

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

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

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

(A) **Substantiation.** The Claim must be submitted to City in writing by registered or certified mail with return receipt requested and clearly identified as a “Claim” submitted pursuant to this Article 12. The Claim must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of City’s written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all known or estimated labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each component of claimed cost. Any Claim for an extension of time or delay costs must be substantiated with a schedule analysis and narrative depicting and explaining claimed time impacts. Contractor understands that submission of a Claim which has no basis in fact or which Contractor knows to be false may violate the False Claims Act (Government Code Section 12650 *et seq.*).

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

(1) Provide a cover letter, specifically identifying the submission as a “Claim” submitted under this Article 12 and specifying the requested remedy (e.g., amount of proposed change to Contract Price and/or change to Contract Time).

(2) Provide a summary of each Claim, including underlying facts and the basis for entitlement, and identify each specific demand at issue,

including the specific Change Order request (by number and submittal date), and the date of City's rejection of that demand, in whole or in part.

(3) Provide a detailed explanation of each issue in dispute. For multiple issues included within a single Claim or for multiple Claims submitted concurrently, separately number and identify each individual issue or Claim and include the following for each separate issue or Claim:

(a) A succinct statement of the matter in dispute, including Contractor's position and the basis for that position;

(b) Identify and attach all documents that substantiate the Claim, including relevant provisions of the Contract Documents, RFIs, calculations, and schedule analysis (see subsection (A), Substantiation above);

(c) A chronology of relevant events; and

(d) Analysis and basis for claimed changes to Contract Price, Contract Time, or any other remedy requested.

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

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

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

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

(1) A Claim disputing rejection of a request for a change in the Contract Time or Contract Price must be submitted within 21 days following the date that City notified Contractor in writing that a

request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part. A Claim disputing the terms of a unilateral Change Order must be submitted within 21 days following the date of issuance of the unilateral Change Order. These Claim deadlines apply even if Contractor cannot yet quantify the total amount of any requested change in the Contract Time or Contract Price. If the Contractor cannot quantify those amounts, it must submit an estimate of the amounts claimed pending final determination of the requested remedy by Contractor.

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

(3) A Claim disputing the amount of Final Payment must be submitted within 21 days of the effective date of Final Payment, under Section 8.7, Final Payment, above.

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

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

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

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

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

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

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

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

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

## **12.5 Mediation and Government Code Claims.**

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

(B) ***Government Code Claims.***

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

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

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

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

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

**12.9 Legal Proceedings.** In any legal proceeding that involves enforcement of any requirements of the Contract Documents, the finder of fact will receive detailed instructions on the meaning and operation of the Contract Documents, including conditions, limitations of liability, remedies, claim procedures, and other provisions bearing on the defenses and theories of liability. Detailed findings of fact will be requested to verify enforcement of the Contract Documents. All of the City's remedies under the Contract Documents will be construed as cumulative, and not exclusive, and the City

reserves all rights to all remedies available under law or equity as to any dispute arising from or relating to the Contract Documents or performance of the Work.

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

### **Article 13 - Suspension and Termination**

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

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

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

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

(D) **No Duty to Suspend.** City's right to suspend the Work will not give rise to a duty to suspend the Work, and City's failure to suspend the Work



will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.

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

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

(A) **Default.** Events giving rise to a declaration of default include Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; Contractor's refusal or failure to make prompt payment to its employees, Subcontractors, or suppliers or to correct defective Work or damage; Contractor's failure to comply with the Laws, or orders of any public agency with jurisdiction over the Project; evidence of Contractor's bankruptcy, insolvency, or lack of financial capacity to complete the Work as required within the Contract Time; suspension, revocation, or expiration and nonrenewal of Contractor's license or DIR registration; dissolution, liquidation, reorganization, or other major change in Contractor's organization, ownership, structure or existence as a business entity; unauthorized assignment of Contractor's rights or duties under the Contract; or any material breach of the Contract requirements.

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

of default, or within a period of time reasonably necessary for such cure, including a shorter period of time if applicable.

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

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

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

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

Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including special or consequential damages, lost opportunity costs or lost profits, and any award of damages is subject to Section 12.8, Burden of Proof and Limitations.

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

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

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

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

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

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

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

(A) **General.** Upon termination, City may immediately enter upon and take possession of the Project and the Work and all tools, equipment, appliances, materials, and supplies procured or fabricated for the Project.

Contractor will transfer title to and deliver all completed Work and all Work in progress to City.

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

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

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

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

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

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

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

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

Contractor; payments received for sale of any such materials, supplies, or equipment, less re-stocking fees charged; and as otherwise specified in Section 8.3, Adjustment of Payment Application.

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

## **Article 14 - Miscellaneous Provisions**

- 14.1 Assignment of Unfair Business Practice Claims.** Under Public Contract Code Section 7103.5, Contractor and its Subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 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 Contract or any subcontract. This assignment will be effective at the time City tenders Final Payment to Contractor, without further acknowledgement by the parties.
- 14.2 Provisions Deemed Inserted.** Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be deemed amended accordingly.
- 14.3 Waiver.** City's waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will not be effective unless it is in writing and signed by City. City's waiver of any breach, failure, right, or remedy will not be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by City.
- 14.4 Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5 Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that bids were due.

**14.6 Survival.** The provisions that survive termination or expiration of this Contract include Contract Section 11, Notice, and subsections 12.1, 12.2, 12.3, 12.4, 12.5, and 12.6 of Section 12, General Provisions; and the following provisions in these General Conditions: Section 2.2(J), Contractor's Records, Section 2.3(C), Termination, Section 3.7, Ownership, Section 4.2, Indemnity, Article 12, Dispute Resolution, and Section 11.2, Warranty.

## END OF GENERAL CONDITIONS

## **SPECIAL CONDITIONS**

NOT APPLICABLE



## **TECHNICAL SPECIFICATIONS**

### **Re-Roofing Specifications**

**Project Location:  
Tile Roof & Low Sloped Roof Replacement  
17555 Peak Avenue,  
Morgan Hill, CA**



**Prepared By:  
Dan Caruth  
Group 7 Consultants LLC  
185 Front Street  
Suite # 108-C  
Danville, CA 94526**





## BACKGROUND:

Please see Group 7 Consultants' Roof Inspection and Condition Report for the Building Known as "Morgan Hill City Council Chambers," located at 17555 Peak Avenue, Morgan Hill, CA 95037 dated March 19, 2025 (Attachment 1).

There are three types of roof on this building. The largest roofing system is comprised of a "Villa" style roofing tile. This roofing area covers approximately 14,520 square feet, possibly from original construction, which according to public records, was constructed in 1993, putting the roof at approximately 32 years old.

The remaining roof areas are low sloped roofing areas and equipment wells. The existing roofing systems consist of an asphaltic built-up, four-ply mineral cap sheet roofing system installed over the plywood structural wood deck. The main low sloped roofing area was coated in the recent years (see picture map above for reference: Roof Area #1). The ages of these existing roofing systems is unknown. The usual viable life of an asphaltic built-up roofing system is approximately 20 years. The low sloped roofing areas of the building cover approximately 3,150 square feet.

## **SPECIAL CONDITIONS / Clay Tile Roof / Low Sloped Roof(S) Replacement Project**

1. This project includes the sloped clay tile roof replacement. All the existing clay tiles to be removed and replaced. Approved manufacture is US Tile one piece S tile or equal.
2. Remove the existing clay tile and underlayment down to the wood deck. All associated sheet metal and accessories will be removed for complete replacement. All the debris from the removal process will be hauled away and dumped legally. Included in your base bid.
3. Supply and install new clay tile matching bird stops at the bottom, first tile. Included in your base bid.
4. All existing gutters to be cleaned and coated to prevent further water intrusion. Included in your base bid.
5. All the rake and ridge tiles to be mortared into place. All the mortar will be tinted to blend into the clay color of the existing tile.
6. One layer of new self-adhering membrane (WR Grace Bituthene 3000 or equal) will be added over the entire wood deck surface. A second layer of asphaltic (Malarkey or equal) Right Smart UDL or equal to be mechanically attached. Including in base bid.



7. Add new ventilation to the closed in areas as required to meet current codes. This may be accomplished with eyebrow type vents. Included in base bid.
8. Replace all roof related sheet metal flashings, including all gutter "kick outs" and the sheet metal flashings around the stucco buttresses. Included in base bid.
9. All sheet metal flashings to be 24 gauge bonderized galvanized sheet metal. Kynar 24-gauge pre-finished sheet metal will be allowed as an alternative. All sheet metal to be primed and painted. Included in base bid.
10. All and any roof related sheet metal roof vents, pipe penetrations, surrounds, flashings, roof to wall and head flashings are to be replaced. Including in base bid.
11. Dry rotted wood sheathing, provide a line-item cost (match existing) per 4 X8 sheet ea. Line-item cost.
12. A 36" path creating equipment well roof access to be installed on the backside of the roof. New 8-inch curbs to be added up each side of the access path. All related sheet metal flashing to be provided. All sheet metal to be 24-gauge bonderized sheet metal, primed and painted red to blend with the tile colors. New 2-ply self-adhered membranes to be installed. The top membrane is to be a red granulated modified membrane. Included in base bid.
13. Remove the existing BUR roofing systems to the plywood substrate. All debris is to be hauled away and legally disposed of. Included in base bid.
14. Mechanically attach G P 1/4" DensDeck fire rated coverboard to the wood substrate. Included in base bid.
15. New PVC membrane to be 60 MIL Sika Plan (or equal) mechanically attached / 20-year system warranty. Included in base bid.
16. All new EPDM Caddy support blocks at all conduit and condensate lines. Included in your base bid.
17. Supply and install 150 feet of walk pad, locations to be determined. Included in your base bid.
18. All roof-related sheet metal to be replaced and primed & painted. All sheet metal to be clad coated 24-gauge sheet metal. Included in your base bid.
19. All applicable state and local permits and code requirements to be provided. Included in your base bid.
20. This project is to be paid prevailing wage.



21. Please provide a copy of your insurance documents per the owner's requirements.
22. Please see the owner required contractor on site rules and requirements.
23. Roofs will be kept watertight at the end of each day, NO EXCEPTIONS.



SECTION 07322 (07 32 00)

USTILE CLAY ROOFING TILE

*Copyright 2012 - 2023 ARCAT, Inc. - All rights reserved*

## PART 1 GENERAL

### 1.1 SECTION INCLUDES

- A. Formed clay roof tiles and roof system components.
- B. Metal roof flashing.
- C. Underlayments and self-seal membrane.
- D. Related roof accessories.

### 1.2 RELATED SECTIONS

- A. Section 06100 - Rough Carpentry; Roof sheathing and nailers.
- B. Section 07220 - Roof and Deck Insulation.
- C. Section 07600 - Flashing and Sheet Metal.
- D. Section 07710 - Roof Specialties; Roof gutters and downspouts.
- E. Section 07720 - Roof Accessories.
- F. Division 15 - Mechanical: Mechanical work projecting through roof.
- G. Division 16: - Electrical: Electrical work projecting through roof.

### 1.3 REFERENCES

- A. ASTM C 144 - Standard Specification for Aggregate for Masonry Mortar.
- B. ASTM C 150 - Standard Specification for Portland Cement.
- C. ASTM C 1167 - Standard Specification for Clay Roof Tiles.
- D. ASTM D 226 - Standard Specification for Asphalt-Saturated Organic Felt Used in Roofing and Waterproofing.



- E. ASTM D 1002 - Standard Test Method for Apparent Shear Strength of Single-Lap-Joint Adhesively Bonded Metal Specimens by Tension Loading.
- F. ASTM D 2626 - Standard Specification for Asphalt-Saturated and Coated Organic Felt Base Sheet Used in Roofing.
- G. ASTM D 2822 - Standard Specification for Asphalt Roof Cement.
- H. IAPMO UES Evaluation Report 0411 - Clay Roof Tiles.
- I. IAPMO UES ER-2015 - TRI Concrete and Clay Roof Tile Installation Manual.
- J. California Title 24 - California's Energy Efficiency Standards for Residential and Nonresidential Buildings.
- K. TRI Cold and Snow Concrete and Clay Tile Design Criteria for Cold and Snow Regions.
- L. TRI Concrete and Clay Roof Tile Installation Manual Fifth Edition.
- M. FRSA/TRI Florida High Wind Tile Installation Manual, Revised Sixth Edition, 2020.

#### 1.4 DESIGN REQUIREMENTS

- A. USTile Clay Roof Tile materials and installation shall conform to the requirements of IAPMO UER-411.
- B. Roofing tile materials and installation shall conform to the requirements of the applicable building code.

#### 1.5 SUBMITTALS

- A. Product Data: Manufacturer's data sheets on each product to be used, including:
  - 1. Preparation instructions and recommendations.
  - 2. Storage and handling requirements and recommendations.
  - 3. Installation methods.
- B. Shop Drawings: Indicate metal flashing profiles, joint locations, fastening locations, and installation details. Indicate tile layout with location of cut and special shaped tiles identified..
- C. Selection Samples: For each finish product specified, two complete sets of tile colors representing manufacturer's full range of available colors and patterns.
- D. Verification Samples: For each finish product specified, two full size samples representing actual product, color, and patterns.
- E. Certificates of Compliance: Submit to certify compliance with referenced standards.

#### 1.6 QUALITY ASSURANCE

- A. Manufacturer Qualifications: Minimum five years documented experience producing concrete roof tile and member of Tile Roof Institute.
- B. Installer Qualifications: Minimum five years documented experience installing products specified in this section.



## 1.7 DELIVERY, STORAGE, AND HANDLING

- A. Store products in manufacturer's unopened packaging with labels intact until ready for installation.
- B. Deliver products to project site in manufacturer's unopened pallets, labeled with data indicating compliance with specified requirements.
- C. Maintain dry storage area for products of this section until installation of products.

## 1.8 PROJECT CONDITIONS

- A. Maintain environmental conditions (temperature, humidity, and ventilation) within limits recommended by manufacturer for optimum results. Do not install products under environmental conditions outside manufacturer's absolute limits.
- B. Do not overload the roof. Distribute stacks of tile uniformly on roof at not greater than 12 inches (305 mm) in height.

## 1.9 WARRANTY

- A. Roof Tile: Westlake Royal Roofing's Transferable Limited 50-year USTile Clay Product warranty.
- B. Underlayment: Westlake Royal TileSeal HT Self-Adhering Underlayment 30 Year Limited Manufacturer's Warranty.
- C. Underlayment: GatorSeal Granular Heavy Duty Self-Adhering Underlayment 20 Year Limited Manufacturer's Warranty.
- D. Underlayment: Westlake Royal Ply 40 Underlayment 10 Year Limited Manufacturer's Warranty.
- E. Installation Warranty: Warrants products of this section, as installed, to be in accord with the Contract Documents and free from faults and defects in materials and workmanship for a period of 3 years after completion.

## 1.10 EXTRA MATERIALS

- A. Provide an additional 1 percent of installed roof tiles, but not less than one full square, for Owner's use in roof maintenance.
- B. Furnish extra materials packaged with protective covering for storage and identified with labels clearly describing contents.

## PART 2 PRODUCTS

### 2.1 MANUFACTURERS

- A. Acceptable Manufacturer: Westlake Royal Roofing Solutions, which is located at: 2801 Post Oak, Suite 600, Houston, TX 77056; Toll Free: 800-658-8004; Email: request info (Shannon.Delgado@westlake.net); Web: <https://westlakeroyalroofing.com>

## 2.2 CLAY ROOF TILE

- A. USTile General:
  - 1. Made with up to 59 percent recycled raw materials and are 100 percent recyclable.
  - 2. Class A fire rated.
  - 3. Cool Roof and Energy Star rated.
  - 4. California Title 24 (Heat Island) Compliant without upgrades.
- B. One-Piece Mission "S" Clay Roofing Tile with matching hip, ridge, rakes, boosters and birdstops: Standard Weight Collection.
  - 1. Finishing Tile: Provide Mansard Trim, Hip Starter and Mansard Apex 3-Way tiles.
  - 2. Size: 18 inches (457 mm) by 13 inches (330 mm), nominal.
  - 3. Coverage: With 3 inch (76 mm) head lap, 88 field tiles per 100 sq ft (9.29 sq m) of roof area.
  - 4. Installed Weight per Square: Approximately 800 lbs. (363 kg).
  - 5. Color and Finish: El Camino Blend.
  - 6. Color and Finish: As selected by the Architect.
- C. One-Piece Mission "S" Clay Roofing Tile with matching hip, ridge, rakes, boosters and birdstops: Texas Standard Weight Collection Class 2 Hail Rated Tile.
  - 1. Finishing Tile: Provide Mansard Trim, Hip Starter and Mansard Apex 3-Way tiles.
  - 2. Size: 18 inches (457 mm) by 13 inches (330 mm), nominal.
  - 3. Coverage: With 3 inch (76 mm) head lap, 88 field tiles per 100 sq ft (9.29 sq m) of roof area.
  - 4. Installed Weight per Square: Approximately 800 lbs. (363 kg).
  - 5. Color and Finish: \_\_\_\_\_.
  - 6. Color and Finish: As selected by the Architect.

## 2.3 ACCESSORY MATERIALS

- A. Underlayment:
  - 1. Westlake Royal TileSeal HT Self-Adhering Underlayment.
  - 2. Westlake Royal TileSeal 50 HT Self-Adhering Underlayment.
  - 3. GatorSeal Granular Heavy Duty Self-Adhering Underlayment.
  - 4. Westlake Royal Ply 40 Underlayment.
  - 5. SwiftGuard Engineered Synthetic Underlayment.
  - 6. Sol-R-Skin BLUE, Thermal Insulating Underlayment.
- B. Battens:
  - 1. Elevated Batten System battens 1 inch by 3 inch by 8 feet (25 mm by 76 mm by 1.4 M) nominal.
- C. Fasteners: Sized to penetrate deck minimum 3/4 inch (19 mm) or through thickness of deck or batten.
  - 1. Quik Drive screws complying with ASTM 641, Class 1, with 2 inch or 2-1/2 inch (51 mm or 64 mm) Screws, Roofing Specific.
- D. Rake and Gable End:
  - 1. Prefabricated Rake and Ridge tile. Choose to match tile profile and color.

- E. v/ Flashings:
  - 1. Ribbed Valley Metal, 26 gauge corrosion resistant metal flashing.
  - 2. Wakaflex universal flashing for abutments at chimneys, walls, and other rising structures.
  - 3. Plumbing Stacks and Other Pipes Penetrating Roofs as recommended by the manufacturer.
- F. Mortar materials, plastic cement, and sealant: Code approved adhesive suitable to bond to clay roof tile.
  - 1. Sand: ASTM C 144.
  - 2. Portland cement: ASTM C 150, Type 1.
  - 3. Plastic cement: ASTM D 2822.
  - 4. Silicone sealant: ASTM D 1002.
- G. Nailers:
  - 1. 2 by 4 inch (51 by 101 mm) wood nailing strips under first row of cover tile after gable roll, with adjacent 2 by 2 inch (51 by 51 mm) wood nailing strip along rake sides of profiled tiles only.

## PART 3 EXECUTION

### 3.1 EXAMINATION

- A. Do not begin installation until substrates have been properly prepared.
- B. Verify surfaces are uniform free of ridges, warp, or voids, smooth, clean, and dry.
- C. If substrate preparation is the responsibility of another installer, notify Architect of unsatisfactory preparation before proceeding.

### 3.2 PREPARATION

- A. Clean surfaces thoroughly prior to installation.
- B. Prepare surfaces using the methods recommended by the manufacturer for achieving the best result under the project conditions.

### 3.3 INSTALLATION - GENERAL

- A. Install in accordance with manufacturer's instructions and the following:
  - 1. IAPMO UES Evaluation Report 0411 - Clay Roof Tiles.
  - 2. IAPMO UES ER-2015 - TRI Concrete and Clay Roof Tile Installation Manual (TRI Installation Manual).

### 3.4 INSTALLATION:

- A. Underlayment: Install in accordance with the manufacturer's instructions.
  - 1. For roof slopes of 3:12 to less than 4:12, two layers are required.
  - 2. For pitches of 4/12 and greater: Minimum one layer is required.
- B. Flashings: Install Ribbed Valley Metal according to Westlake Royal Roofing's installation instructions.
  - 1. Valleys: Install preformed metal flashing over underlayment.
    - a. Open Valley: Miter tile to form straight border a minimum of 11 inches (274 mm) back from the center of the valley on each side.



2. Side Wall Flashing:
    - a. Lap Top Flange of Base Flashing: 6 inches (152 mm), minimum.
    - b. Nail metal near edge 6 inches (152 mm) on center.
    - c. Extend flashing under tile at least 4 inches (102 mm) and turn edge up 1-1/2 inches (38 mm).
    - d. Lap Joints: 3 inches (76 mm), minimum.
  3. Sides of dormers, chimneys, and other walls, extend flashing at least 6 inches up vertical surface.
    - a. Extend flashing under tile at least 4 inches (102 mm) and turn edge up 1-1/2 inches (38 mm).
    - b. Lap Joints: 3 inches (76 mm), minimum.
  4. At wood saddles and returns, line with Wakaflex flashing extending up roof slope not less than 14 inches, and up vertical walls not less than 6 inches, and thoroughly counter flash.
  5. Make all counter flashing plugged, pointed and secure.
- C. Birdstops, boosters and starters for profiled tiles only:
1. Install clay birdstops along entire length of all eaves.
  2. Install first course of pan tile leaving a 3/4 to 2 inch (19 to 51 mm) maximum overhang at eave.
  3. Install 3 inch (76 mm) booster tiles on top of birdstops.
  4. Install 15 inch (381 mm) starter tiles on top of booster tiles along perimeter of all eaves.
- D. Eave Closures:
1. Prefabricated Metal Eave Closure: profile to match tile, fastened at minimum 18 inches (457 mm) on center along eave.
- E. Fasteners:
1. Follow manufacturer's installation recommendations.
  2. Follow TRI Installation Manual.
- F. Install field tile in courses beginning at eave working up incline of roof deck.
1. Follow TRI Installation Manual.
  2. Follow Westlake Royal Roofing's 2-Piece Mission Clay Tile Layout and Alignment Guide for 2-Piece Mission Installations.
  3. Follow Westlake Royal Roofing's Faux Mission Clay Tiles Installation Guide for Faux Mission Installations.
  4. As an alternate, end caps can be embedded in cement mortar for a more rustic appearance.
  5. As an alternate, cover tiles can be added using booster tiles laid dry or laid in cement mortar.
  6. Install hip and ridge tiles:
    - a. Provide cement mortar or other approved materials at all hips and ridges to completely fill voids and to weatherproof the roof.
    - b. All hip, ridge and first row of cover tiles after gable roll shall be set in cement mortar and fastened by non-corrosive nails.
  7. All tiles in contact with cement mortar shall be immersed in water for two minutes before laying.
  8. To avoid color problems on roof:
    - a. Load roof tiles from different pallets.
    - b. Visually inspect application from the ground level after installing 100 tiles.
    - c. Visually verify that roof tile color is uniform and even and verify that tile courses are straight and true.
  9. Correct any color or installation problems before proceeding with the installation.
  10. Complete installation to provide weather tight service.





- G. Flashing at Curb Mounted Skylights and Other Items:
    - 1. Follow manufacturer's installation recommendations.
    - 2. Follow TRI Installation Manual.
  - H. Flashing at Plumbing Stacks, Pipes, Turbines, Vents, etc.:
    - 1. Follow manufacturer's installation recommendations.
    - 2. Follow TRI Installation Manual.
  - I. Coatings: Apply color coordinated paint to all exposed metal flashings.
- 3.5 CLEANING
- A. Remove all broken tile, debris, and excess tile from roof.
  - B. Sweep cut tiles clean.
- 3.6 REPAIR AND REPLACEMENT
- A. Damaged Tile:
    - 1. Break out damaged roof tile.
    - 2. Repair torn underlayment.
    - 3. Drive fastener flush.
    - 4. Apply minimum 3/8 inch (10 mm) by 2 inch (51 mm) bead of approved adhesive on tile in course below replacement tile.
    - 5. Immediately set replacement tile in position assuring proper contact.
  - B. Damaged Small Valley and Hip Cuts:
    - 1. Apply a minimum of 3/8 inch (10 mm) by 2 inch (51 mm) bead of approved adhesive at head of cut tile.
    - 2. Immediately set tile in course above in position assuring proper contact.
- 3.7 PROTECTION
- A. Protect installed products until completion of project.
  - B. Touch-up, repair or replace damaged products before Substantial Completion.

## SECTION 08 62 00 –UNIT SKYLIGHTS

### PART 4 GENERAL

#### 1. SECTION INCLUDES

Traditional dome unit skylight with formed curb counterflashing for mounting on site-built or prefabricated roof curbs, for flat, low-slope and steep-slope roofing applications.

#### 2. RELATED REQUIREMENTS

Section 061053 "Miscellaneous Rough Carpentry" for site-built wood roof curbs and nailers for unit skylights.

Division 07 roofing section for flashing and roofing terminations at unit skylight curbs.

Section 077200 "Roof Accessories" for manufactured metal roof curbs for unit skylights.



### 3. REFERENCE STANDARDS

specifications, unless otherwise required by building code in force.

American Architectural Manufacturers Association ([www.aama.net](http://www.aama.net)), Window & Door Manufacturers Association ([www.wdma.com](http://www.wdma.com)), Canadian Standards Association ([www.csagroup.org/us/en/services](http://www.csagroup.org/us/en/services))

- 1) AAMA/WDMA/CSA 101/I.S.2/A440 - North American Fenestration Standard/ Specification for Windows, Doors, and Skylights (NAFS)
- 2) CSA A440S1 – Canadian Supplement to AAMA/WDMA/CSA 101/I.S.2/A440
- 3) AAMA 502 – Voluntary Specification for Field Testing of Newly Installed Fenestration Products
- 4) AAMA 2603 – Voluntary Specification, Performance Requirements and Test Procedures for Pigmented Organic Coatings on Aluminum and Panels

ASTM International: [www.astm.org](http://www.astm.org):

- 5) ASTM D1003 – Standard Test Method for Haze and Luminous Transmittance of Transparent Plastics
- 6) ASTM E108 - Standard Test Methods for Fire Tests of Roof Coverings
- 7) ASTM E283 - Standard Test Method for Determining Rate of Air Leakage Through Exterior Windows, Curtain Walls, and Doors Under Specified Pressure Differences Across the Specimen
- 8) ASTM E331 - Standard Test Method for Water Penetration of Exterior Windows, Skylights, Doors, and Curtain Walls by Uniform Static Air Pressure Difference
- 9) ASTM E408 - Standard Test Methods for Total Normal Emittance of Surfaces Using Inspection-Meter Techniques

Code of Federal Regulations:

- 10) 29 CFR 1910.29 - Occupational Safety and Health Standards: Fall protection systems and falling object protection – criteria and practices.

Illuminating Engineering Society of North America (IESNA): [www.ies.org](http://www.ies.org):

- 11) IESNA – The Lighting Handbook.

Leadership in Energy and Environmental Design (LEED): [www.usgbc.org/leed](http://www.usgbc.org/leed)

National Fenestration Rating Council: [www.nfrccommunity.org](http://www.nfrccommunity.org):

- 12) NFRC 100 - Procedure for Determining Fenestration Product U-factors
- 13) NFRC 200 - Procedure for Determining Fenestration Product Solar Heat Gain Coefficient and Visible Transmittance at Normal Incidence

National Fire Protection Association: [www.nfpa.org](http://www.nfpa.org):

- 14) NFPA 70 - National Electrical Code

### 4. COORDINATION

Coordinate dimensions, locations, and details of skylight curbs [specified in Section 061053 "Miscellaneous Carpentry"] [specified in Section 077200 "Roof Accessories"] with unit skylight curb flashings. Verify requirements for roofing system terminations.

Coordinate unit skylight interior termination locations with structural layout, ceiling layouts, and other ceiling-mounted items.



## 5. PREINSTALLATION MEETINGS

Preinstallation Conference: Conduct conference at Project site prior to delivery of unit skylight and installation of roof deck.

## 6. ACTION SUBMITTALS

Product Data: For unit skylights. Include standard construction details, product performance characteristics, and material descriptions, dimensions of individual components and profiles, and finishes.

- 1) Include test reports of qualified independent testing agency or third party certificates verifying compliance with performance requirements.

LEED Submittals:

- 2) Credit MR 4 Recycled Content: Documentation indicating the following:
  - a) Percentages by weight of post-consumer and pre-consumer recycled content.
  - b) Total weight of products provided.
  - c) Include statement indicating costs for each product having recycled content.

Shop Drawings: For unit skylight work. Include plans, elevations, sections, details, and connections to supporting structure and other adjoining work.

- 3) Lighting photometric study indicating compliance with performance requirements in accordance with IESNA. Include layout, spacing criteria and foot-candle report.

## 7. INFORMATIONAL SUBMITTALS

## 8. CLOSEOUT SUBMITTALS

Operation and Maintenance Data.

## 9. QUALITY ASSURANCE

Manufacturer Qualifications: A qualified manufacturer listed in this Section with minimum 30 years' experience in the US manufacturing similar products in successful use on similar projects and able to provide unit skylights meeting requirements.

- 1) Approval of Manufacturers and Comparable Products: Submit the following in accordance with project substitution requirements, within time allowed for substitution review:
  - a) Completed and signed Substitution Request form.
  - b) Product data, including photometric data and independent test data indicating compliance with requirements.
  - c) Sample product warranty.

## 10. WARRANTY

Manufacturer's Warranty: Manufacturer's standard form in which manufacturer agrees to repair or replace components of skylights that fail in materials or workmanship under normal use within specified warranty period.



- 1) Failures include, but are not limited to, the following:
  - a) Deterioration of metals, metal finishes, dome, and other materials beyond normal weathering.
  - b) Breakage of polycarbonate glazing.
  - c) Product leaks.
- 2) Warranty Period:
  - a) 15 Years: Polycarbonate dome skylights including water penetration and hail breakage for hailstones 2 inches and less in diameter. Mill finished aluminum skylight frames.
  - b) 10 Years: Yellowing of acrylic and polycarbonate skylight domes.
  - c) 5 Years: Acrylic and impact modified acrylic dome skylights, skylight model CDS with polycarbonate dome, aluminum curbs, external safety cage, internal safety screen accessory, internal security bars accessory, ventilation curb extension.
  - d) 1 Year: Steel curbs

## PART 5 PRODUCTS

### 1. MANUFACTURERS

Basis-of-Design Product: Subject to compliance with requirements, provide products of **VELUX America LLC**, Greenwood, SC 29648, [www.veluxusa.com](http://www.veluxusa.com).

Substitutions: See Article 7 – General Construction Provisions; 7.7 Substitutions

Source Limitations: Obtain unit skylights through single source from single manufacturer.

### 2. ECOSKY TRADITIONAL DOME UNIT SKYLIGHT ([Curb Mount Model CMT-] [Deck Mount Model DMT-])

System Description: Traditional dome, [curb] [deck] mounted fixed skylight utilizing extruded aluminum frame counter-flashing with welded corners, a PVC inner frame allowing condensation drainage, structural sealant, [integral double sided insulated aluminum curb] and accessories, as required to meet installation and performance requirements indicated. Traditional dome skylights shall be suitable for installation on roof pitches ranging from 0 degrees up to 60 degrees from horizontal.

- 1) Basis of Design: **VELUX America LLC, Model [CMT-] [DMT-] Traditional Dome Skylight.**

The Custom Thermoformed Dome Skylight glazing is sized to meet the specific unit skylight requirements. Prismatic sheets are not offered for the outer dome as prisms pointed away from sun refract as much as 10% the light to the exterior resulting in less daylight passing through the prismatic material. Prismatic sheets used for the inner dome where the prisms point to the light source allows all the daylight to pass through and fully diffuses the light as intended

Model CMT2 is a curb mounted traditional double dome skylight with aluminum frame. Model DMT2 is a deck mounted traditional double dome skylight with aluminum frame and integral curb. Model CMT3 is a curb mounted traditional triple dome skylight with aluminum frame. Model DMT3 is a deck mounted traditional triple dome skylight with aluminum frame and integral curb.

Use white color interior dome when specifying 100% light diffusion.



Thermoformed Traditional Dome: Outer dome shall be formed from smooth sheet and not prismatic in order to transmit all incident daylight through outer dome.

2. Double dome:
  - a. Infrared Blocking Acrylic – Outer dome Satin Sky 2, 0.118 inches in thickness. Inner dome [clear] [white] acrylic, 0.118 inches in thickness.]
3. Triple Dome:
  - a. Infrared Blocking Acrylic – Outer dome Satin Sky 2, 0.118 inches in thickness. Middle dome clear acrylic 0.118 inches in thickness. Inner dome [clear] [white] acrylic, 0.118 inches in thickness.]

Aluminum Frame Counter-flashing: Maintenance-free, extruded aluminum, grade 6063-T6, 0.08 inch (2.0 mm) thick with [mill] [neutral grey powder coat] finish. Counter-flashing frames completely welded in corners and counter flashes curb a minimum of 1.625 inches (41 mm). Provide aluminum frame with at least 0.5 inch (12 mm) continuous ledge on each side of the skylight that is a pinch free access for stacking, manual transportation and mounting of skylights.

- i. Unit Sizes: [As indicated on drawings.]

100% Thermally Broken PVC inner-frame for Condensation Drainage: Factory applied white PVC inner-frame assembly providing a thermal break weather seal and drainage for condensation. The inner-frame design allows positive condensation to the exterior of the curb without exposed drainage openings in the aluminum frame that can introduce air infiltration into the skylight. The PVC inner-frame construction consists of coextruded fins allowing for a dry installation of skylight to the curb, eliminating weather seal strips or caulking at the top of the curb.

Structural Sealant: Factory applied InstantGlaze sealant, bonding the dome to the aluminum frame and suitable for external exposure.

Deck Mount Aluminum Curb: Factory insulated aluminum curb, 1.5 inches in thickness with 22 gauge (0.025") white finished aluminum interior and 20 gauge (0.032") mill finished aluminum exterior. Curb factory insulated with 1.5 inches of expanded polystyrene board having a 5.8 R-value. Width and length of curb shall be as indicated with [9] [12] [16] inch curb height. Curb roof mounting flange shall be a minimum 2.75 inches in width. .

## 2. ACCESSORIES-CURBS:

Steel Curb: Curb width and length designation shall be sized as indicated on drawings Curb height shall be [9] [12] [16] [18] inches and nominal curb thickness shall be 1.5 inches.

- i. Factory Insulated Curb: Factory engineered steel curb fabricated from [18] [14] gauge galvanized steel with fully welded corners, all welds factory primed with galvanized paint, and continuous 2 inch by 2 inch nominal pressure treated wood nailer mounted to the top flange of the curb. Curb is factory insulated with 1.5 inch thick, 3 pound density fiberglass insulation. Interior liner of curb fabricated from 20 gauge steel and primed white. Curb roof mounting flange shall be a minimum of 3 inches in width. [Provide steel curb without safety screen or security bars.] [Steel insulated curb provided with integral fall protection safety screen constructed from 0.1875 inch steel mesh with a 6 inch on center grid spacing] [security bars constructed from 0.5 inch cold rolled steel with a 6 inch on center grid spacing]]. Basis of Design: VELUX America LLC Model, CCA3.



- ii. Non-insulated curb: Factory engineered steel curb fabricated from [18] [14] gauge galvanized steel with fully welded corners, all exterior welds factory primed with galvanized paint, and continuous 2 inch by 4 inch nominal pressure treated wood nailer mounted under the top flange of the curb. Curb roof mounting flange shall be a minimum of 3 inches in width. [Provide steel curb without safety screen or security bars.] [Steel insulated curb provided with integral [fall protection safety screen constructed from 0.1875 inch steel mesh with a 6 inch on center grid spacing] [security bars constructed from 0.5 inch cold rolled steel with a 8 inch on center grid spacing]]. Basis of Design: VELUX America LLC, Model CCA6.

- b. Aluminum Curb: Factory insulated aluminum curb, 1.5 inches in thickness with 22 gauge (0.025") white finished aluminum interior and 20 gauge (0.032" mill finished aluminum exterior. Curb factory insulated with 1.5 inches of expanded polystyrene board having a 5.8 R-value. Width and length of curb shall be as indicated with [9] [12] [16] inch curb height. Curb roof mounting flange shall be a minimum 2.75 inches in width. Basis of Design: VELUX America LLC, Model CCAW.

### 3. ACCESSORIES-FALL PROTECTION AND SECURITY

Interior safety screen accessory: Fall protection safety screen constructed from 0.1875 inch steel mesh with a 6 inch on center grid spacing welded to 18 gauge steel z-bar support frame continuous on each side with welded corners. Interior safety screen frame mounts to top of 1.5 inches curb with safety screen mesh located not more than 1.5 inches below top of curb. Safety screen factory are galvanized finish. Safety screen shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Interior safety screen accessory width and length designation shall be sized as indicated on drawings Basis of Design: VELUX America LLC, Model CRGA xxxx ICD.

Exterior safety screen accessory: Fall protection screen attaches directly to the skylight frame and provides fall protection coverage over the exterior of the skylight dome. Safety screen constructed from a minimum 0.1875 inches steel mesh with a 4 inch on center grid spacing. Exterior safety screen shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Safety screen accessory width and length designation shall be sized as indicated on drawings Basis of Design: VELUX America LLC, Model CAE.

Interior security bars accessory: Security bars accessory constructed from 0.5 inch cold rolled steel [with a 8 inch on-center grid spacing welded to 18 gauge steel z-bar support frame continuous on each side with welded corners.] [with 5 inch on-center spacing parallel to short side welded to 0.125 inch steel z-bar support frame continuous along sides.] Accessory frame mounts to top of 1.5 inches curb with security bars located less than 1 inch below top of curb. Security bars accessory has a galvanized finish. Internal security bars accessory shall meet fall protection requirements by supporting a minimum static load of 400 pounds per square foot. Size shall be as indicated on drawings Basis of Design: VELUX America LLC, Model CRGA BB or CRGA SB.

### 4. PERFORMANCE REQUIREMENTS

Daylighting: Provide daylighting photometric performance comparable to basis of design product at layout indicated, based upon daylighting profile of March 21, 9:00 am local time, at Project location by simulation in accordance with IESNA guidelines.

Dome Smoke Density Rating: Testing in accordance with ASTM D 2843 with a documented performance value less than or equal to 75.

Dome Self-Ignition Temperature: Tested in accordance with ASTM D 1929 with a documented performance value greater than or equal to 650 degrees Fahrenheit.



Energy Performance ratings for any size commercial [CMT- curb] [DMT- deck] mounted unit skylight with traditional dome as follows:

i. Thermal Transmittance: NFRC 100 maximum U-factor:

1. [Double Dome: Infrared blocking acrylic over acrylic ([CMT2] [DMT2] E2A1): 0.61]]
2. [Triple dome infrared blocking acrylic over acrylic over acrylic ([CMT3] [DMT3] E2A1: 0.47]]

ii. Solar Heat-Gain Coefficient (SHGC): NFRC 200 maximum SHGC:

1. [Double Dome: [Infrared blocking acrylic over acrylic ([CMT2] [DMT2] E2A1): 0.38]]
2. [Triple dome infrared blocking acrylic over acrylic over acrylic ([CMT3] [DMT3] E2A1: 0.36]]

iii. Visible Light Transmittance (VLT) and Percent Haze: ASTM D 1003:

[Double Dome: Infrared blocking acrylic over acrylic ([CMT2] [DMT2] E2A1): VLT = 56.8%,  
Haze = 99.8%]]

1. [Triple dome infrared blocking acrylic over acrylic over acrylic ([CMT3] [DMT3] E2A1: VLT = 51.7%, Haze = 99.9% ]]

Fall Protection Standard Compliance: 29 CFR 1910.29: Skylight [dome], [safety screen] [security bars] tested to support a minimum of 400 pounds over 1 square foot of the surface.

## 5. MATERIALS

Joint Sealants: As specified in Section 079200 "Joint Sealants."

Mastic Sealants: Polyisobutylene; nonhardening, nonskinning, nondrying, nonmigrating sealant.

## 6. FINISHES

Comply with NAAMM's "Metal Finishes Manual for Architectural and Metal Products" for recommendations for applying and designating finishes.

Appearance of Finished Work: Noticeable variations in same piece are not acceptable. Variations in appearance of adjoining components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.

## 3. EXECUTION

### 1. EXAMINATION

Examine openings, substrates, structural support, anchorage, and conditions, with Installer present, for compliance with requirements for installation tolerances and other conditions affecting performance of the Work.

Proceed with unit skylight installation only after unsatisfactory conditions have been corrected.

### 2. INSTALLATION

Install unit skylights in accordance with manufacturer's written instructions and approved shop drawings. Coordinate installation of units with installation of substrates, air and vapor retarders, roof insulation, roofing membrane, and flashing as required to ensure that each element of the Work performs properly and that finished installation is weather tight.





- i. Anchor unit skylights securely to supporting substrates.
- ii. Install unit skylights on curbs specified in another section with tops of curbs parallel to finished roof slope.

Where metal surfaces of unit skylights will contact incompatible metal or corrosive substrates, including preservative-treated wood, apply bituminous coating on concealed metal surfaces, or provide other permanent separation recommended in writing by unit skylight manufacturer.

For custom flashings, install unit skylight curb counter-flashing to produce weatherproof seal with curb and overlap with roofing system termination at top of curb.

### 3. FIELD QUALITY CONTROL

Work will be considered defective if it does not pass inspections.

Additional testing and inspections, at Contractor's expense, will be performed to determine compliance of replaced or additional work with specified requirements.

Prepare inspection reports.

### 4. CLEANING AND PROTECTION

Clean exposed unit skylight surfaces according to manufacturer's written instructions. Touch up damaged metal coatings and finishes. Remove excess sealants, glazing materials, dirt, and other substances.

Replace glazing that has been damaged during construction period.

Protect unit skylight surfaces from contact with contaminating substances resulting from construction operations.

END OF SECTION

END OF SECTION





**Date May 13, 2025**

**Sikaplan®  
Mechanically Attached  
System**

**Project:  
17555 Peak Avenue  
Morgan Hill, CA**

**Consultant:  
Group 7 Consultants  
Danville, CA 94526  
925-389-0892**



**SECTION 07 54 19**  
**THERMOPLASTIC MEMBRANE ROOFING**  
**SIKAPLAN® MECHANICALLY ATTACHED SYSTEM**

**GENERAL CONDITIONS**

**DESCRIPTION**

Scope

To install a complete Sikaplan Mechanically Attached System including membrane, flashings and other components. Or Equal.

Related Work

The work includes but is not limited to the installation of:

- Removal of old membrane roofing, wall, curb, and penetration flashings including abandon curbs.
- Substrate Preparation
- Roof Drains / overflows
- Roof Membrane
- Fasteners
- Adhesive for Flashings
- Roof Membrane Flashings
- Walkways
- Metal Flashings
- Sealants

Upon successful completion of work the following warranties may be obtained:

- Sikaplan Warranty
- Roofing Applicator Warranty

**QUALITY ASSURANCE**

This roofing system shall be applied only by a roofing applicator authorized by Sika Corporation prior to bid (Sika Corporation "Applicator").

Upon completion of the installation an inspection may be made by a Technical Service Representative of Sika Corporation to determine that the visible



elements of the roofing system have been installed in accordance with the project specification, details and approved changes wherever a Sikaplan System Warranty has been specified.

There shall be no deviation made from the Project Specification or the approved shop drawings without prior written approval by the Owner, the Owner's Representative and Sika Corporation.

All work pertaining to the installation of membrane and flashings shall only be completed by Applicator personnel trained and authorized by Sika Corporation in those procedures.

Roofing membrane manufacturer must have a demonstrated performance history of producing PVC roof membranes no less, in duration of years, than the warranty duration specified.

Product to be manufactured by membrane supplier and not private labeled.

Manufacturer to have a minimum of five years' experience recycling their membranes at the end of their service life back into new membrane products. Provide a minimum of five reference projects.

Applicable code/insurance requirements shall be identified by the Owner or Owner's representative.

## **SUBMITTALS**

At the time of bidding, the Applicator shall submit to the Owner (or Representative) the following:

Copies of Specification.

Samples of each primary component to be used in the roof system and the manufacturer's current literature for each component.

Sample copy of Sika Corporation's warranty.

Sample copy of Applicator's warranty.

Dimensioned shop drawings which shall include:

Outline of roof with roof size and elevations shown.  
Details of flashing methods for penetrations.



Certifications by manufacturers of roofing materials that all materials supplied comply with all requirements of the identified ASTM and other industry standards or practices.

Certification from the Applicator that the system specified meets all identified code and insurance requirements as required by the Specification.

Safety Data Sheets (SDS)

### **CODE REQUIREMENTS**

The Applicator shall submit evidence that the proposed roof system meets the requirements of the local building code and has been tested and approved or listed by the following test organizations. These requirements are minimum standards and no roofing work shall commence without written documentation of the system's compliance, as required in the "Submittals" section of this specification.

System shall be designed to meet a minimum wind design requirement of the most recent version of ASCE 7.

Underwriters Laboratories, Inc. - Northbrook, IL

Maintain existing Class A assembly

### **PRODUCT DELIVERY, STORAGE AND HANDLING**

All products delivered to the job site shall be in the original unopened containers or wrappings bearing all seals and approvals.

Handle all materials to prevent damage. Place all materials on pallets and fully protect from moisture.

Membrane rolls shall be stored lying down on pallets and fully protected from the weather with clean canvas tarpaulins. Unvented polyethylene tarpaulins are not accepted due to the accumulation of moisture beneath the tarpaulin in certain weather conditions that may affect the ease of membrane weldability.

As a general rule all adhesives shall be stored at temperatures between 40°F (4°C) and 80°F (27°C). Read instructions contained on adhesive canister for specific storage instructions.



All flammable materials shall be stored in a cool, dry area away from sparks and open flames. Follow precautions outlined on containers or supplied by material manufacturer/supplier.

Any materials which the Owner's representative or Sika Corporation determine to be damaged are to be removed from the job site and replaced at no cost to the Owner.

Safety Data Sheets (SDS) shall be available at the job site at all times.

#### **JOB CONDITIONS**

Sika Corporation materials may be installed under certain adverse weather conditions but only after consultation with Sika Corporation, as installation time and system integrity may be affected.

Only as much of the new roofing as can be made weathertight each day, including all flashing and detail work, shall be installed. All seams shall be heat welded before leaving the job site that day.

All work shall be scheduled and executed without exposing the interior building areas to the effects of inclement weather. The existing building and its contents shall be protected against all risks.

All surfaces to receive new membrane or flashings shall be dry. Should surface moisture occur, the Applicator shall provide the necessary equipment to dry the surface prior to application.

All new and temporary construction, including equipment and accessories, shall be secured in such a manner as to preclude wind blow-off and subsequent roof or equipment damage.

Uninterrupted waterstops shall be installed at the end of each day's work and shall be completely removed before proceeding with the next day's work. Waterstops shall not emit dangerous or unsafe fumes and shall not remain in contact with the finished roof as the installation progresses. Contaminated membrane shall be replaced at no cost to the Owner.

The Applicator is cautioned that certain Sikaplan membranes are incompatible with asphalt, coal tar, heavy oils, roofing cements, creosote and some preservative materials. Such materials shall not remain in contact with Sikaplan membranes. The Applicator shall consult Sika Corporation regarding compatibility, precautions and recommendations.



Arrange work sequence to avoid use of newly constructed roofing as a walking surface or for equipment movement and storage. Where such access is absolutely required, the Applicator shall provide all necessary protection and barriers to segregate the work area and to prevent damage to adjacent areas. A substantial protection layer consisting of plywood over Sarnafelt or plywood over insulation board shall be provided for all new and existing roof areas that receive rooftop traffic during construction.

Prior to and during application, all dirt, debris and dust shall be removed from surfaces by vacuuming, sweeping, blowing with compressed air or similar methods.

The Applicator shall follow all safety regulations as required by OSHA and any other applicable authority having jurisdiction.

All roofing, insulation, flashings and metal work removed during construction shall be immediately taken off site to a legal dumping area authorized to receive such materials. Hazardous materials, such as materials containing asbestos, are to be removed and disposed of in strict accordance with applicable City, State and Federal requirements.

All new roofing waste material (i.e., scrap roof membrane, release paper, empty cans of adhesive) shall be immediately removed from the site by the Applicator and properly transported to a legal dumping area authorized to receive such material.

The Applicator shall take precautions that storage and application of materials and equipment does not overload the roof deck or building structure.

Installation of a Sikaplan membrane over coal tar pitch or a resaturated roof requires special consideration to protect the Sikaplan membrane from volatile fumes and materials. Consult Sika Corporation for precautions prior to bid.

Flammable adhesives and deck primers shall not be stored and not be used in the vicinity of open flames, sparks and excessive heat.

All rooftop contamination that is anticipated or that is occurring shall be reported to Sika Corporation to determine the corrective steps to be taken.

The Applicator shall verify that all roof drain lines are functioning correctly (not clogged or blocked) before starting work. Applicator shall report any such



blockages in writing (letter copy to Sika Corporation) to the Owner's Representative for corrective action prior to the installation of the Sika Corporation roof system.

Applicator shall immediately stop work if any unusual or concealed condition is discovered and shall immediately notify Owner of such condition in writing for correction at the Owner's expense (letter copy to Sika Corporation).

Site cleanup, including both interior and exterior building areas that have been affected by construction, shall be completed to the Owner's satisfaction.

All landscaped areas damaged by construction activities shall be repaired at no cost to the Owner.

The Applicator shall conduct fastener pullout tests in accordance with the latest version of the SPRI/ANSI Fastener Pullout Standard to help verify condition of the deck/substrate and to confirm expected pullout values.

The Sikaplan membrane shall not be installed under the following conditions without consulting Sika Corporation's Technical Dept. for precautionary steps:

- The roof assembly permits interior air to pressurize the membrane underside.

- Any exterior wall has 10 percent or more of the surface area comprised of opening doors or windows.

- The wall/deck intersection permits air entry into the wall flashing area.

Precautions shall be taken when using adhesives at or near rooftop vents or air intakes. Adhesive odors could enter the building. Coordinate the operation of vents and air intakes in such a manner as to avoid the intake of adhesive odor while ventilating the building. Keep lids on unused cans at all times.

Protective wear shall be worn when using solvents or adhesives or as required by job conditions.

Sikaplan membranes are slippery when wet or covered with snow, frost, or ice. Working on surfaces under these conditions is hazardous. Appropriate safety measures must be implemented prior to working on such surfaces. Always follow OSHA and other relevant fall protection standards when working on roofs.



## **WARRANTIES**

### **Sikaplan Warranty**

Upon successful completion of the work to Sika Corporation's satisfaction and receipt of final payment, the Sikaplan Warranty shall be issued.

System Warranty (only products purchased from Sika Corporation are covered under System Warranty)

### **Applicator/Roofing Contractor Warranty**

Applicator shall supply Owner with a separate workmanship warranty. In the event any work related to roofing, flashing, or metal is found to be within the Applicator warranty term, defective or otherwise not in accordance with Contract Documents, the Applicator shall repair that defect at no cost to Owner. Applicator's warranty obligation shall run directly to Owner, and a copy shall be sent to Sika Corporation.

### **Owner Responsibility**

Owner shall notify both Sika Corporation and Applicator of any leaks as they occur during the time period when both warranties are in effect.

## **WARRANTY DURATIONS**

**Sikaplan's warranty shall be in effect for a 20-year duration.**

**Applicator's/Roofing Contractor's Warranty shall be in effect for a 5-year duration.**

## **PRODUCTS**

### **GENERAL**

Components of the roof system are to be products of Sika Corporation as indicated on the Detail Drawings and specified in the Contract Documents.

Components to be used that are other than those supplied or manufactured by Sika Corporation may be submitted for review and acceptance by Sika





Corporation. Sika Corporation's acceptance of any other product is only for a determination of compatibility with Sika Corporation products and not for inclusion in the Sika Corporation warranty. The specifications, installation instructions, limitations, and restrictions of the respective manufacturers must be reviewed by the Owner's Representative for acceptability for the intended use with Sika Corporation products.

Manufacturer to have a minimum of two years' experience recycling their membranes at the end of their service life back into new membrane products. Provide a minimum of five reference projects.

Consult respective product data sheets for additional information.

## MEMBRANE

Sikaplan Fastened EnergySmart White thermoplastic membrane with polyester reinforcement and lacquer coating.

Thickness

Sikaplan Fastened 60 mil (1.5 mm)

\

## Typical Physical Properties

Parameters	ASTM Test Method	Project Required Minimum Physical Properties*
Reinforcing Material	--	Polyester
Nominal Thickness, mil	D751	60
Thickness Above Scrim, mil	--	24
Felt Weight, oz/yd <sup>2</sup> (feltback membrane only)	--	9
Breaking Strength M.D., lbf/in. (KN/m)	D751	303 (53)
Elongation at Break, % M. D. & % C.M.D. <sup>1</sup>	D751	20 & 20
Seam Strength, % of original <sup>2</sup>	D751	Pass
Retention of Properties After Heat Aging	D3045	--
Tensile Strength, % of original	D751	Pass
Elongation, % of original	D751	Pass



Tearing Resistance, lbf (N)	D1004	45 (200)
Low Temperature Bend, -40°F (-40°C)	D2136	Pass
Accelerated Weathering Test (Florescent Light UV exposure)	G154	10,000 Hours
Cracking (7x magnification)	--	None
Discoloration (by observation)	--	Negligible
Crazing (7x magnification)	--	None
Linear Dimensional Change, %	D1204	0.24
Weight Change After Immersion in Water, %	D570	2.5
Static Puncture Resistance, lbf (N)	D5602	Pass
Dynamic Puncture Resistance, ft-lbf (J)	D5635	Pass
Recycled Content	--	9% Pre-consumer, 1% Post-consumer

\*Results may differ based upon statistical variations depending upon mixing methods and equipment, temperature, application methods, test methods, actual site conditions, and curing conditions.

<sup>1</sup> M.D. = Machine Direction, C.M.D. = Cross Machine Direction

<sup>2</sup> Failure occurs through membrane rupture not seam failure.

	SOLAR REFLECTANCE, INITIAL <sup>1</sup>	SOLAR REFLECTANCE, 3-YEAR <sup>1</sup>	THERMAL EMITTANCE, INITIAL <sup>2</sup>	THERMAL EMITTANCE, 3-YEAR <sup>2</sup>	SOLAR REFLECTANCE INDEX, INITIAL	SOLAR REFLECTANCE INDEX, 3-YEAR
Sikaplan Fastened 60 EnergySmart White	0.85	0.75	0.89	0.90	107	93

<sup>1</sup> Solar Reflectance testing according to ASTM C1549.

<sup>2</sup> Thermal Emittance testing according to ASTM C1371, Slide Method.

## FLASHING MATERIALS

### Wall / Curb Flashing

#### G459 Flashing Membrane

A fiberglass reinforced membrane adhered to asphalt, other contaminated surfaces, or approved substrates using Sarnacol adhesive. G459 comes in 6.5' and 3.25' widths and is 60 mil (1.5mm) thick. The standard color is white on tan. The tan side of the membrane must be the side exposed to the contamination.

### Miscellaneous Flashing



### Detail Membrane

A 60 mil (1.5 mm) fiberglass reinforced membrane, available 12" x 50' (30.5 cm x 15.2 m) roll and 24" x 50' (61 cm x 15.2 m) roll, more pliable than Sarnafil G410 membrane, good use for flashing pipes, corners, and unusual shaped penetrations.

### Sarnacircles

A 60 mil (1.5mm) thick prefabricated 4 1/2 in. round circle patch injection molded.

### Sarnacorners - Inside

A 60 mil (1.5 mm) thick prefabricated inside corner injection molded.

### Sarnacorners - Outside

A 60 mil (1.5 mm) thick prefabricated outside corner injection molded.

### Sarnastack Universal, A, B, or C

A 60 mil (1.5 mm) thick prefabricated stack/pipe boot injection molded.

### Open Post Flashing

A 48 mil (1.2 mm) thick prefabricated flashing using weld technology convenient to flash obstructed rooftop conduits and pipes. Open post flashings are fabricated with an open seam and are available in different sizes.

### Sikaplan Termination Bar

Sikaplan Termination Bar is an extruded aluminum termination bar with a mill finish used to terminate Sikaplan roofing membranes at walls and roof edges. It is 3/4 in (19 mm) wide, 0.090 in (2.3 mm) thick and has a 3/16 in (4.8 mm) lip formed at a 45° angle. Each termination bar is 10 ft (3.05 m) long with oval holes punched 6 in (152 mm) on center.

### Stabond U148A Adhesive



A solvent based, BAAQMD VOC compliant, reactivating adhesive used to attach membrane to flashing substrate. Typical flashing substrate coverage rate is 45-60ft<sup>2</sup> /gal (1.10–1.47m<sup>2</sup>/L).

#### Liquid Flashing Primer

A two-component polymethyl methacrylate-based (PMMA) primer used to promote the adhesion of Liquid Flashing SW and Liquid Flashing WW over wood and concrete surfaces in Sarnafil® and Sikaplan® roofing details.

#### Liquid Flashing Fleece

A non-woven, needle-punched polyester fleece used as the reinforcement for Sika's liquid flashing details in Sarnafil® and Sikaplan® roofing systems.

#### Liquid Flashing Catalyst

A reactive agent based on dibenzoyl peroxide to induce curing of Sika's Liquid Flashing SW, Liquid Flashing WW, and Liquid Flashing Primer when mixed.

#### Liquid Flashing SW (summer-grade white)

A two-component polymethyl methacrylate-based (PMMA) liquid flashing material used in Sarnafil® and Sikaplan® roofing details. Liquid Flashing SW is used with Liquid Flashing Fleece and cures to form a monolithic reinforced flashing membrane.



#### A. Membrane Mechanical Attachment

##### Sikaplan Disc

A 2-3/8 inches diameter high strength plate used with a Sarnafastener to attach the roof membrane to steel and wood roof decks.

##### Sikaplan Fastener #15

A threaded drill point fastener used to attach Sikaplan membrane into steel decking (18-24 gauge), wood plank (min. 1-1/2"), or wood sheathing (>15/32").

##### Fastener-CD10

A non-threaded hammered in fastener used to attach Sikaplan membrane into structural concrete (140-150 lb/ft).

### 2.05 WALKWAY PROTECTION

#### Sarnatred-V

A polyester reinforced, 0.096 inch (96 mil/2.4 mm), weldable membrane with surface embossment similar to a chevron pattern. Used as a protection layer from rooftop traffic. Sarnatred-V is supplied in rolls of 39 inches (1.0 m) wide and 50 feet (15 m) long.

### 2.06 MISCELLANEOUS ACCESSORIES

#### A. Aluminum Tape

A 2 inch (50 mm) wide pressure-sensitive aluminum tape used as a separation layer between small areas of asphalt contamination and the membrane and as a bond-breaker under the coverstrip at Sarnaclad joints.

#### B. Seam Cleaner

Seam Cleaner is used on PVC membranes to clean the in the seam area only.

### 2.07 SEALANTS AND PITCH POCKET FILLERS



Sikaflex-1a (for termination details and pitch pocket toppings).

Sarnafiller (two-component urethane adhesive for pitch pocket toppings).  
Mastic

A cold applied, fiber reinforced high strength SBS modified bitumen mastic that is specially formulated to detail around penetrations and flashings where Sika vapor retarders and hybrid system ply sheets are used.

Depending on substrates, the following sealants are options for temporary overnight tie-ins:

Type III hot asphalt conforming to ASTM D312 (latest revision).  
Sarnafiller.  
Multiple layers of roofing cement and felt.  
Spray-applied, water-resistant urethane foam.  
Mechanical attachment with rigid bars and compressed sealant.

## **2.08 MISCELLANEOUS FASTENERS AND ANCHORS**

All fasteners, anchors, nails, straps, bars, etc. shall be post-galvanized steel, aluminum or stainless steel. Mixing metal types and methods of contact shall be assembled in such a manner as to avoid galvanic corrosion. Fasteners for attachment of metal to masonry shall be expansion type fasteners with stainless steel pins. All concrete fasteners and anchors shall have a minimum embedment of 1-1/4 inch (32 mm) and shall be approved for such use by the fastener manufacturer. All miscellaneous wood fasteners and anchors used for flashings shall have a minimum embedment of 1 inch (25 mm) and shall be approved for such use by the fastener manufacturer.

## **EXECUTION**

### **PRE-CONSTRUCTION CONFERENCE**

The primary contractor shall conduct a pre-roofing conference before any work begins, so all parties involved in the roofing system construction, or who may work on or through the roofing system, understand their obligations with respect to the roofing membrane.



Applicator shall be responsible for acceptance or provision of proper substrate to receive new roofing materials.

Applicator shall verify that the work done under related sections meets the following conditions:

- Roof drains and scuppers have been reconditioned or replaced and installed properly.

- Roof curbs, equipment supports, vents and other roof penetrations are properly secured and prepared to receive new roofing materials.

- All surfaces are smooth and free of dirt, debris and incompatible materials.

- All roof surfaces shall be free of water, ice and snow.

### **SUBSTRATE INSPECTION**

A dry, clean and smooth substrate shall be prepared to receive the Sikaplan Mechanically Attached system.

The substrate shall be clean, smooth, dry, free of flaws, sharp edges, loose and foreign material, oil and grease. Roofing shall not start until all defects have been corrected.

All roof surfaces shall be free of water, ice and snow.

Sikaplan shall be applied over compatible and accepted substrates only.

### **3.04 SUBSTRATE PREPARATION**

After existing roofing has been removed to the wood substrate. The roof deck and existing roof construction must be structurally sound to provide support for the new roof system. The Applicator shall load materials on the rooftop in such a manner as to eliminate risk of deck overload due to concentrated weight. The Owner's Representative shall ensure that the roof deck is secured to the structural framing according to local building code and in such a manner as to resist all anticipated wind loads in that location. Remove existing flashings at curbs, walls, and penetrations.

Reroofing over coverboard ¼" G-P DensDeck. Existing bitumen roofing has been removed to the wood substrate. Parapet walls will receive ¼" DensDeck Prime over the siding. The parapet walls will be covered with new 60 mil membrane adhered.



General Criteria:

1. The Owner's Representative and Applicator shall determine the condition of the existing roof deck and old roof system. Areas with deteriorated decking or wet materials are to be removed and replaced.
- a) On granular surfaced roofs, the surface must be clean and dry. All blisters shall be removed and sealed or cut, fastened down and sealed.
- b) Remove existing flashings at curbs, walls, abandon equipment curbs and penetrations.

### 3.05 SIKAPLAN FASTENED MEMBRANE INSTALLATION

The surface of the acceptable insulation or substrate shall be inspected prior to installation of Sikaplan roof membrane. The substrate shall be clean, dry, free from debris and smooth with no surface roughness or contamination. Broken, delaminated, wet or damaged insulation boards shall be removed and replaced.

#### General

Sikaplan Fastened Membrane is to be attached according to Sika Corporation's, ASCE 7, and/or Factory Mutual's wind uplift requirements.

Membrane overlaps shall be shingled with the flow of water where possible.

Sikaplan full-width rolls shall be fastened perpendicular to the direction of the deck where possible.

Fasteners shall clamp the membrane tightly to the substrate.

**Tack welding of Sikaplan full or half-width rolls for purposes of temporary restraint during installation is not permitted and may result in voiding of Sika Corporation warranty.** Consult Sika Corporation's Technical Department for further information.

#### Perimeter and Corner Areas



Over the properly prepared substrate surface, Sikaplan Fastened Feltback rolls are to be installed either parallel or perpendicular to the entire perimeter edge according to FM guidelines. Half width sheets are then created by installing a row of fasteners along the centerline and using membrane coverstrip to seal for watertightness. The number of adjacent half-rolls will be determined by building height and width and other conditions according to FM guidelines and Sika Corporation Technical. Fasteners and discs are installed along the edge of the membrane on the fastening line at a spacing determined by Sika Corporation and the Owner's Representative/Designer. Sikaplan Disc is held back 5/8 inch (15.8 mm) from the outer edge of the membrane. The adjacent roll is positioned to overlap the fastened edge of the first roll by 5-1/2 inches (140 mm) in accordance with the overlap lines marked on its edge. The 5-1/2-inch (140 mm) overlap will allow the top membrane to extend 2-1/2 inches (63 mm) past for heat-welding. Fasteners shall clamp the membrane tightly to the substrate. In corner areas where perimeter rolls intersect, add rows of Fasteners and discs over the top the rolls and weld a coverstrip for watertightness. See Detail Drawings.

Notes:

Perimeter area is defined as the outer boundary of the roof. If the roof is broken into different levels, each roof area shall be treated as an individual roof with its outer boundary being treated as a perimeter. Typically, internal expansion joints and firewalls are not considered to be full perimeters. Refer to Factory Mutual's Data Sheet 1-28 for more information.

The ridge area is defined as the high point in the roof area formed by two intersecting planes. When the sum of the slopes is a minimum of 4 inches in 12 inches (30 degrees), each side of the ridge shall be treated as a perimeter area.

**Hot-air weld overlaps according to Sika Corporation's requirements. Seam test cuts shall be taken at least 3 times per day.**

Interior Area

Over the properly installed and prepared substrate surface, Sikaplan Fastened rolls are to be installed perpendicular to the steel deck flutes, wood plank or wood / concrete panels. Fasteners and discs are installed along the edge of the membrane on the fastening line at a spacing determined by Sika Corporation and the Owner's



Representative/Designer. Sikaplan Disc is held back 5/8 inch (15.8 mm) from the outer edge of the membrane. The adjacent roll is positioned to overlap the fastened edge of the first half-roll by 5-1/2 inches (140 mm) in accordance with the overlap lines marked on its edge. The 5-1/2-inch (140 mm) overlap will allow the top membrane to extend 2-1/2 inches (63 mm) past for heat-welding. Fasteners shall clamp the membrane tightly to the substrate. See Detail Drawings.

**Hot-air weld overlaps according to Sika Corporation's recommendations. Seam test cuts shall be taken at least 3 times per day.**

#### Securement Around Rooftop Penetrations

Around all perimeters, at the base of walls, drains, curbs, vent pipes, or any other roof penetrations, fasteners and discs shall be installed according to perimeter rate of attachment. Fasteners shall be installed according to the manufacturer's instructions. Fasteners shall be installed using the fastener manufacturer's recommended torque-sensitive fastening tools with depth locators.

Sikaplan membrane flashings shall extend 2-1/2 inches (63 mm) past discs and be hot air welded to Sikaplan deck membrane.

### 3.06 HOT-AIR WELDING OF SEAM OVERLAPS

#### General

All seams shall be hot-air welded. All membrane to be welded shall be clean and dry.

All mechanics intending to use hot-air welding equipment shall have successfully completed a training course provided by a Sika Corporation Technical Service Representative prior to welding.

Hot-air welding equipment shall be allowed to warm up for at least one minute prior to welding.

Seam overlaps should be 3 inches (76 mm) wide when automatic machine-welding and 4 inches (100 mm) wide when hand-welding, except for certain details.

#### Hand-Welding

The back edge of the seam shall be welded with a narrow but continuous weld to prevent loss of hot air during the final welding.



The nozzle shall be inserted into the seam at a 45-degree angle to the edge of the membrane. Once the proper welding temperature has been reached and the membrane begins to "flow", the hand roller is positioned perpendicular to the nozzle and rolled lightly. For straight seams, the 1-1/2 inch (40 mm) wide nozzle is recommended for use. For corners and compound connections, the 3/4 inch (20 mm) wide nozzle shall be used.

#### Machine Welding

Machine welded seams are achieved by the use of approved automatic welding equipment. When using this equipment, all instructions shall be followed and local codes for electric supply, grounding and over current protection observed. Dedicated circuit house power or a dedicated portable generator is recommended. No other equipment shall be operated simultaneously off the generator.

Metal tracks may be used over the deck membrane and under the machine welder to minimize or eliminate wrinkles.

#### Quality Control of Welded Seams

The Applicator shall check all welded seams for continuity using a rounded screwdriver. Visible evidence that welding is proceeding correctly is smoke during the welding operation, shiny membrane surfaces, and an uninterrupted flow of dark gray material from the underside of the top membrane. On-site evaluation of welded seams shall be made daily by the Applicator at locations as directed by the Owner's Representative or Sika Corporation's representative. One inch (25 mm) wide cross-section samples of welded seams shall be taken at least three times a day. Correct welds display failure from shearing of the membrane prior to separation of the weld. Each test cut shall be patched by the Applicator at no extra cost to the Owner.

### **3.07 MEMBRANE FLASHINGS**

All flashings shall be installed concurrently with the roof membrane as the job progresses. No temporary flashings shall be allowed without the prior written approval of the Owner's Representative and Sika Corporation. Approval shall only be for specific locations on specific dates. If any water is allowed to enter under the newly completed roofing, the affected area



shall be removed and replaced at the Applicator's expense. Flashing shall be adhered to compatible, dry, smooth, and solvent-resistant surfaces. Use caution to ensure adhesive fumes are not drawn into the building.

#### Stabond U148A Adhesive for Membrane Flashings

Over the properly installed and prepared flashing substrate, the Stabond U148A adhesive shall be applied in smooth, even coats with no gaps, globs or similar inconsistencies. Only an area which can be completely covered in the same day's operations shall be flashed. The bonded sheet shall be pressed firmly in place with a hand roller.

No adhesive shall be applied in seam areas that are to be welded. All panels of membrane shall be applied in the same manner, overlapping the edges of the panels as required by welding techniques.

Install Sarnadisc according to the Detail Drawings with approved fasteners into the structural deck at the base of parapets, walls and curbs

Sika Corporation's requirements and recommendations and the specifications shall be followed. All material submittals shall have been accepted by Sika Corporation prior to installation.

All flashings should extend a minimum of 8 inches (0.2 m) above roofing level, exceptions to this might be pipe boots and/or sealant pockets, etc. If in question, submit in writing to the Owner's Representative and Sika Corporation Technical Department for signed approval.

All flashing membranes shall be consistently adhered to substrates. All interior and exterior corners and miters shall be cut, and hot air welded into place. No bitumen shall be in contact with the membrane, except for G459.

All flashing membranes shall be mechanically fastened along the counter-flashed top edge with Sikaplan Termination Bar at 12 inches (0.15 to 0.20 m) on center.

Membrane flashings shall be terminated according to Sika Corporation recommended details.

All adhered flashings that exceed 30 inches (0.75 m) in height shall receive additional securement. Consult Sika Corporation Technical Department for securement methods.

### **3.08 LIQUID FLASHING SW INSTALLATION**

#### **Surface Preparation**

All surfaces should be clean, dry, free of dirt, dust, debris, loose particles, loose paint, rust and other contaminants.

Clean new roofing membrane with mineral spirits or all-purpose cleaner which will not remove the lacquer coating from the membrane. If the membrane is old or extremely soiled Sika Seam Cleaner should be used to restore the membrane to a 'like new' condition before applying Liquid Flashing.

Clean and prepare metal surfaces to near white metal in accordance with SSPC-SP3 (power tool clean). If power tools are not available, use abrasive paper with a grain size of 20 to 40 to remove all loose particles including paint flakes and rust.

Grind concrete and masonry surfaces with diamond cup wheel to remove laitance and contaminants.

Lightly sand glass, rigid PVC and plastic surfaces. Extend surface preparation a minimum of 1/8 in (3 mm) beyond the termination of the flashing.

Wipe metal and glass surfaces with Sika's Seam Cleaner and allow to dry. For repairs or touch-up, wipe previously installed Liquid Flashing with Sika's Seam Cleaner to clean and reactivate the Liquid Flashing and allow to dry.

Prime wood and concrete surfaces with Liquid Flashing Primer. Allow Liquid Flashing Primer to cure completely before applying Liquid Flashing.

Apply painters tape to 'picture frame' and mask the outside edge of the detail. Place the tape 2 in (51 mm) beyond where the Liquid Flashing Fleece will terminate.

Pre-cut Liquid Flashing Fleece to fit around the penetration. Vertical flashing pieces must extend 2 in (51 mm) from the base and horizontal flashing pieces must extend 4 in (102 mm) out from the base. Flashing height should be a minimum of 8 in (203 mm) where possible.



## Mixing Liquid Flashing SW

Thoroughly mix the entire container of Liquid Flashing SW with a slow-speed (200 to 400 rpm) mechanical mixer (electric drill with a mixing paddle) for two minutes.

### Small Batch – 1 Liter

After mixing, pour 1 liter of Liquid Flashing SW into a clean plastic container.

Add 2 level tablespoons (20 g) of Liquid Flashing Catalyst to Liquid Flashing SW and mix with a slow-speed mechanical mixer for two minutes.

Using Liquid Flashing SW ambient temperature must be between 59°F (15°C) and 104°F (40°C) when mixing.

Once mixed, the pot life is approximately 10 - 15 minutes depending on the ambient and surface temperature.

### Full Batch – 10 L Pail

After mixing, add 2.5 packets (250 g) of Liquid Flashing Catalyst to Liquid Flashing SW and mix with a slow-speed mechanical mixer for two minutes.

Using Liquid Flashing SW ambient temperature must be between 59°F (15°C) and 104°F (40°C) when mixing.

Once mixed, the pot life is approximately 5 -10 minutes depending on the ambient and surface temperature.

## Application

After mixing in the Liquid Flashing Catalyst, apply Liquid Flashing to the clean prepared surface using a small ½ in (13 mm) nap roller with rounded edges.

Apply 55 mils (1.4 mm) of Liquid Flashing evenly onto the substrate and terminate onto the inside edge of the Painters tape. Place the Liquid Flashing Fleece into the wet Liquid Flashing taking care to remove any air bubbles and wrinkles. Terminate the Liquid Flashing Fleece 2 in (51 mm) from the inside edge of the painters tape. Apply additional Liquid Flashing at overlaps between the fleece layers.

Immediately apply 25 mils (0.6 mm) of additional Liquid Flashing to fully saturate the fleece. Extend Liquid Flashing onto the inside edge of the painters tape. Remove the painters tape immediately after the Liquid Flashing application.

Complex and irregular shapes such as nuts, bolts, etc. may require an additional 25 mil (0.6 mm) thick application of Liquid Flashing to ensure full coverage. Wait one hour before applying the additional coat.



### **3.09 METAL FLASHINGS**

Metal details, fabrication practices and installation methods shall conform to the applicable requirements of the following:

Factory Mutual Loss Prevention Data Sheet 1-49 (latest issue).  
Sheet Metal and Air Conditioning Contractors National Association, Inc.  
(SMACNA) - latest issue.

Metal, other than that provided by Sika Corporation, is not covered under the Sika Corporation warranty.

Complete all metal work in conjunction with roofing and flashings so that a watertight condition exists daily.

Metal shall be installed to provide adequate resistance to bending to allow for normal thermal expansion and contraction.

Metal joints shall be watertight.

Counter flashings shall overlap base flashings at least 4 inches (100 mm).

### **3.10 WALKWAY INSTALLATION**

Sarnatred-V

Roofing membrane to receive Sarnatred-V shall be clean and dry. Place chalk lines on deck sheet to indicate location of Sarnatred-V. Apply a continuous coat of Sarnacol 2170 or 2170 VC adhesive to the deck sheet and the back of Sarnatred-V in accordance with Sika Corporation's technical requirements and press Sarnatred-V into place with a minimum 100 lb (45 kg) steel, membrane roller, by rolling in two directions. Clean the deck membrane in areas to be welded. Hot-air weld the entire perimeter of the Sarnatred-V to the deck sheet. Check all welds with a rounded screwdriver. Re-weld any inconsistencies. **Important:** Check all existing membrane seams which are to be covered by Sarnatred-V with a rounded screwdriver and reweld any inconsistencies before installation. Do not run Sarnatred-V over Sarnabars.

### **3.11 TEMPORARY CUT-OFF**

All flashings shall be installed concurrently with the roof membrane in order





to maintain a watertight condition as the work progresses. All temporary waterstops shall be constructed to provide a 100 percent watertight seal. The stagger of the insulation joints shall be made even by installing partial panels of insulation. The new membrane shall be carried into the waterstop. waterstop shall be sealed to the deck and substrate so that water will not be allowed to travel under the new or existing roofing. The edge of the membrane shall be sealed in a continuous heavy application of sealant as described in Section 0. When work resumes, the contaminated membrane shall be cut out. All sealant, contaminated membrane, insulation fillers, etc. shall be removed from the work area and properly disposed of offsite. None of these materials shall be used in the new work.

If inclement weather occurs while a temporary waterstop is in place, the Applicator shall provide the labor necessary to monitor the situation to maintain a watertight condition.

If any water is allowed to enter under the newly completed roofing, the affected area shall be removed and replaced at the Applicator's expense.

### **3.12 COMPLETION**

Prior to demobilization from the site, the work shall be reviewed by the Owner's Representative and the Applicator. All defects noted and non-compliances with the Specifications or the recommendations of Sika Corporation shall be itemized in a punch list. These items must be corrected immediately by the Applicator to the satisfaction of the Owner's Representative and Sika Corporation prior to demobilization.

All Warranties referenced in this Specification shall have been submitted and have been accepted at time of contract award.

### **3.13 DETAILS**

Refer to Typical System Details section or [usa.sarnafil.sika.com](http://usa.sarnafil.sika.com).

**END OF SECTION**





March 19, 2025

**City of Morgan Hill, CA**  
**C/O Chris Ghione**  
17575 Peak Avenue  
Morgan Hill, CA 95037

RE: Roof Inspection and Condition Report for the Building Known as "Morgan Hill City Council Chambers" Located at 17555 Peak Avenue, Morgan Hill, CA 95037

Chris,

Thank you for allowing Group 7 Consultants to provide you with our roof inspection and condition report for the above referenced addresses. The report below includes an overall condition of the existing roofing system. Including photographs of the existing roof conditions and details.

Please contact me if you have any questions or if you need any additional information.

Sincerely,

*Dan Caruth*

Dan Caruth  
Group 7 Consultants, LLC  
925-389-0892 Cell  
dan@group7consultants.com  
185 Front Street  
Suite 108-C  
Danville, CA 94526



### **Roof Area Reference Map**



### **Roof Findings “Morgan Hill City Council Chambers”:**

There are three types of roofs on this building. The largest roofing system is comprised of a “Villa” style roofing tile. This roofing area covers approximately 14,520 square ft., possibly from original construction, which according to public records, was constructed in 1993. Putting the roof at approximately 32 years old.

The remaining roofing areas are low sloped roofing areas/ equipment wells. The existing roofing systems consist of an asphaltic built-up, four-ply mineral cap sheet roofing system. Installed over the plywood structural wood deck. The main low sloped roofing area looks to have been coated in the recent years with (see picture map above for reference: “roof area #1”). The ages of these existing roofing systems are unknown. The usual viable life of an asphaltic built-up roofing system is approximately 20 years. The low sloped roofing areas included in this building cover approximately 3,150 square feet.

***Manufacture Warranties:*** There was no warranty provided at the time of inspection.



**Flashings / Sheetmetal:** The low sloped roof membrane on “roof area #1” turns up the wall to a sheet metal wall reglet. The remaining low sloped roofing areas “#2 & #3” turn up the wall to a sheet metal surface mounted reglet at some areas and terminate to sealant at 3 interior walls. The parapet wall tops are finished with a sheet metal coping detail. The roof penetrations are flashed into place with sheet metal flashings.

**Drainage / Slope Low Sloped Roofs:** This roof was designed with adequate slope and drainage, with some minor ponding areas, specifically at “roof area #3” where the lip of the compression ring for the main internal drain is set too high above the deck preventing proper drainage. The roof areas drain to sumped cast iron interior drains with overflows.

**Skylights:** There are 15 fixed, curb mounted acrylic, pyramid type skylights on “roof area #1”. These skylights have been noted as leaking and have been covered. These skylights were inspected and should be replaced upon roof replacement.

**HVAC Equipment:** The larger HVAC units are set on curbs and flashed into place using a sheet metal cap. The smaller HVAC unit found on “roof area #3” is set on an HVAC levelling pad.

**Expansion / Contraction:** There are no expansion joints incorporated into the roofing system, nor are any needed.

**Roof Walkway Protection:** The roof did not appear to have adequate amounts of walk pads around the HVAC units or from the roof access points or entry access.

**Roof Hatch/ Access Doors:** The roof hatches and access doors have reached their viable life and should be replaced. The addition of a Safe Pro safety hatch rail system should be considered at the roof hatches located at “roof area #1”.

**Steep Sloped Clay Tile Roofing:** The steep sloped roofing area and mansard are covered with clay “Villa Style” tiles. This roofing system was installed over a layer of waterproof membrane installed over a structural wood deck wood deck.

**Drainage Steep Sloped Tile Roofs:** The steep sloped tile roofing areas drain to built-in box gutters that drain to built-in downspouts. The downspouts are hidden within soffit areas which most like drain to waste water lines.



**Conditions and Recommendations:**

***Remaining Useful Life Low Sloped Roof:*** The built-up asphaltic mineral cap sheet roofing membrane systems is in are in “poor” condition, showing signs of general deterioration and obvious previous repairs. With ongoing maintenance and repairs this roofing system could continue to perform for 0-1 years with ongoing maintenance and repairs but should be considered for replacement in the year 2025.

***Remaining Useful Life Steep Sloped Clay Tile Roof:*** The tile roof is in “poor” condition. There are numerous areas with heavily broken tiles, slipped tile and tiles with cracks over 3 inches. The waterproofing asphaltic underlayment is also beginning to fail. With continued repairs and ongoing maintenance this roofing system could continue to perform for 0-1 years and should be considered for replacement in the year 2025.

**Budget for Roof Replacement**

Morgan Hill -17555 Peak Avenue Budget	
Suggestions	Time Line
	0-1 Years
Steep Sloped Tile Roof Tear off and Replacement:	\$291,000.00 - \$298,500.00
Low Sloped Roofing Tear Off and Replacement:	\$36,250.00- \$41,500.00
Skylight Replacment (15 total)	\$18,750.00 - \$21,000.00
Total Cost for Roof Replacements:	\$346,000.00 - \$361,000.00





Overview of 17555 Peak Ave.



Overview of "roof area #1".





Additional overview of “roof area #1”.



Typical pyramid type skylight condition notes cracks and previous repairs.





Overview of sumped internal drain and overflow.



Overview of coping cap and reglet detail.





Typical roof access hatch at Northeast side of “roofing area #1”.



Typical roof access hatch at southeast side of “roofing area #1”.





Overview of “roof area #2”.



Overview of roof membrane in “roof area #2”.





Overview of “roof area #3”.



Overview of roof material at “roof area #3”



Noted ponding water in roof area.



View of sheet metal reglet.





Overview of shingled roof area.



Overview of tile mansard roof.





View of typical broken tile.



View of slipping tile.





View of deteriorating waterproofing underlayment at mansard.



View of deteriorating waterproofing underlayment at steep sloped roof area.





Overview of built in gutter.



Additional view of built in gutter.

