



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda Special City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY**

Tuesday, March 11, 2025

6:00 PM

Town Hall, 363 N Main Street

Special Meeting

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COUNCILMEMBERS PLEASE TAKE NOTICE

Councilmembers are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.

You are invited to a Zoom webinar!

When: March 11, 2025 06:00 PM Pacific Time (US and Canada)

Topic: CITY COUNCIL

Join from PC, Mac, iPad, or Android:

<https://us06web.zoom.us/j/89298032601>

Join via audio:

*+1 669 444 9171 (*6 mute/ unmute, *9 raise hand)*

Webinar ID: 892 9803 2601

To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Mayor or Acting Mayor calls for public comment on the item you wish to address.

CLOSED SESSION REPORT

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. [25-74](#) Introduction and Swearing In of City Clerk Diana Paoli

Attachments: [Paoli Oath of Office](#)

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

MANNER OF ADDRESSING THE CITY COUNCIL: All remarks and questions shall be addressed to the City Council; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Mayor or Acting Mayor. Public comments are restricted to three (3) minutes per speaker.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Mayor or Acting Mayor may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Mayor or Acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or Acting Mayor may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Council's response to questions and requests made during this comment period.

WRITTEN PUBLIC COMMENTS: Written public comments received after agenda publication are forwarded to the Councilmembers as soon as possible after receipt and are available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be submitted to City Clerk, cityclerk@fortbragg.com.

3. STAFF COMMENTS**4. MATTERS FROM COUNCILMEMBERS****5. CONSENT CALENDAR**

All items under the Consent Calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under Conduct of Business.

5A. [25-52](#) Adopt Resolution of the Fort Bragg City Council Approving a Contract Change Order with Bartley Pump PM LLC for Maintenance and Emergency Repairs to One of Two Noyo River Pumps and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$85,705.15)

Attachments: [RESO Bartley Pump Change Order](#)
[Noyo River Intake Change Order 1](#)

- 5B.** [25-53](#) Resolution of the Fort Bragg City Council Approving Contract with Low Voltage Security for the Installation of an Access Control System at the Fort Bragg Police Department, and Security Cameras in Various City-Owned Facilities and Authorizing City Manager to Execute Contract (Total Amount Not to Exceed \$71,588.06)
- Attachments:** [RESO LVS Camera Contract](#)
[Att 1 - LVS Quote](#)
[Att 2 - Low Voltage Security Contract](#)
- 5C.** [25-54](#) Approve Purchase of Microsoft 365 Licensing Subscription Not to Exceed \$34,547.34; Contract subject to City Attorney Approval
- Attachments:** [Att #1 - Connection MS365 Quote.pdf](#)
- 5D.** [25-55](#) Adopt City Council Resolution Approving Budget Amendment No. 2024/25-08 for Fiscal Year 2024/25
- Attachments:** [RESO Budget Amendment 2024/25-08](#)
[Ex A: Budget Amendment 2024/25-08](#)
- 5E.** [25-58](#) Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of ParkPlanet Stage Structure for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$76,267.06)
- Attachments:** [Reso ParkPlanet Stage Purchase](#)
[Att 1 - Park Planet Quote](#)
[Att 2 - Pavilion Design](#)
[Public Comment on Items 5E, 5F and 8A of 3_11_2025 Agenda](#)
- 5F.** [25-59](#) Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of MTJ Sport Court Kit for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$111,000.00)
- Attachments:** [Reso MTJ Sport Court Purchase](#)
[Att 1 - MTJ 5v5 Sport Court Quote](#)
[Public Comment -- 3.11.25 CC Mtg., Item Nos. 5E & 5G](#)
- 5G.** [25-72](#) Adopt City Council Resolution Approving First Amendment to Professional Services Agreement with Lake Tech (Amount Not To Exceed \$37,273.20)
- Attachments:** [Lake Tech 1st Amend](#)
[RESO Lake Tech 1st Amend](#)
[Lake Tech 2025 - 8 Month Quote](#)

- 5H. [25-73](#) Receive and File Minutes of the October 25, 2024 Community Development Committee Meeting

Attachments: [10252024 CDC Minutes](#)

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

7. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

8. CONDUCT OF BUSINESS

- 8A. [25-57](#) Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of PolyTurf Champion Sport Turf for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$64,898.59)

Attachments: [Reso PolyTurf Purchase](#)

[Att 1 - PolyTurf Quote](#)

[Att 2 - Park Enhancement Plan](#)

[Public Comment -- 3.11.25 CC Mtg., Item Nos. 5E & 5G](#)

[03112025Turf Presentation](#)

- 8B. [24-1091](#) Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Joint Build Agreement with California Department of Technology with City Attorney Approval as to Form

Attachments: [03112025 MMBI Joint Build](#)

[Att. 1 - RESO California Department of Technology Agreement](#)

- 8C. [25-29](#) Receive Report and Consider Adopting City Council Resolution Approving OMNIA Partners Cooperative Purchasing Agreement for Municipal Broadband Utility Project, Public Works Project No. 130, Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,190,313.31) Following City Attorney Approval As To Form, and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)

Attachments: [03112025 Graybar Purchase Agreement](#)

[Att. 1 - RESO Graybar Purchase](#)

[Att. 2 - Graybar Quote](#)

- 8D. [25-40](#) Receive Report and Consider Adopting City Council Resolution Approving Professional Services Agreement with GHD to Provide Construction Management Services for the Municipal Broadband Project, Public Works Project No. 130, Authorizing City Manager to Execute Contract (Amount Not To Exceed \$1,449,466.60), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)

Attachments: [03112025 Broadband Construction Management](#)

[Att. 1 - RESO Broadband Construction Management](#)

[Att. 2 - GHD Contract](#)

- 8E. [25-43](#) Adopt City Council Resolution Awarding Construction of Municipal Broadband Project, Public Works Project No.130, to HP Communications as the Lowest Responsive Bidder and Authorizing City Manager to Execute Contract Following City Attorney Approval As To Form (Amount Not To Exceed \$9,966,164.75), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)

Attachments: [03112025 Broadband Construction](#)

[Att. 1 - RESO Broadband Construction](#)

- 8F. [25-56](#) Adopt a Resolution of the Fort Bragg City Council Awarding the Town Hall Retrofit & Bathroom Remodel Project, City Project No. PWP-00122, to Adams Commercial General Contracting, Inc. as the Lowest Responsible Bidder, Approving Budget Amendment 2024/25-09, Authorizing the City Manager to Execute Contract (Not To Exceed \$793,205), and Finding the Project Exempt from CEQA under 14 CCR 15301

Attachments: [03112025 Town Hall Construction Award](#)

[Att 1 - RESO Awarding Town Hall Construction](#)

[Att 2 - Exhibit A Bid Opening Results](#)

[Att 3 - Exhibit B Budget Amendment 2024/25-09](#)

[Att 4 - ACGC Construction Contract](#)

9. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

**NEXT REGULAR CITY COUNCIL MEETING:
6:00 P.M., MONDAY, March 24, 2025.**



City of Fort Bragg

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Text File

File Number: 25-74

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type:
Recognition/Announcements

Agenda Number: 1A.

Introduction and Swearing In of City Clerk Diana Paoli



CITY OF FORT BRAGG

Oath of Office

I, **Diana Paoli**, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Government Code 3100-3102

I understand that as a public employee I am a disaster service worker pursuant to Government Code 3100 and 3102 and that I am required to take this oath before entering the duties of my employment. In the event of natural, manmade or war-caused emergencies which result in conditions of disaster or extreme peril to life, property and resources, I am subject to disaster services activities assigned to me by my supervisor.

Diana Paoli
City Clerk

Signature of person taking oath

Subscribed and sworn to before me this **11th** day of **March, 2025.**

Amber Lenore Weaver
Acting City Clerk



City of Fort Bragg

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Text File

File Number: 25-52

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Consent Calendar

Agenda Number: 5A.

Adopt Resolution of the Fort Bragg City Council Approving a Contract Change Order with Bartley Pump PM LLC for Maintenance and Emergency Repairs to One of Two Noyo River Pumps and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$85,705.15)

RESOLUTION NO. ____-2025

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING A CONTRACT CHANGE ORDER WITH BARTLEY PUMP PM
LLC FOR MAINTENANCE AND EMERGENCY REPAIRS TO ONE OF TWO
NOYO RIVER PUMPS AND AUTHORIZING CITY MANAGER TO EXECUTE
CONTRACT (AMOUNT NOT TO EXCEED \$85,705.15)**

WHEREAS, on January 13, 2025, the City of Fort Bragg entered into a Contract in the amount of \$67,880.97 with Bartley Pump PM LLC for the maintenance and emergency repairs to one of two Noyo river pumps; and

WHEREAS, additional maintenance and repairs have been identified; and

WHEREAS, the cost of these additional services is \$17,824.18, bringing the new contract total to \$85,705.15; and

WHEREAS, Budget amendment 2024/25-08 has been approved to cover the cost of this unexpected maintenance and repairs; and

WHEREAS, per Fort Bragg Municipal Code Section 3.20.050, the City Manager's signing authority for change orders may not exceed 10% of the approved contract cost;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Fort Bragg does hereby approve the contract change order with Bartley Pump PM LLC for the maintenance and repairs to the Noyo River Pump, and authorize the City manager to execute same (Amount Not to Exceed \$85,705.15)

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk



COMMERCIAL | INDUSTRIAL | MUNICIPAL PUMP SYSTEMS
Service, Repair, Parts & Expertise

Change Order 1

REMIT TO:

Bartley Pump PM LLC
4000 S. Moorland Ave.
Santa Rosa, CA 95407
T 707-584-9191
F 707-584-9198

www.pumpmannorcal.com

License No. 1033562: Class A General Engineering & C-57 Drilling Contractor
C-10 Electrical Contractor & C-55 Water Treatment & C-16 Fire Protection & C61/D21 Pumps and Machines
DIR# 1000054366

Friday, February 21, 2025

Customer: City of Fort Bragg
416 N Franklin St
Fort Bragg, CA 95437

RE: Noyo River Intake - Pull & Repair Pump
JOBSITE: Noyo River Intake

NOTE: Please see our quote below.

QUANT	ITEM	DESCRIPTION	TAXABLE TOTAL
1 Each	Head Nut 1-1/2"		\$ 148.40
		Changed to Head Nut 1-15/16" - Additional cost	
1 Each	Head Shaft SS 1-1/2"		\$ 372.40
		Changed to Head Shaft 1-15/16" - Additional cost	
1 Each	Mechanical Seal 5610 1-1/2" w/ Flush Port		\$ 320.60
		Changed to Mechanical Seal 5610 1-15/16"w/ Flush Port - Additional Cost	
1 Each	1-1/2" Mech Seal Mt. Plate		\$ 15.40
		Changed to 1-15/16" Mech Seal Mt Plate - Additional Cost	
1 Each	Line Shaft 1-15/16" Special Length 416SS T & C		\$ 1,135.40
2 Each	Line Shaft 1-15/16" x 5' 416SS T & C		\$ 1,338.40
2 Each	Line Shaft 1-15/16" x 10' 416SS T & C		\$ 2,063.60
11 Each	Bowl Wear Ring 14"		\$ 2,202.20
		Changed to Bowl Ring 14" SS - Additional cost	
Total for materials			\$ 7,596.40
Sales Tax			\$ 674.18
Freight			\$ -
LABOR DESCRIPTION			
	Straighten Line Shafts - Not needed		\$ (364.00)
	Labor to Sandblast and Epoxy Coat		\$ 9,917.60
TOTAL			\$ 17,824.18

Sincerely,

Nicole Decker
Assistant Project Manager



City of Fort Bragg

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Text File

File Number: 25-53

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Staff Report

Agenda Number: 5B.

Resolution of the Fort Bragg City Council Approving Contract with Low Voltage Security for the Installation of an Access Control System at the Fort Bragg Police Department, and Security Cameras in Various City-Owned Facilities and Authorizing City Manager to Execute Contract (Total Amount Not to Exceed \$71,588.06)

RESOLUTION NO. ____-2024

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING CONTRACT WITH LOW VOLTAGE SECURITY FOR THE
INSTALLATION OF AN ACCESS CONTROL SYSTEM AT THE POLICE
DEPARTMENT AND SECURITY CAMERAS AT VARIOUS CITY FACILITY
LOCATIONS AND AUTHORIZING CITY MANAGER TO EXECUTE
CONTRACT (TOTAL AMOUNT NOT TO EXCEED \$71,588.06.00)**

WHEREAS, City facilities lack surveillance video capability; and

WHEREAS, Low Voltage Security, a Security Solutions and low voltage company, has provided a quote to install security cameras and access control systems at various City Facility locations; and

WHEREAS, budget amendment 2024/25-08 has been approved to cover the cost of the work for the police department, Bainbridge Park, and City Hall, and there are sufficient funds available for the other facilities; and

WHEREAS, per the Fort Bragg Municipal Code Section 3.20.040, decisions to award contracts in the amount greater than \$25,000 shall be made by City Council; and

NOW, THEREFORE, BE IT RESOLVED that the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Section 15301; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby approve a contract with Low Voltage Security for the installation of an access control system at the Police department, and security cameras in City owned facilities and authorizes the City Manager to execute the contract (Amount Not to Exceed \$71,588.06).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March 2025, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**Jason Godeke
Mayor**

ATTEST:

**Diana Paoli
City Clerk**



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License # C-10 900930
ACO7603 UL Certified

CUSTOMER QUOTATION NO. 4427

Quote No: 4427
Site: Fort Bragg Police Dept
Salesperson: Dan Gingrich
Valid Until: 04/20/2025

Carlos Hernandez
City of Fort Bragg
416 North Franklin Street
Fort Bragg CA 95437

Description

REVISED pricing per phone call and updated scopes 01/29/2025

LVS is providing pricing of installation of customer Verkada security system (Camera and Access Control). Customer has all Verkada equipment except a few pieces. Those are outlined in each quote.

All pricing is at prevailing wage rates.

Low Voltage Scope - Police Department - Install Customer Owned Verkada Cameras

LVS to install a Customer owned Verkada system that consists of 14 total cameras, 9 Interior cameras and 5 exterior cameras to the Police Dept building located at 250 Cypress Street.

LVS to install 5 - CD62 dome cameras to the inside of the facility to either hardlid or drop tile ceiling.

LVS to install 4 - CM41 mini dome cameras to the inside of the facility to either hardlid or drop tile ceiling.

LVS to install 1 - CM41E exterior mini dome camera to cover entrance/door per the plans with new back box

LVS to install 2 - CF81E exterior fisheye cameras per the plans with new wedge mounts

LVS to install 2 - CD62E exterior dome cameras per the plans with new wall mounts

LVS will run all new CAT6 cable to each camera back to the IDF/server room. All cables will be labeled on each end. In the MDF/server room, they will be terminated on the existing patch panel on the west wall. Customer will supply compatible RF45 keystone jacks for this purpose.

LVS assumes customer has network switch already installed for all 14 cameras. If none are present a change order would be needed.

Price also includes 2 additional new CD62 dome cameras, customer was short.

Item	Quantity
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	3000.00
Square Junction Box Mount, conceal, and protect - the ultimate solution for hiding wires and connectors and achieving a sleek, professional look.	1.00
Verkada Angle Mount	2.00
Verkada L-Bracket Mount	2.00
CD62 Indoor Dome Camera, 4K, Zoom Lens, 512GB of Storage, Maximum 30 Days of Retention	2.00
Misc, Screws, Connectors Caulking, etc.	16.75
Prevailing Wage Rate	34.19
Prevailing Wage Rate	37
Prevailing Wage Training	3
Labor	\$14838.00
Materials	\$4703.01
Sub-Total ex Tax	\$19541.01
Tax	\$319.13



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info@lowvoltagesecurity.com
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Fax. 7078384604

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ACO7603 UL Certified

CUSTOMER QUOTATION NO. 4427

Low Votlage Scope - Police Department - Install Customer Owned Verkada Cameras

Item	Quantity
Total inc Tax	\$19860.14

Low Votlage Scope - Police Department - Install Customer Owned Access Control System

LVS to install a full turnkey Customer owned Verkada access control system.

System will consist of 2 Verkada 4 - door controllers and 8 total card readers.

Install new power supply to power the electrified hardware on 7 total doors.

LVS to run new access control cable to each of the 8 door locations for electrified hardware and card readers.

Price also includes adding one current new card reader, 1 door 10 year license, and power supply

Price also includes all electrified hardware to consist of the following:

Door 1 - replace existing panic hardware with rim device and install electric strike

Door 3 - replace existing 612 finish lock with storeroom function lock and install electric strike

Door 4 - replace existing panic hardware with rim device and install electric strike

Door 5 - replace existing Adams Rite panic hardware with electrified Adams Rite and install power supply

Door 6 - replace existing 612 finish lock with storeroom function lock and install electric strike

Door 7 - replace existing 626 finish lock with storeroom function lock and install electric strike

added this door - this was missed on the original bid - Door 9 - replace existing 312 finish lock with storeroom function and install electric strike

Note**

All doors need to be in good working order for electrified locks to operate correctly, and door or jamb adjustments will need to be done by others. All electrical needed for power supply locations will be completed by LVS. If needed LVS has a C10 license and can perform minor electrical upgrades (120v). Other 120V work to be subbed out by LVS with local electricians. 4hrs of labor has been added for electrical.

LVS is assuming all network switches, network and ISP is present and working, LVS may need assistance from IT for opening certain ports and or static IP addresses. LVS will run all cable to the network closet where existing network should be.

Inclusions: wiring, components by customer, Installation, programming, and end user training,

Exclusions: Conduits, raceways, underground raceways, trenching, in concrete tubing/conduits, ADA paddles and wiring, auto door openers parts and power supplies for auto openers.

Item	Quantity
18(4)+22(2+4+6)1S CMR OAJ 1M Y	1600.00
AD33 Multi-format Card Reader	1.00
All Electrified Hardware for 7 doors and Labor	1.00
CONDUIT 3/4-IN EMT	100.00
3/4" Conduit Misc Connectors	40.00
3/4" Conduit Misc Connectors	
Access Power Controller with Power Supply Charger, PTC Class Relay Outputs, 12/24VDC at 4A, FAI, 115VAC, BC400 Enclosure	1.00
Verkada 10 - Year Door License	1.00
Misc, Screws, Connectors Caulking, etc.	20.00
Prevailing Wage Programming	8
Prevailing Wage Rate	23.02
Prevailing Wage Training	3
Prevailing Wage Rate	25



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CUSTOMER QUOTATION NO. 4427

Low Voltage Scope - Police Department - Install Customer Owned Access Control System

Item	Quantity
Prevailing Wage Rate	6
Labor	\$13004.00
Materials	\$24916.04
Sub-Total ex Tax	\$37920.04
Tax	\$32.62
Total inc Tax	\$37952.66

Low Voltage Scope - Bainbridge Park - Install Customer Owned Verkada Cameras

LVS to install a Customer owned Verkada 360° to pole above the basket ball court at the Bainbridge Park. LVS will run new CAT6 cable to this pole through existing conduit and mount the new customers camera with new pole mounts provided by LVS.

NOTE**

LVS assumes customer has network switch already installed for this camera at closest building. IF none is present a change order would be needed.

LVS is assuming there is a conduit from closest building with network out to the pole. If none a change order would be needed for running conduit, trenching and or install a point to point antenna.

Item	Quantity
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	300.00
Verkada Pendant Cap Mount	1.00
Large Arm Mount Wall mount arm for larger cameras. Includes 1.5" NPT to connect to pendant caps and 3/4" NPT at the base for conduit.	1.00
Pole Mount For mounting cameras to circular poles 2" to 6" in diameter.	1.00
Misc, Screws, Connectors Caulking, etc.	3.00
Prevailing Wage Rate	6
Prevailing Wage Programming	1
Labor	\$1400.00
Materials	\$575.11
Sub-Total ex Tax	\$1975.11
Tax	\$38.27
Total inc Tax	\$2013.38

Low Voltage Scope - Corporation Yard - Install Customer Owned Verkada Cameras

LVS to install a Customer owned Verkada 360° camera to corner of building at the corp pulic works yard. LVS will run new CAT6 cable to this location from the closest IT closet with network and existing network switch. This will include a new corner mount by LVS.

NOTE**

LVS assumes customer has network switch already installed for this camera at closest building. IF none is present a change order would be needed.

Item	Quantity
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	300.00



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ACO7603 UL Certified

CUSTOMER QUOTATION NO. 4427

Low Voltage Scope - Corporation Yard - Install Customer Owned Verkada Cameras

Item	Quantity
Verkada Pendant Cap Mount	1.00
Large Arm Mount Wall mount arm for larger cameras. Includes 1.5" NPT to connect to pendant caps and 3/4" NPT at the base for conduit.	1.00
Corner Mount Mount for installing cameras and accessories to external corners.	1.00
Misc, Screws, Connectors Caulking, etc.	3.00
Prevailing Wage Rate	6
Prevailing Wage Programming	1
Labor	\$1400.00
Materials	\$565.36
Sub-Total ex Tax	\$1965.36
Tax	\$37.41
Total inc Tax	\$2002.77

Low Voltage Scope - Wastewater Treatment Plant - Install Customer Owned Verkada Cameras

LVS to install 2 Customer owned Verkada exterior dome cameras to corner of one building and side of another building at the wastewater treatment plant. LVS will run new CAT6 cable from each buildings IT/server room to each camera location. Each IT closet will need network and existing network switch. This will include a new corner mount and back box for both cameras by LVS.

NOTE**

LVS assumes customer has network switch already installed for this camera at closest building. IF none is present a change order would be needed.

Item	Quantity
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	600.00
Corner Mount Mount for installing cameras and accessories to external corners.	1.00
Verkada Pendant Cap Mount	1.00
Arm Mount Wall mounted extender arm with built in 1.5" female NPT thread.	1.00
Verkada L-Bracket Mount	1.00
Misc, Screws, Connectors Caulking, etc.	3.00
Prevailing Wage Rate	9.75
Prevailing Wage Programming	2
Labor	\$2350.00
Materials	\$711.15
Sub-Total ex Tax	\$3061.15
Tax	\$44.24
Total inc Tax	\$3105.39

Low Voltage Scope - City Hall - Install Customer Owned Verkada Cameras

LVS to install 2 Customer owned Verkada cameras to City Hall. LVS to install CM52 to lobby on the 1st floor and CM42 to upstairs area per the attached plans. LVS will run new CAT6 cable from each buildings IT/server room to each camera location. We will run cable back to IDF closet, label each end and install to customer provided keystone jack and place into patch panel. Each IT closet will need network and existing network switch.

NOTE**

LVS assumes customer has network switch already installed for this camera at closest building. IF none is present a change order would be needed.

Item	Quantity
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	400.00



5803 Skylane Blvd,
Suite A-3
Windsor, CA 95492

www.lowvoltagesecurity.com
info@lowvoltagesecurity.com
Tel. 7076200889
Fax. 7078384604

License # C-10 900930
ACO7603 UL Certified

CUSTOMER QUOTATION NO. 4427

Low Voltage Scope - City Hall - Install Customer Owned Verkada Cameras

Item	Quantity
Misc, Screws, Connectors Caulking, etc.	2.00
Prevailing Wage Rate	7
Prevailing Wage Programming	2
Labor	\$1800.00
Materials	\$141.79
Sub-Total ex Tax	\$1941.79
Tax	\$0.00
Total inc Tax	\$1941.79

Low Voltage Scope - Future Police Dept Access Control/Camera Cabling

LVS to run cabling for future fingerprinting room and sliding door for an easy install once the sliding door and fingerprinting room scope is built-out. Run access cabling above ceiling for door 1 and 2 and CAT6 cabling for future camera location.

Item	Quantity
18(4)+22(2+4+6)1S CMR OAJ 1M Y	400.00
23/4 C6 CMR/FT4 WHT 1M RL/BOX CAT6 CABLE	200.00
Prevailing Wage Rate	6
Labor	\$1200.00
Materials	\$536.93
Sub-Total ex Tax	\$1736.93
Tax	\$0.00
Total inc Tax	\$1736.93

Low Voltage Scope - Travel Expenses

Travel Expenses for 3 technicians

Item	Quantity
Meals - 3 techs for 7 days @ \$75 per day	1.00
2 Hotel Rooms for 7 Nights for 3 techs @ \$100 per night	1.00
Materials	\$2975.00
Sub-Total ex Tax	\$2975.00
Tax	\$0.00
Total inc Tax	\$2975.00

LVS looks forward to completing this work for you.

Sub-Total ex Tax \$71116.39
Tax \$471.67
Total inc Tax \$71588.06

Thank you.

CITY OF FORT BRAGG
416 N. Franklin Street
Fort Bragg, California 95437

CONTRACT CHECK LIST

Complete, accurate, executed copies of the following documents must be submitted to the CITY OF FORT BRAGG for the Facilities Camera and Police Department Access Control Project within ten (10) working days of receiving written notice of award of the project.

_____ Contract Check List

_____ Contract, Part 1

_____ Contract, Part 2 – General Provisions

_____ Contract, Part 3 – Special Provisions (Optional)

_____ Certificates of Insurance and Endorsements

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 1

The CITY OF FORT BRAGG, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”) enters into this Contract, dated [REDACTED], for reference purposes only, with Low Voltage Security, 5803 Skylane Blvd, Suite A-3 Windsor, CA 95492 (“Contractor”).

RECITALS

- A. REQUEST FOR QUOTE. The City solicited quotes from a minimum of three (3) vendors on January 27, 2025 for the Facilities Camera and Police Department Access Control Project (“Project”) in accordance with Fort Bragg Municipal Code Section 3.22.050 for informal bidding. For purposes of this agreement “bid,” “proposal,” and “quote” are used interchangeably.
- B. PROJECT PROPOSAL. On January 29, 2025, City representatives received the lowest, responsive proposal for the Project from Low Voltage Security.
- C. PROJECT AWARD. On March 10, 2025 the City Council accepted the proposal of Low Voltage Security awarding the contract for the Facilities Camera and Police Department Access Control Project and authorizing the City Manager to execute the same.
- D. REQUIRED DOCUMENTS. The Contractor has provided the City executed copies of all documents specified in the contract check list.
- E. INVESTIGATION AND VERIFICATION OF SITE CONDITIONS. The Contractor warrants that it has conducted all necessary pre-bid investigations and other obligations, and agrees that it shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work. In executing this Contract, Contractor shall rely on the results of its own independent investigation and shall not rely on City-supplied information regarding above ground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.

City of Fort Bragg
Facilities Camera & Access Control
Contract, Part 1

CONTRACT TERMS

The City and the Contractor agree as follows:

1. THE WORK. The Contractor shall furnish all equipment, tools, apparatus, facilities, material labor, and skill necessary to perform and complete in a good and workmanlike manner the Facilities Camera and Police Department Access Control Project (“Work”) as more specifically shown in the Contract Documents and applicable law.
2. LOCATION OF WORK.
The Work will be performed at the following locations:
416 N Franklin Street, Fort Bragg, Ca 95437
250 Cypress Street, Fort Bragg, Ca 95437
31301 Cedar Street, Fort Bragg, Ca 95437
281 Jere Melo Street, Fort Bragg, Ca 95437
Harold O Bainbridge Park
3. TIME FOR COMPLETION. The Contractor must complete the Work in accordance with the Contract Documents within Sixty (60) working days from the date specified in the City’s Notice to Proceed (“Time for Completion”).
4. REMEDIES FOR FAILURE TO TIMELY COMPLETE THE WORK. If the Contractor fails to fully perform the Work in accordance with the Contract Documents by the Time for Completion, as such time may be amended by change order or other modification to this Contract in accordance with its terms, and/or if the Contractor fails, by the Time for Completion, to fully perform all of the Contractor’s obligations under this Contract that have accrued by the Time for Completion, the Contractor will become liable to the City for all resulting loss and damage in accordance with the Contract Documents and applicable law. The City’s remedies for the Contractor’s failure to perform include, but are not limited to, assessment of liquidated damages of \$500 per day in accordance with California Government Code Section 53069.85 and the Contract Documents, and/or obtaining or providing for substitute performance in accordance with the Contract Documents.
5. CONTRACT PRICE AND PAYMENT. As full compensation in consideration of completion of the Work in accordance with the Contract Documents and in consideration of the fulfillment of all of the Contractor’s obligations under the Contract Documents, the City will pay the Contractor in lawful money of the United States the total price of Seventy One Thousand Five Hundred Eighty Eight Dollars and Six Cents. \$71,588.06 (the “Contract Price”) as specified in the Contractor’s completed Quote dated January 29, 2025, and attached to and incorporated in this Contract as **Exhibit A**. Payment to the Contractor under this Contract will be for Work actually performed in

accordance with the Contract Documents and will be made in accordance with the requirements of the Contract Documents and applicable law. The City will have no obligation to pay the Contractor any amount in excess of the Contract Price unless this Contract is first modified in accordance with its terms. The City's obligation to pay the Contractor under this Contract is subject to and may be offset by charges that may apply to the Contractor under this Contract. Such charges include but are not limited to, charges for liquidated damages and/or substitute performance in accordance with the Contract Documents.

The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Contractor, its subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of Contractor's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

6. PREVAILING WAGES. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 et seq., the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the City Public Works Department and will be made available on request. Throughout the performance of the Work the Contractor must comply with all provisions of the Contract Documents and all applicable laws and regulations that apply to wages earned in performance of the Work.

- 6.1. Contractor acknowledges and agrees that it shall comply with the requirements of California Public Contracts Code sections 2600 et seq., in its entirety and, in particular, those sections related to Skilled and Trained Workforce. By its

execution of this agreement Contractor certifies and warrants that it is aware of the requirement of California Public Contracts Code section 2600 et seq. and its requirements as to a Skilled and Trained Workforce.

7. THE CONTRACT DOCUMENTS. This Contract consists of the following documents (“Contract Documents”), all of which are incorporated into and made a part of this Contract as if set forth in full. In the event of a conflict between or among the Contract Documents, precedence will be in the following order:
 - 7.1 This Part 1 of the Contract and change orders and other amendments to this Contract signed by authorized representatives of the City and the Contractor.
 - 7.2 The General Provisions, Part 2 of the Contract, and change orders and other amendments to the General Provisions signed by authorized representatives of the City and the Contractor.
 - 7.3 The Special Provisions, Part 3 of the Contract, and change orders and other amendments to the Special Provisions signed by authorized representatives of the City and the Contractor
 - 7.4 The Contractor’s Quote dated January 29, 2025
 - 7.5 Contractor’s completed Certificates of Insurance and Endorsements
8. PROVISIONS INCORPORATED BY REFERENCE. Provisions or parts of provisions that are incorporated by reference and not set forth at length in any of the Contract Documents will only form a part of this Contract to the extent the Contract Documents expressly make such provisions or parts of provisions a part of this Contract. For example, published public works agreement provisions, such as those of the State of California Department of Transportation Standard Specifications (known as the Standard Specifications) are only a part of this Contract to the extent expressly incorporated in the Contract by section number. When such published provisions are made a part of this Contract, references in the published provisions to other entities, such as the State, the Agency, or similar references, will be deemed references to the City as the context of this Contract may require.
9. INTERPRETATION OF CONTRACT DOCUMENTS. Any question concerning the intent or meaning of any provision of the Contract Documents, must be submitted to the Public Works Director, or his/her designee, for issuance of an interpretation and/or decision by the authorized Public Works Director in accordance with the requirements of the Contract Documents. Interpretations or decisions by any other person concerning the Contract Documents will not be binding on the City. The decision of the Public Works Director, or his/her designee, shall be final.

10. ASSIGNMENT PROHIBITED. The Contractor may not assign part or all of this Contract, or any monies due or to become due under this Contract, or any other right or interest of the Contractor under this Contract, or delegate any obligation or duty of the Contractor under this Contract without the prior written approval of an official authorized to bind the City and an authorized representative of Contractor's surety or sureties. Any such purported assignment or delegation without such written approval on behalf of the City and the Contractor's sureties will be void and a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
11. CONTRACTOR'S LICENSE CERTIFICATION. By signing this Contract the Contractor certifies that the Contractor holds a valid Type C-10 license issued by the California State Contractors Licensing Board, and that the Contractor understands that failure to maintain its license in good standing throughout the performance of the Work may result in discipline and/or other penalties pursuant to the California Business and Professions Code, and may constitute a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
12. SEVERABILITY. If any term or provision or portion of a term or provision of this Contract is declared invalid or unenforceable by any court of lawful jurisdiction, then the remaining terms and provisions or portions of terms or provisions will not be affected thereby and will remain in full force and effect.
13. PROJECT REPRESENTATIVES
 - 13.1 The City has designated John Smith as its Project Manager to act as its Representative in all matters relating to the Contract. If Project Manager is an employee of City, Project Manager is the beneficiary of all Contractor obligations to the City including, without limitation, all releases and indemnities.

Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the City, to accept work, and to make decisions or actions binding on the City, and shall have sole signature authority on behalf of the City.

The City may assign all or part of the Project Manager's rights, responsibilities and duties to a construction manager or other City representative.
 - 13.2 The Contractor has designated Dan Gingrich as its Project Manager to act as Contractor's Representative in all matters relating to the Contract. The Contractor's Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the Contractor and to make decisions or actions binding on the Contractor, and shall have sole signature authority on behalf of the Contractor.

SIGNATURES ON FOLLOWING PAGE

Executed on _____, by

CONTRACTOR

By: _____
Title: _____

[Attach Notary Acknowledgment Page]

CITY

By: Isaac Whippy
Title: City Manager

ATTEST:

By: _____
Diana Paoli
City Clerk

APPROVED AS TO FORM:

By: _____
Baron J. Bettenhausen
City Attorney

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 2
GENERAL PROVISIONS

1. DEFINITIONS

The following terms as used in any agreement of which these General Provisions are a part are defined as follows:

- 1.1 **City:** CITY OF FORT BRAGG.
- 1.2 **Construction Manager:** The City's authorized representative for administration and overall management of the Project contract and Work. The Construction Manager is the official point of contact between the City, the Architect and/or Engineer, and the Contractor. The Construction Manager for this project shall be Engineering Technician Carlos Hernandez
- 1.3 **Contract:** The agreement between the City and Contractor concerning the Project, as evidenced by and comprised of the Contract Documents.
- 1.4 **Contract Documents:** All documents identified in Section 7 of Part 1 of the Contract.
- 1.5 **Contractor:** Low Voltage Security - The successful bidder for the Project and party to the Project agreement with the City as specified in the Project agreement.
- 1.6 **Days:** Unless otherwise specified in the Contract Documents, Days mean working days.
- 1.7 **Project:** The Facilities Camera and Police Department Access Control Project as described in scope of work
- 1.8 **Project Inspector:** The party or parties charged by the City with inspecting the Work for compliance with the requirements of the Contract Documents and applicable laws and regulations. The Project Inspector acts under the direction of the City and shall coordinate with the Construction Manager and Architect as directed by the City in accordance with the Contract Documents. .
- 1.9 **Project Plans:** Section Removed
- 1.10 **Proposal:** The quote, bid, or proposal submitted by by Contractor to the City in response to City request for informal bid. For purposes of this Agreement, quote, proposal, and bid are used interchangeably.
- 1.11 **Subcontractor:** A person, firm or corporation that is obligated as a party to a contract with the Contractor to perform part of the Project work. For purposes

City of Fort Bragg
Facilities Cameras and Access Control
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of these General Provisions Subcontractors include, but are not limited to, those that are obligated as parties to a contract with the Contractor to specially fabricate and install a portion of the Project Work.

1.12 **Technical Specifications:** Section Removed.

1.13 **Time for Completion:** The Time for Completion is the time by which the Work must be completed, as defined in the Contract, Part 1, or as modified in a writing, executed by the City and Contractor. .

1.14 **Work:** The furnishing of all equipment, tools, apparatus, facilities, material, labor and skill necessary to perform and complete in a good and workmanlike manner the Project in accordance with the Contract Document and applicable law(s).

1.15 **Written Notice:** Will be deemed to have been duly served for purposes of these General Provisions and any agreement of which they are a part if delivered in person to the individual or to a member of the firm or to any office of the corporation for whom the notice is intended, or if sent by registered or certified mail to the last known business address known to the party giving notice. Unless otherwise specified in the Contract Documents, the last known address of the Contractor shall be that listed in the Contractor's completed Quote.

2. PLANS AND SPECIFICATIONS [Section Removed]

3. CONTROL OF WORK AND MATERIAL

3.1 **Construction Manager's Status.** The Construction Manager will administer the Project in accordance with the Contract Documents. After execution of the agreement and issuance of the Notice to Proceed, all correspondence and/or instructions concerning the Project between the Contractor and/or City shall be forwarded through the Construction Manager. Except as otherwise provided in the Contract Documents, the Construction Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, or procedures or for safety precautions in connection with the Work. The Construction Manager, however, will have authority to reject materials and/or workmanship that do not conform to the requirements of the Contract Documents. The Construction Manager will also have the authority to require inspection or testing of the Work.

3.2 [Section Removed]

3.3 **Inspection and Testing of Work and Material.**

City of Fort Bragg
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- 3.3.1 The City and the Construction Manager and their representatives will have access to the Work at all times wherever it is in preparation or progress. The Contractor must provide proper facilities for such access and for inspection.
- 3.3.2 The Contractor must inspect all materials as delivered and promptly return all defective materials without waiting for their rejection by the Construction Manager.
- 3.3.3 If the Construction Manager, or any laws, ordinances, or any public authority require any Work to be tested or approved, the Contractor must give the Construction Manager timely notice of the Contractor's readiness for inspection. Inspections will be promptly made, and where practicable, at the source of supply. Any work subject to such testing that is covered up without timely notice to the Construction Manager or without the approval or consent of the Construction Manager must, if required by the Construction Manager, be uncovered for examination at the Contractor's expense. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work subject to testing that is covered up without timely notice to the Construction Manager and that is not uncovered for examination at the Contractor's Expense if required by the Construction Manager.
- 3.3.4 Tests of materials or qualification tests required by the Contract Documents must be made in accordance with the California Building Standards Code as adopted by the City and other applicable law. Copies of all testing reports shall be distributed as required .
- 3.3.5 The City or its representatives may order re-examination of questioned Work. If ordered to do so, the Contractor must uncover such Work. If such Work is found to be according to the Contract Documents, the City shall pay the cost of uncovering and restoring the Work, unless such Work was subject to testing and covered up without timely notice to or approval of the Construction Manager. If re-examined Work is found not in accordance with the Contract Documents, the Contractor must pay the cost of uncovering and restoring the Work. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any re-examined Work not in accordance with the Contract Documents that the Contractor fails to uncover and restore at the Contractor's expense.
- 3.3.6 The Contractor must replace or correct without charge any material or workmanship found not to conform to the requirements of the Contract Documents, unless the City consents to accept such material or workmanship with an appropriate adjustment in the Contract Price. The

City of Fort Bragg
Facilities Cameras and Access Control
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Contractor must promptly segregate and remove non-conforming material from the Work site. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or correct without charge any material or workmanship that does not conform to the requirements of the Contract Documents and that the City has not consented to accept.

3.4 Samples Furnished by the Contractor. The Contractor must furnish all samples for approval as directed in sufficient time to permit the Construction Manager, to examine, approve and select samples before they are required by the progress of the Work. Portions of the Work for which samples are required and for which the Construction Manager has selected samples must be in accordance with such approved samples. Samples must be sent prepaid to the office of the Construction Manager or to such place as the Construction Manager may direct.

3.5 Materials and Substitutions.

3.5.1 Materials used for the Work must be new and of the quality specified. When not particularly specified, materials must be the best of their class or kind. The Contractor must, if required, submit satisfactory evidence as to the kind and quality of materials.

3.5.2 If the Contractor submitted complete information to the Public Works Department for products proposed as equals in accordance with the Bid Package, and the City approved such products proposed as equals in writing, the Contractor may either furnish such products approved as equals, or furnish the products listed by manufacturer name, brand or model number in the Contract Documents. The City retains the right, in its sole discretion, to accept or reject any other proposed substitution. To be considered, proposals concerning products proposed as equals must include sufficient information to permit the City to determine whether the products proposed as equals will satisfy the same performance requirements as products listed by manufacturer's name, brand or model number. Such performance requirements may include, but are not limited to, size, strength, function, appearance, ease of maintenance and repair, and useful life requirements. If the City does not accept a proposed substitution, the Contractor must furnish an acceptable product approved by the Construction Manager.

3.5.3. During the performance of the Work, all materials must be neatly stacked, properly protected from the weather and other adverse impacts, and placed so as to avoid interference with efficient progress of the Work, with other activities of the City, or with the use of existing City facilities by the public. All materials must be delivered so as to

City of Fort Bragg
Facilities Cameras and Access Control
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ensure efficient and uninterrupted progress of the Work. Materials must be stored so as to cause no obstruction and so as to prevent overloading of any portion of the Work. The Contractor will be responsible for damage or loss of materials delivered to and/or stored at the Work site due to weather or other causes. The Contractor must promptly remove from the Work site all materials rejected by the City or its representatives as failing to conform to the requirements of the Contract Documents, whether such non-conforming materials have been incorporated in the Work or not. If the City or its representatives so direct, the Contractor must promptly replace and re-execute Work performed by the Contractor and order the replacement and re-execution of Work performed by subcontractors using non-conforming materials with materials that satisfy the requirements of the Contract Documents without expense to the City. The Contractor will bear the expense of making good all Work destroyed or damaged by such removal. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or re-execute Work using non-conforming materials, and/or to make good all work destroyed or damaged by such removal and/or execution.

- 3.6 Maintenance and Examination of Records. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to the City for reference. Upon completion of the Work, Contractor shall deliver to the City, the Project Record Documents, Samples and Shop Drawings and as-built drawings.

Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittals; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to the City. At the completion of the Project, Contractor shall deliver all such records to the City to have a complete set of record as-built drawings.

City of Fort Bragg
Facilities Cameras and Access Control
Contract, Part 2
General Provisions

The City may examine and audit at no additional cost to the City all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports and other Project related data of the Contractor, subcontractors engaged in performance of the Work, and suppliers providing supplies, equipment and other materials required for the Work, including computations and projections related to bidding, negotiating, pricing or performing the Work or contract modifications and other materials concerning the Work, including, but not limited to, Contractor daily logs, in order to evaluate the accuracy, completeness, and currency of cost, pricing, scheduling and any other project related data. The Contractor will make available all such Project related data at all reasonable times for examination, audit, or reproduction at the Contractor's business office at or near the Work site, and at any other location where such Project related data may be kept until three years after final payment under the Agreement. Pursuant to California Government Code Section 8546.7, if the amount of public funds to be expended is in excess of \$10,000, this Contract shall be subject to the examination and audit of the State Auditor, at the request of the City, or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

- 3.7 Advertising. No advertising signs of any kind may be displayed on the Work site, or on fences, offices or elsewhere adjacent to the Work site.
- 3.8 Project Schedule. Prior to the pre-construction meeting, the Contractor shall submit a baseline schedule showing each task of Work, including, as required by the City, equipment procurement and delivery (Contractor and City supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on site, and necessary interface with the City and third parties. The baseline schedule shall include the sequence of each task, the number of days required to complete each task, and the critical path controlling the completion of the entire Work. The schedule shall allow for the completion of the entire Work within the Time for Completion.
 - 3.8.1 City Review of Schedule. The City may review the Contractor's submitted schedule and may note any exceptions. The Contractor shall correct any exceptions noted by the City within five (5) working days of being notified of the exceptions.
 - 3.8.2 Update of Schedule. After submission of a schedule to which the City has taken no exceptions, the Contractor shall submit an updated schedule on a biweekly basis until completion of the Work. The updated schedule shall show the progress of Work as of the date specified in the updated schedule. Contractor shall provide the City with an electronic copy of each updated schedule.

City of Fort Bragg
Facilities Cameras and Access Control
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- 3.8.3 Float. The baseline schedule and all later submitted schedules shall show early and late completion dates for each task. The number of days between these dates shall be designated as "Float." The Float shall be designated to the Project and shall be available to both the City and the Contractor as needed to complete the Work in accordance with the Contract.
- 3.8.4 Failure to Submit Schedule. If the Contractor fails to submit the schedule within the time period specified in this section or submit a schedule to which the City has taken uncorrected exceptions, the City may withhold payments to the Contractor until such schedules are submitted and/or corrected in accordance with the Contract documents.
- 3.8.5 Responsibility for Schedule. The Contractor will be solely and exclusively responsible for creating the schedule and properly updating it. The City may note exceptions to any schedule submitted by the Contractor. However, the Contractor will be solely responsible for determining the proper method of addressing such exceptions, and the City's review of the schedule will not create scheduling obligations for the City.
- 3.8.6 Contractor's baseline schedule and progress schedules shall be in the form of a CPM (arrow) diagram. Contractor shall provide the City with native format electronic schedules and hard copies of the baseline schedule, schedule updates, and look ahead schedules. All electronic and hard copies of the schedule that Contractor provides to the City shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- 3.8.7 The City has no obligation to accept an early completion date.
- 3.8.8 The City may request a recovery schedule should Contractor fall 21 or more Days behind any schedule milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates. The recovery schedule shall show the intended critical path. If the City requests, Contractor shall also: secure and demonstrate appropriate subcontractor and supplier consent to the recovery schedule; and submit a written plan and narrative explaining on trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or subcontractors.
- 3.8.9 If the Contractor requests an extension of the Time for Completion, it shall submit the request in a writing that provides information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. The writing shall include this narrative

City of Fort Bragg
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and a schedule diagram depicting how the changed Work or other impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current schedule impact or critical path or otherwise. Any requests of an extension of the Time for Completion stemming from an alleged project delay shall be made within five (5) days of the commencement of the alleged delay, explain the reason for delay, include the anticipated length of the delay, and contain a narrative justifying the extension, in addition to the other information and schedules required by this section.

3.9 Construction Staking. All Work done under this Contract must be in conformance with the Project Plans and staked by the Engineer in the field. The Contractor must inform the Engineer, forty-eight (48) hours in advance, of the time and places at which he or she wishes to do work, in order that lines and grades may be furnished and necessary measurements for record and payment made, with the minimum of inconvenience to the Engineer and delay to the Contractor.

3.10 Materials Testing. Materials will be tested by the CITY OF FORT BRAGG or its authorized agent, following State of California Test Methods. Statistical testing may not be used. All individual samples must meet the specified test results. Each material used must meet the specified requirements.

The Contractor must request and coordinate all testing. All tests must occur in the presence of the Project Inspector. The City will, at its sole discretion, have the right to reject any and/or all test results that do not meet this requirement, and to order a retest in the presence of the Project Inspector. The costs for all retests so ordered will be the responsibility of the Contractor. The cost of all retests will be charged to the Contractor at the actual cost plus 30 percent, with a minimum charge of \$150.00 per test to cover staff and administrative costs.

The City, at its sole expense, will provide all initial material and compaction tests. Sampling and testing will comply with Chapter 6 of the Caltrans Construction Manual, at a minimum. Where conditions vary, the City may perform additional testing. Cost for testing of materials offered in lieu of the specified materials will be the responsibility of the Contractor. Cost for R-value tests when required by the Standard Specifications will be the responsibility of the Contractor.

City of Fort Bragg
Facilities Cameras and Access Control
Contract, Part 2
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Testing will only be performed on normal City working days between the hours of 8:00 a.m. and 4:00 p.m. unless other arrangements are made in advance. Tests performed outside of these hours may be subject to increased charges.

The Contractor must request all tests in writing a minimum of two (2) working days in advance of the time desired. A minimum of one working day must be allowed for compilation and reporting of data and test results after tests have been performed. No subsequent layer of material may be placed until a passing test is obtained and acknowledged by the City.

Concrete and asphalt may be supplied only from suppliers approved and certified by the State Department of Transportation. Proposed mix designs for all concrete and asphalt concrete to be placed within the CITY OF FORT BRAGG must be provided to and approved by the City, prior to placement.

The Contractor must coordinate with the City concerning any additional testing as required.

4. CHANGES IN WORK

- 4.1 City Directed Change Orders. The City may at any time during the progress of the Work direct any amendments to the Work or any of the Contract Documents. Such amendments will in no way void the agreement, but may be applied to amend the Contract Price or Time for Completion, if such amendments affect the Contract Price, the Project schedule, or any other provision of the Contract Documents based on a fair and reasonable valuation of the amendment in accordance with this Section 4.
- 4.2 Writing Requirement. Change orders and other amendments to the Contract Documents may be made only by a writing executed by authorized representatives of the City and the Contractor.
- 4.3 Contractor Proposed Change Orders. Unless the Construction Manager otherwise authorizes or the City and the Contractor otherwise agree, change order proposals submitted by the Contractor must be submitted to the Construction Manager no later than the time of the proposed change.
- 4.4 All Change Orders. All change order proposals must be submitted on completed Change Order forms provided by the City. All such change order proposals must itemize all cost impacts of the proposed change order and include a total price for that change order and the amended Contract Price that would become effective upon execution of the change order. All change order proposals must specify any change in the Project schedule, or in any project milestone including, but not limited to, the Time for Completion, under the change order, and must provide information justifying the requested change in the Time for Completion. It is understood that change orders that do not specify a change in any milestone, including, but not limited to, the

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Time for Completion, will be accomplished by the Time for Completion then in effect.

- 4.5 Change Order Pricing. Change order pricing will be governed by the following:
- 4.5.1 Unit prices specified in the Contract Documents will apply to cost impacts involving items for which the Contract Documents specify unit prices.
 - 4.5.2 Cost impacts involving items for which no unit prices are specified will be calculated by adding the itemized actual direct cost that would be added or reduced under the change order and an allowance for indirect costs in accordance with this Section. Itemization for direct costs for required labor must include the classifications of labor required, the total hours required for each classification, the hourly rate for each classification and other labor related costs such as liability and workers compensation insurance, social security, retirement and unemployment insurance. All other cost impacts for which no unit prices are specified must be itemized as appropriate, including the cost of tools, vehicles, phones and other equipment, and the cost of all required materials or supplies. Indirect costs added under a change order may not exceed an allowance of fifteen (15) percent of the total of combined Contractor and subcontractor direct costs added under the change order. Such allowance covers Contractor overhead and profit under the change order and includes the cost of insurance in addition to that required pursuant to Section 8.8, superintendent labor, clerical labor, home office expenses, worksite office expenses, and utility costs under the change order. Such costs may not be itemized as direct costs under a change order. Indirect costs deducted under a change order will be calculated in exactly the same way as indirect costs added under a change order, except indirect costs deducted under a change order may not exceed an allowance of seven and a half (7.5) percent of the total of combined Contractor and subcontractor direct costs deducted under the change order.
- 4.6 Liability Under Unapproved Change Orders. The Contractor shall be solely responsible for any and all losses, costs, or liabilities of any kind incurred by the Contractor, any subcontractor engaged in the performance of the Work, any party supplying material or equipment for the Work or any third party that are incurred pursuant to Contractor-proposed change orders prior to issuance of an approved change order executed in accordance with this Section 4. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work or resulting losses, costs, or liabilities pursuant to a Contractor proposed change

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order before issuance of an approved change order executed in accordance with this Section 4.

4.7 Changes Subject to Contract Documents. Any changes in the Work and/or the Contract Documents pursuant to change orders and any other amendments issued in accordance with the Contract Documents, including this Section 4, will in all respects be subject to all provisions of the Contract Documents, except as modified by such change orders or amendments.

4.8 Change Order Disputes.

4.8.1 Disputed City Directed Change Orders. If the Contractor disputes a City directed change order following a reasonable effort by the City and the Contractor to resolve the dispute including, at a minimum, a meeting between appropriate representatives of the Contractor and the City, the Contractor must commence performing the Work consistent with the disputed change order within five (5) working days of the last meeting between representatives of the Contractor and the City to resolve the dispute, or within the time specified in the disputed City directed change order, whichever is later. In performing Work consistent with a disputed City-directed change order pursuant to this provision the Contractor will have all of the Contractor's rights concerning claims pursuant to the Contract Documents and applicable law.

4.8.2 Disputed Contractor Proposed Change Orders. If the City disputes a Contractor proposed change order, the City and the Contractor will use reasonable efforts to resolve the dispute including, at a minimum, holding a meeting between appropriate representatives of the Contractor and the City. Regardless of and throughout any such efforts to resolve the dispute the Contractor must continue performing the Work irrespective of and unmodified by the disputed change order. In continuing to perform the Work, the Contractor will retain all of the Contractor's rights under contract or law pertaining to resolution of disputes and protests between contracting parties. Disputes between the City and the Contractor concerning any Contractor-proposed change order or other amendment do not excuse the Contractor's obligation to perform the Work in accordance with the Contract Documents excluding such Contractor-proposed change order or other amendment by the Time for Completion or waive any other Project milestone or other requirement of the Contract Documents.

4.9 Change in Time for Completion. The Time for Completion may only be changed through a Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence. Contractor shall not be

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entitled time extension for impacts that consume Float, but do not impact the critical path. Time extensions will not be granted unless substantiated by the Critical Path Method (CPM) Schedule, and then not until the CPM float becomes zero. If contractor fails to submit documentation requesting and justifying a change in Time for Completion consistent with the Contract Documents, the Contractor shall be deemed to have agreed that there is no extension of time and that Contractor has irrevocably waived its rights to any change in the Time for Completion. Contractor initiated change orders shall address any impacts on the Time for Completion when first submitted to the City. Contractor shall submit any request for change in the Time for Completion and all supporting information and documentation required by the Contract Documents within seven (7) working days of receipt of a City-directed Change Order.

5. TRENCHING AND UTILITIES **[Section Removed]**

6. PROJECT FACILITIES

- 6.1 Work Site Offices. Any Work site office facilities used by the Contractor and/or its privities must conform to all applicable codes, ordinances and regulations. The cost of such Work site office facilities shall be paid from and included in the Contract Price.
- 6.2 City Rights of Access and Ownership. The City and its authorized representatives will at all reasonable times while such office facilities are located at the Work site (including, at a minimum, all times during which the Work is performed), have access to any such Work site office facilities used by the Contractor and/or its privities. With respect to the right of access of the City and its authorized representatives, neither the Contractor nor its privities shall have a reasonable expectation of privacy pursuant to the Fourth Amendment to the United States Constitution or other applicable law concerning such Work site office facilities used by the Contractor and/or its privities. Without exception, any and all Project related materials located at such Work site facilities will be deemed at all times to be City property subject to inspection and copying by the City and its authorized representatives at all reasonable times while such facilities are located at the Work site (including, at a minimum, all times during which the Work is performed). Any interference by the Contractor or its privities with the City's rights of access and/or Ownership pursuant to this Section 6 will constitute a material breach of the Agreement subject to any and all remedies available pursuant to the Contract Documents and at law and equity.

7. PROSECUTION AND PROGRESS OF THE WORK

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- 7.1 Liquidated Damages. Time is of the essence in the Agreement. The City and the Contractor agree that it will be difficult and/or impossible to determine the actual damage which the City will sustain in the event of the Contractor's failure to fully perform the Work or to fully perform all of the Contractor's obligations that have accrued pursuant to the Agreement by the Time for Completion. Accordingly, the City and the Contractor agree in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the City liquidated damages in the sum of \$100 per day for each and every calendar day completion of the Work and/or performance of all of the Contractor's obligations that have accrued pursuant to the Agreement is delayed beyond the Time for Completion. The City and the Contractor further agree in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time the Agreement was made, and that the City may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor under the Agreement.
- 7.2 No Damage for Avoidable Delays. All delays in the Work that might have been avoided by the exercise of care, prudence, foresight and diligence of the Contractor or any privities of the Contractor will be deemed avoidable delays. Delays in the Work that may be unavoidable but that do not necessarily affect other portions of the Work or prevent completion of all Work within the Time for Completion, including, but not limited to, reasonable delays in Engineer approval of shop drawings, placement of construction survey stakes, measurements and inspection, and such interruption as may occur in prosecution of the Work due to reasonable interference of other contractors of the City, will be deemed avoidable delays. The Contractor will not be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the contract price for avoidable delays.
- 7.3 Unavoidable Delays. All delays in the Work that result from causes beyond the control of the Contractor and that the Contractor could not have avoided through exercise of care, prudence, foresight, and diligence will be deemed unavoidable delays. Orders issued by the City changing the amount of Work to be done, the quantity of materials to be furnished, or the manner in which the work is to be prosecuted, and unforeseen delays in the prosecution of the Work due to causes beyond the Contractor's control, such as strikes, lockouts, labor disturbances, fires, epidemics, earthquakes, acts of God, neglect by utility owners or other contractors that are not privities of the Contractor will be deemed unavoidable delays to the extent they actually delay the Contractor's completion of the Work. The Contractor will be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the Contract Price for unavoidable delays to the extent such delays

actually delay the Contractor's completion of the Work and/or result in the Contractor incurring additional costs in excess of the Contract Price.

- 7.4 No Damage for Contractor Caused Delay. Contractor shall not be entitled to additional compensation for extended field or home office overhead, field supervision, costs of capital, interest, escalation charges, acceleration costs or other impacts for any delays to the extent such delays are caused by the failure of the Contractor or any subcontractor or other entity engaged in performance of the Work to perform the Work in accordance with the Contract Documents.
- 7.5 No Damage for Other Delay. Contractor will not be entitled to damages for delay to the Work caused by the following, which the City and Contractor agree will be deemed for purposes of California Public Contract Code Section 7102 either not caused by the City, and/or within the contemplation of the City and the Contractor, and/or reasonable under the circumstances:
- 7.5.1 Exercise of the City's right to sequence the Work in a manner that would avoid disruption to the City and other contractors based on: the failure of the Contractor or any subcontractor or other entity engaged in the performance of the Work to perform the Work in accordance with the Contract Documents, enforcement by the City or any other governmental agency of competent jurisdiction of any government act or regulation, or enforcement by the City of any provisions of the Agreement.
- 7.5.2 Requests for clarification or information concerning the Contract Documents or proposed change orders or modifications to the Contract Documents, including extensive and/or numerous such requests for clarification or information or proposed change orders or modifications, provided such clarifications or information or proposed change orders or modifications are processed by the City or its representatives in a reasonable time in accordance with the Contract Documents.
- 7.6 Delays Caused by the City and/or Its Privities. Delay caused by the City and/or other Contractors of the City will be deemed unavoidable delays. Either the City or the Contractor may propose a change in the Time for Completion for delays that are purported to be caused by the City and/or its privities and that are not reasonable under the circumstances involved and/or that are not within the contemplation of the City and the Contractor. Such proposed changes in the Time for Completion will constitute change order proposals subject to Section 4. In accordance with Section 4, the City and the Contractor may agree upon pricing for the cost impacts, if any, resulting from such delays. If such pricing is in anticipation of cost impacts that may, but have not yet occurred, the City will be obligated to pay the Contractor for such anticipated impacts in accordance with the Agreement and any applicable,

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approved change orders only to the extent the Contractor actually incurs the anticipated cost impacts. Notwithstanding anything to the contrary in Section 4, the City and the Contractor may agree to a daily rate or cap or lump sum that will apply to the cost impacts, if any, resulting from delay purportedly caused by the City and/or its privities subject to this provision. However, if such daily rate or cap or lump sum is in anticipation of cost impacts that have not yet occurred, the City will be obligated to pay such daily rate or cap or lump sum only to the extent the Contractor actually incurs such cost impacts.

- 7.7 Weather Delays. Extensions of the Time for Completion will not be allowed for normal, adverse weather conditions that are consistent with historical weather data of the National Oceanographic and Atmospheric Administration of the U.S. Department of Commerce for the record station that is nearest or most applicable to the Work site. The Contractor should understand that normal adverse weather conditions are to be expected and plan the Work accordingly, such as by incorporating into the Project schedule, normal adverse weather delays as reflected in historical data of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce for the weather station most applicable to the Work site. Extensions of the Time for Completion for delays due to adverse weather will be allowed only if the number of adverse weather days far exceeds the historical data. No extensions of the Time for Completion will be granted for normal, adverse weather conditions or for adverse weather conditions that merely result in delays that do not or would not, themselves, result in failure to complete the Work by the Time for Completion.
- 7.8 Delay Claims. Within five (5) days of the beginning of any delay, Contractor shall notify the City in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. Whenever the Contractor claims a delay for which the Time for Completion may be extended, the Contractor must request an extension of time within five (5) days of submitting its notice of delay. The request must be in writing in the form of a change order and describe in detail the cause for the delay, and, if possible, the foreseeable extent of the delay. The City will determine all claims and adjustments in the Time for Completion. No claim for an adjustment in the Time for Completion will be valid and such claim will be waived if not submitted in accordance with the requirements of this Section and Section 4.9. In cases of substantial compliance with the notice timing requirements of this Section (but not to exceed twenty-one (21) days from the beginning of the delay event), City may in its sole discretion recognize a claim for delay accompanied with the proper documentation and justification, provided the Contractor also shows good faith and a manifest lack of prejudice to the City from the late notice.
- 7.9 Contractor Coordination of the Work.

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- 7.9.1 The City reserves the right to do other work in connection with or in the vicinity of the Project by contract or otherwise, and Contractor shall at all times conduct the Work so as to impose no hardship on the City, others engaged in the Work or other contractors working at the Work site. The Contractor will adjust, correct and coordinate the Work with the work of others so that no delays result in the Work or other work at or near the Work site.
- 7.9.2 If any part of the Work depends for proper execution or results upon the work of the City or any other contractor, the Contractor will, before proceeding with such Work, promptly report to the City any apparent discrepancies or defects in such other Work. Failure of the Contractor to promptly report any apparent discrepancy or defect will be deemed an acceptance of the City's or other contractor's Work as fit and proper.
- 7.9.3 The Contractor will anticipate the relations of the various trades to the progress of the Work and will ensure that required anchorage or blocking is furnished and set at proper times. Anchorage and blocking necessary for each trade shall be part of the Work except where stated otherwise.
- 7.9.4 The Contractor will provide proper facilities at all times for access of the City, the Construction Manager, Architect or Engineer, and other authorized City representatives to conveniently examine and inspect the Work.

8. CONTRACTOR RESPONSIBILITIES

- 8.1. Eligibility. By executing the Agreement, the Contractor certifies that the Contractor is not ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), contractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform the Work. To the fullest extent permitted by law, the Contractor shall hold harmless and indemnify the City from and against any and all damages, costs, and liability arising from or as a consequence of any violation of Public Contract Code Section 6109.
- 8.2 Non Discrimination. During the performance of this Contract, Contractor will not discriminate against any employee or subcontractor of the Contractor or applicant for employment because of race, religion, creed, color, national origin, gender, sexual orientation, or age. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, national origin, gender, sexual orientation, or age.

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Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractors.

- 8.3 Supervision of the Work. The Contractor will be solely responsible for the performance of the Work, including portions of the Work to be performed by subcontractors. The Contractor is charged with ensuring that all orders or instructions from the City, Construction Manager or Architect are disseminated to and followed by all subcontractors engaged in performance of the Work. The Contractor will supervise the Work using the Contractor's best skill and attention. At any time during the progress of the Work, the City, the Construction Manager, or the Architect may require the Contractor and/or subcontractors engaged in performance of the Work to attend a project meeting and the Contractor will attend, and ensure the attendance of any subcontractors whose attendance is required by the City and/or advisable in light of the matters to be addressed at the meeting.
- 8.4 Contractor's Superintendent. The Contractor will keep on the Work, throughout its progress, a competent superintendent and any necessary assistants, all satisfactory to the City. The superintendent may not be changed without the consent of the City. The superintendent will represent the Contractor and all directions given by the City to the superintendent will bind the Contractor in accordance with the Agreement. Superintendent time included in Contractor's completed bid schedule and/or in approved change orders, if any, must be included in Contractor's approved overhead rate and may not be charged as a direct cost.
- 8.5 Competent Employees. The Contractor must at all times enforce strict discipline and good order among the Contractor's employees and may not employ on the Project any unfit person or anyone not skilled in the Work assigned, or anyone incompetent or unfit for the duties of that person. When the City determines that a Contractor employee does not satisfy the requirements of this provision, upon notice from the City, the Contractor must ensure that employee performs no further Work and is no longer present at the Work site. Any such Contractor employee may not again be employed on the Project without City approval.

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- 8.6 Items Necessary for Proper Completion of the Work. Except as otherwise noted in the Contract Documents, the Contractor will provide and pay for all labor, materials, equipment, permits, fees, licenses, facilities and services necessary for the proper execution and timely completion of the Work in accordance with the Contract Documents.
- 8.7 Construction Reports. The Contractor must submit daily construction reports detailing the daily progress of the Work to the Construction Manager on a weekly basis.
- 8.8 Subcontracting. The Contractor must perform with his or her own organization, a value of work amounting to not less than fifty percent (50%) of the Contract amount, except that the bid amount for subcontracted "Specialty Items" so designated in the Special Provisions may be eliminated from the Contract amount and not considered as sub-contracted for the purposes of calculating the value of work to be performed by the Contractor. For the purposes of determining the value of work to be performed by the Contractor pursuant to this provision, materials, equipment, incidentals, etc., shall be considered to have been purchased by the Contractor or Subcontractor that is to install them. Where a portion of an item is subcontracted, the value of work subcontracted will be based on the estimated cost of such portion of the subcontracted item, as determined from information submitted by the Contractor, subject to approval by the Engineer.
- 8.8.1 By executing the Contract, the Contractor certifies that no subcontractor included on the list of proposed subcontractors submitted with the Contractor's bid is ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), subcontractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform as a subcontractor on the Work. In accordance with California Public Contract Code Section 6109(b), any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. The Contractor will ensure that no debarred subcontractor receives any public money for performing the Work, and any public money that may have been paid to a debarred subcontractor for the Work is returned to the City. The Contractor will be responsible for payment of wages to workers of a debarred subcontractor who has been allowed to perform the Work.
- 8.8.2 The Agreement and the performance of the Work are subject to the requirements of the Subletting and Subcontracting Fair Practices Act

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codified at California Public Contract Code Section 4100 et seq. If the Contractor fails to specify a subcontractor or specifies more than one subcontractor for the same portion of the Work in excess of one-half of one percent of the Contractor's total bid, the Contractor agrees that the Contractor is fully qualified to perform that portion of the Work with the Contractor's own forces, and that the Contractor will perform that portion of the Work with the Contractor's own forces. If after award of the Agreement the Contractor subcontracts, except as provided for in California Public Contract Code Sections 4107 or 4109, any such portion of the Work, the Contractor will be subject to the penalties set forth in California Public Contract Code Sections 4110 and 4111, including cancellation of the Agreement, assessment of a penalty of up to 10 percent of the amount of the subcontract, and disciplinary action by the Contractors State License Board.

- 8.8.3. No contractual relationship exists between the City and any subcontractor engaged in performance of the Work.
- 8.8.4. Incorporation of Contract Documents. The Contractor must incorporate the Contract Documents in each contract with a subcontractor engaged in the performance of the Work including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. The Contractor shall be solely responsible for any delay or additional costs incurred as a result of its failure to provide adequate or accurate project information to a subcontractor that results in improper submittals and/or work, or time or other impacts is the sole responsibility of the Contractor. The Contractor will have all of the obligations and the City will have all of the remedies that are specified in Section 11.
- 8.8.5. Subcontractor agrees to be bound to General Contractor and City in the same manner and to the same extent as General Contractor is bound to City under the Contract Documents. Subcontractor further agrees to include the same requirements and provisions of this agreement, including the indemnity and insurance requirements, with any Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractor's work. A copy of the City's Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The Contractor shall require all subcontractors to provide a valid certificate of insurance with the required endorsements included in the agreement prior to commencement of any work and General Contractor will provide proof of compliance to the City.
- 8.8.6. Coordination of Subcontract Work: The Contractor is responsible for scheduling the Work of subcontractors so as to avoid delay or injury to either Work or materials.

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8.9 Insurance.

8.9.1 All required insurance shall be provided in the form of “occurrence”-type policies underwritten by admitted insurers in the State of California with a rating of A or better from the current year Best Rating Guide. All policies must be issued at the expense of the Contractor and must be maintained at the Contractor’s expense throughout the performance of the Work.

8.9.2 The Contractor and any subcontractors engaged in performance of the Work must secure payment of workers compensation in accordance with California Labor Code Section 3700 and other applicable law. The Contractor must verify that all Subcontractors comply with this requirement.

8.9.3 Within ten (10) working days following notice of award the Contractor must submit to the City along with executed copies of all other documents specified in the Contract Check List certificates of insurance and endorsements evidencing that the Contractor has in effect and will maintain throughout the performance of the Work the following kinds and amounts of insurance:

8.9.3.1 Worker’s Compensation Insurance. Workers Compensation and Employers Liability insurance as required by any applicable law, regulation or statute, including the provisions of Division IV of the Labor Code of the State of California, and any act or acts amending it. Worker’s Compensation insurance must be for Statutory Limits and must cover the full liability of the Contractor. The Contractor’s Employer’s Liability Insurance must be in an amount no less than \$1,000,000.00 per occurrence. The insurance must be endorsed to waive all rights of subrogation against City and its officials, officers, employees, and volunteers for loss arising from or related to the work performed under this agreement.

8.9.3.2 Commercial General Liability and Automobile Liability Insurance. Coverage for liability because of Bodily Injury and Property Damage including, but not limited to the following coverage:

- Completed Operations and Products Liability
- Bodily Injury
- Personal Injury
- Broad Form Property Damage Liability

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- Contractual Liability insuring the obligations assumed by the Contractor under the Contract Documents
- Automobile Liability, including owned, non-owned and hired automobiles
- Coverage for the XCU hazards of Explosion, Collapse and Underground Hazards

8.9.3.3 Commercial General Liability Self-Insured Retentions:

- All self-insured retentions (SIR) must be disclosed to City for approval and shall not reduce the limits of liability.
- Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
- The City reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

8.9.3.4 Commercial Umbrella Policy. The limits of insurance required in these Contract Documents may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own Insurance or self-insurance shall be called upon to protect it as a named insured.

8.9.3.5 Builders Risk. [Section Removed]

8.9.4 The Additional Insured coverage under the Contractor's policy shall 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 CG 20 01 04 13.

8.9.5 The limits of the insurance required above will be at least:

Comprehensive General Liability

Bodily Injury Liability	\$2,000,000	each occurrence
	\$3,000,000	each aggregate
Property Damage Liability	\$2,000,000	each occurrence

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	\$3,000,000	each aggregate
Comprehensive Automobile Liability		
Bodily Injury Liability	\$2,000,000	each person
	\$2,000,000	each occurrence
Property Damage Liability	\$2,000,000	each occurrence

- 8.9.6 For each insurance policy required under the Agreement except for the required workers compensation insurance policy, the Contractor must provide endorsements that add the City, its officials, officers, employees, agents and volunteers as an additional insured (“Additional Insured”). Such endorsements must: provide that the insurance required to be furnished by the Contractor will be primary as regards the City, and that the City’s insurance will be excess of and not contribute to the insurance required to be furnished by the Contractor; that the City will receive 30 day written notice of any reduction or cancellation of such insurance required to be furnished by the Contractor; and include a severability of interest clause acceptable to the City. Said endorsement shall be at least as broad as Insurance Services Office form number CG2010 (Ed. 11/85).
- 8.9.7 It shall be a requirement under these Contract Documents that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
- 8.9.8 Contractor shall maintain insurance as required by these Contract Documents to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

8.10 Indemnities.

- 8.10.1 The Contractor will take all responsibility for the Work, and will bear all losses and damages directly or indirectly resulting to the Contractor, any subcontractors engaged in performance of the

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Work, the City, its officials, officers, employees, agents, volunteers and consultants, and to third parties on account of the performance or character of the Work, unforeseen difficulties, accidents, or occurrences of other causes arising out of the Contractor's execution of the Work or of any subcontractor engaged in performance of the Work. To the fullest extent permitted by law the Contractor will indemnify, defend and hold harmless the City, its officials, officers, employees, agents, volunteers and consultants from and against any or all loss, liability, expense, claims, costs (including costs of defense and consultants' costs), suits, and damages of every kind, nature and description (including, but not limited to, penalties resulting from exposure to hazards in violation of the California Labor Code and bodily injury or death) directly or indirectly arising from the Contractor's performance of the Work, failure to perform the Work, or condition of the Work that is caused in whole or in part by any act or omission of Contractor, its subcontractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, resulting from any cause whatsoever, save for liability for any loss, damage, or expense arising out of the City's sole negligence or willful misconduct.

- 8.10.2 The Contractor will indemnify, defend and hold harmless the City, the City's officials, officers, employees, volunteers, agents and the Construction Manager for all liability on account of any patent rights, copyrights, trade names or other intellectual property rights that may apply to the Contractor's performance of the Work. The Contractor will pay all royalties or other charges as a result of intellectual property rights that may apply to methods, types of construction, processes, materials, or equipment used in the performance of the Work, and will furnish written assurance satisfactory to the City that any such charges have been paid.
- 8.10.3 The Contractor assumes all liability for any accident or accidents resulting to any person or property as a result of inadequate protective devices for the prevention of accidents in connection with the performance of the Work. The Contractor will indemnify, defend, and hold harmless the City and its officials, officers, employees, agents, volunteers and consultants from such liability.
- 8.10.4 Approval of the Contractor's certificates of insurance and/or endorsements does not relieve the Contractor of liability under this Section 8.10. The Contractor will defend, with legal counsel reasonably acceptable to the City, any action or actions filed in connection with any Claims and will pay all related costs and

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expenses, including attorney's fees incurred. The Contractor will promptly pay any judgment rendered against the City, its officials, officers, employees, agents, volunteers or consultants for any Claims. In the event the City, its officials, officers, employees, agents, volunteers or consultants is made a party to any action or proceeding filed or prosecuted against Contractor for any Claims, Contractor agrees to pay the City, its officials, officers, employees, agents, volunteers and consultants any and all costs and expenses incurred in such action or proceeding, including but not limited to, reasonable attorneys' fees.

- 8.10.5 Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims related to damage to surface or underground facilities caused by the Contractor or any of the Contractor's privities or agents.
- 8.10.6 The Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims, including any fines or other penalties, related to failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the Stormwater Pollution Prevention Plan ("SWPPP") in accordance with provision 12 of the Special Provisions. The City may withhold from amounts due or that may become due to the Contractor under this Contract amounts that equal or are estimated to equal the amount of claims, including fines, resulting from failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the SWPPP in accordance with provision 12 of the Special Provisions.
- 8.10.7 In accordance with California Civil Code Section 2782(a), nothing in the Contract will be construed to indemnify the City for its sole negligence, willful misconduct, or for defects in design furnished by the City. By execution of the Contract Documents the Contractor acknowledges and agrees that the Contractor has read and understands the insurance and indemnity requirements of the Contract Documents, which are material elements of consideration.
- 8.10.8 The defense and indemnification obligations of these Contract Documents are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in these Contract Documents.

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- 8.10.9 Contractor/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of these Contract Documents for the full period of time allowed by law.
- 8.10.10 If Contractor fails to perform any of the foregoing defense and indemnity obligations, the City may defend itself and back-charge the Contractor for the City's costs and fees (including attorneys' and consultants' fees), and damages and withhold such sums from progress payments or other Contract monies which may become due.
- 8.11 Licenses/Permits. The Contractor must, without additional expense to the City, obtain all licenses, permits and other approvals required for the performance of the Work.
- 8.12 California Labor Code Requirements.
 - 8.12.1 In accordance with California Labor Code Section 1771.1, this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). The Contractor and subcontractors engaged in performance of the Work must comply with Labor Code Section 1771.1.
 - 8.12.2 In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under the Agreement.
 - 8.12.3 In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the Work is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
 - 8.12.4 The Contractor and its subcontractors will forfeit as a penalty to the City \$25 for each worker employed in the performance of the Work for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 et seq.
 - 8.12.5 In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which

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the Work is to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the Public Works Department and shall be made available on request. The Contractor and subcontractors engaged in the performance of the Work shall pay no less than these rates to all persons engaged in performance of the Work.

- 8.12.6 In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the Work must comply with Labor Code Section 1775 which establishes a penalty of up to \$200 per day for each worker engaged in the performance of the Work that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the Work is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefor unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:
- 8.12.6.1 The contract executed between the Contractor and the subcontractor for the performance of part of the Work must include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - 8.12.6.2 The Contractor must monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 - 8.12.6.3 Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor must diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the Work.
 - 8.12.6.4 Prior to making final payment to the subcontractor, the Contractor must obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to employees engaged in the performance of the Work and

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any amounts due pursuant to California Labor Code Section 1813.

- 8.12.7 In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the Work, 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 performance of the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating that the information contained in the payroll record is true and correct and that the employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project. The payroll records required pursuant to California Labor Code Section 1776 must be certified and must be available for inspection by the City and its authorized representatives, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations and must otherwise be available for inspection in accordance with California Labor Code Section 1776.
 - 8.12.8 In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the Work, will be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
 - 8.12.9 In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the Work to employ on the Work any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor must pay the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by that person. The minimum rate thus furnished will be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.
- 8.13 Laws and Ordinances. The Contractor and all subcontractors engaged in the performance of the Work must conform to the following specific rules and regulations as well as all other laws, ordinances, rules and regulations that apply to the Work. Nothing in the Contract Documents is to be construed to permit Work not conforming to these codes:

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- National Electrical Safety Code, U. S. Department of Commerce
- National Board of Fire Underwriters' Regulations
- California Building Standards Code as adopted by the City
- Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America
- Industrial Accident Commission's Safety Orders, State of California
- Regulations of the State Fire Marshall (Title 19, California Code of Regulation) and Applicable Local Fire Safety Codes
- Labor Code of the State of California - Division 2, Part 7, Public Works and Public Agencies
- Federal, state, and local air pollution control laws and regulations applicable to the Contractor and/or Work

8.14 Guaranty. The Contractor guarantees all of the Work for one year from the date the City accepts the Work. Upon receiving written notice of a need for repairs which are directly attributable to defective contractor provided materials or workmanship the Contractor must make good any defects arising or discovered in any part of the Work by diligently commencing the necessary repairs within seven (7) days from the date of notice from the City. If the Contractor fails to make good any defects in the Work in accordance with this provision, in addition to any other available remedy under the contract or at law or equity, the City may make good or have made good such defects in the Work and deduct the cost from amounts that may be due or become due the Contractor. The Contractor shall remain responsible for repairing any Work found to be defective regardless of when such defect is discovered by the City.

Where defective or rejected Work and any damage caused thereby has been corrected, removed, or replaced by the Contractor pursuant to this section, the guarantee period with respect to that Work shall be extended for an additional period of one year after such correction, removal, or replacement has been satisfactorily completed.

8.15 Safety.

8.15.1 In accordance with generally accepted construction practices and applicable law, the Contractor will be solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours. For purposes of California Labor Code Section 6400 and related provisions of law, the Contractor and the Contractor's privities and any other entities engaged in the performance of the Work will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities engaged in the performance of the Work. Neither

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the City nor its officials, officers, employees, agents, volunteers or consultants will be “employers” pursuant to California Labor Code Section 6400 and related provisions of law with respect to the Contractor, the Contractor’s privities or other entities engaged in the performance of the Work. The Contractor agrees that neither the City, the Construction Manager, the Architect, nor the Engineer will be responsible for having hazards corrected and/or removed at the Work site. The Contractor agrees that the City will not be responsible for taking steps to protect the Contractor’s employees from such hazards, or for instructing the Contractor’s employees to recognize such hazards or to avoid the associated dangers. The Contractor agrees with respect to the Work and the Work site, the Contractor will be responsible for not creating hazards and for having hazards corrected and/or removed, for taking appropriate, feasible steps to protect the Contractor’s employees from such hazards and that the Contractor has instructed and/or will instruct its employees to recognize such hazards and how to avoid the associated dangers.

- 8.15.2 Review and inspection by the City, the Construction Manager, the Architect or Engineer, and/or other representatives of the City of the Contractor's performance of the Work will not constitute review of the adequacy of the Contractor's safety measures in, on, or near the Work site. Such reviews and inspections do not relieve the Contractor of any of the Contractor’s obligations under the Contract Documents and applicable law to ensure that the Work site is maintained and the Work is performed in a safe manner.
- 8.15.3 The Contractor will be solely responsible for the implementation and maintenance of safety programs to ensure that the Work site is maintained and the Work is performed in a safe manner in accordance with the Contract Documents and applicable law.
- 8.15.4 Within ten (10) working days following notice of award the Contractor must submit to the City a copy of the Contractor’s Safety Plan.
- 8.15.5 The Contractor must furnish and place proper guards and systems for the prevention of accidents, including, but not limited to, those systems required pursuant to Title 8, Section 1670 et seq. of the California Code of Regulations concerning safety belts and nets. The Contractor must provide and maintain any other necessary systems or devices required to secure safety of life or property at the Work site in accordance with accepted standards of the industry and applicable law. The Contractor must maintain during all night hours sufficient lights to prevent accident or damage to life or property.

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- 8.16 Assignment of Unfair Business Practice Claims. In accordance with California Public Contract Code Section 7103.5, the Contractor and any subcontractors offer and agree to assign to the City all rights, title, and interest in and to all causes of action the Contractor or any subcontractors may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this contract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.
- 8.17 Contractor shall be responsible for properly notifying residents and property owners impacted by this project in accordance with City standards. Specific notification procedures vary with the type of work and shall be coordinated with the City before work begins. The City will furnish a list of impacted property owners.
- 8.18 Contractor shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

9. MEASUREMENT AND PAYMENT

- 9.1 F.O.B. All shipments must be F.O.B. destination to the Work site and/or other sites indicated in the Contract Documents. The Contract Price is all-inclusive (including sales tax). There shall be no additional compensation paid for containers, packing, unpacking, drayage or insurance.
- 9.2 Payment
- 9.2.1 On or about the first day of each calendar month the Contractor will submit to the Construction Manager a verified application for payment and schedule of values supported by a statement showing all materials actually installed during the preceding month and the cost of labor actually expended in the performance of the Work. **Billing must be received on a monthly basis, at a minimum.** Unless otherwise provided in the Contract Documents, no allowances or payments will be made for material or equipment not placed at the Work site.
- 9.2.2 To be eligible for payment the Contractor's applications for payment must include certified payroll reports prepared in accordance with California Labor Code Section 1776 and the Agreement for each employee of the Contractor and any subcontractors engaged in the performance of the Work during the preceding months, applications for payment will not be processed without certified payroll reports.

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- 9.2.3 In accordance with California Public Contract Code Section 20104.50, the City will review applications for payment as soon as practicable after receipt. Any application or part of an application that is determined to be improper will be returned to the Contractor as soon as practicable, but no later than seven (7) days after receipt by the City, along with a written description of the reasons why the application is improper. The Contractor's failure to submit a schedule in the time specified in Section 3.8, or its submission of a schedule to which the City has taken any uncorrected exception, shall serve as a basis for returning an application for payment in its entirety.
- 9.2.4 Unless the Contractor has elected to post securities in lieu of retention in accordance with California Public Contract Code Section 22300 and the Agreement, and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make progress payments to the Contractor in accordance with applicable law in the amount of ninety-five (95) percent of the value of the labor actually performed and the material incorporated in the Work as specified in Contractor's verified application for payment upon approval by the City's authorized representative(s). Payment of progress payments will not be construed as acceptance of the Work performed. If the Contractor has elected to post securities in lieu of retention in accordance with Public Contract Code Section 22300 and the Agreement and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make payments to the Contractor or the Contractor's escrow agent in accordance with such escrow agreement.
- 9.2.5 The City will pay the Contractor's final invoice in accordance with applicable law and this Section 9 following acceptance of the Work provided that:
- 9.2.5.1 The Contractor has furnished evidence satisfactory to the City that all claims for labor and material have been paid, or the time for filing valid stop notices has passed and no stop notices have been filed, or all stop notices filed have been released by valid release or release bond acceptable to the City.
 - 9.2.5.2 No claim has been presented to the City by any person based upon any acts or omissions of the Contractor or any subcontractor engaged in the performance of the Work.
 - 9.2.5.3 No other claim or dispute exists under the Agreement or applicable law concerning payment of the Contractor's final invoice and/or release of the Agreement retention.

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9.2.5.4 [Section Removed]

9.2.6 In accordance with California Public Contract Code Section 20104.50, if the City fails to make a progress payment within thirty (30) days of receipt of an undisputed, properly submitted application for payment, the City will pay the Contractor interest equivalent to the legal rate set forth in subdivision (a) of California Code of Civil Procedure Section 685.010. The number of days available to the City to make a payment without incurring an interest obligation pursuant to this provision and California Public Contract Code Section 20104.50 will be reduced by the number of days, if any, by which the City has delayed return of an application for payment beyond the seven day return requirement set forth in Section 9.2.5.

9.3 Non-Allowable Direct Charges. The following costs are not allowable direct charges under the Agreement. The following costs may only be paid under the Agreement, if at all, as part of any allowance for contractor overhead and/or profit established under the Agreement.

9.3.1 Labor costs in excess of applicable prevailing wages pursuant to the Agreement and applicable law, liability and workers compensation insurance, social security, retirement and unemployment insurance and other employee compensation and benefits pursuant to bona fide compensation plans in effect at the time specified for the opening of Project bids for contractor and subcontractor employees engaged in the performance of the Work or in excess of the labor costs specified in Section 4.5 of this Contract in the case of cost impacts involving items for which the Contract Documents do not specify prices and for which no lump sum amount has been approved by the City. However, in no event will allowable direct labor charges under the agreement include employee bonuses, employee vehicles or vehicle allowances, employee telephones or telephone allowances, or employee housing or housing allowances, whether or not such benefits are part of a bona fide compensation plan in effect at the time specified for the opening of Project bids.

9.3.2 Superintendent labor and clerical labor.

9.3.3 [Section Removed]

9.3.4 Insurance in excess of that required under Section 8.8.

9.3.5 Utility costs.

9.3.6 Work Site office expenses.

9.3.7 Home office expenses.

9.3.8 Permit or license costs.

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9.4 Retention. The City or its agent may, in accordance with the Contract Documents and applicable law, withhold any payment of monies due or that may become due the Contractor because of:

- 9.4.1 Defective work not remedied or uncompleted work.
- 9.4.2 Claims filed or reasonable evidence indicating probable filing of claims.
- 9.4.3 Failure to properly pay subcontractors or to pay for material or labor.
- 9.4.4 Reasonable doubt that the Work can be completed for the balance then unpaid.
- 9.4.5 Damage to another contractor.
- 9.4.6 Damage to the City.
- 9.4.7 Damage to a third party.
- 9.4.8 Delay in the progress of the Work, which, in the City's judgment, is due to the failure of the Contractor to properly expedite the Work.
- 9.4.9 Liquidated damages or other charges that apply to the Contractor under the Agreement.
- 9.4.10 Any other lawful basis for withholding payment under the contract.

9.5 Securities in Lieu of Retention.

- 9.5.1 In accordance with Public Contract Code Section 22300, except where federal regulations or policies do not permit substitution of securities, the Contractor may substitute securities for any moneys withheld by the City to ensure performance of the Work. At the Contractor's request and expense, securities equivalent to the amount withheld will be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, who will then pay those moneys to the Contractor under the terms of an Escrow for Security Deposit agreement. The Escrow for Security Deposit agreement is provided in the Contract Documents. Upon satisfactory completion of the Work, the securities will be returned to the Contractor.
- 9.5.2 Alternatively, at the Contractor's request and expense, the City will pay retentions earned directly to the escrow agent. At the Contractor's expense, the Contractor may direct investment of the payments into securities. Upon satisfactory completion of the Work, the Contractor will receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City pursuant to this provision and the terms of the Escrow for Security Deposit agreement. The Contractor will, within 20 days of receipt of

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payment, pay to each subcontractor the respective amount of interest earned, less costs of retention withheld from each Subcontractor, on monies withheld to ensure the Contractor's performance of the Work.

9.5.3 Securities eligible for investment in accordance with this provision include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City.

9.5.4 The Contractor will be the beneficial owner of any securities substituted for moneys withheld and will receive any interest thereon.

10. PROJECT ACCEPTANCE AND CLOSEOUT

10.1 Occupancy. The City reserves the right to occupy or use any part or parts or the entirety of the Work before the Work is fully performed. Subject to applicable law, exercising this right will in no way constitute acceptance of any part of the Work so occupied or used or acceptance of the entire Work, nor will such occupancy or use in any way affect the times when payments will become due the Contractor, nor will such occupancy or use in any way prejudice the City's rights under the Agreement, any Agreement bonds, or at law or equity. Occupancy or use shall not waive the City's rights to assess liquidated damages in accordance with Section 7 after the date of such occupancy or use.

10.2 Work Completion and Final Inspection. When the Contractor considers the Work is completed, the Contractor will submit written certification to the Construction Manager specifying that: the Contract Documents have been reviewed; the Work has been inspected for compliance with the Contract Documents; the Work has been completed in accordance with the Contract Documents; and that equipment and systems have been tested in the presence of the City's representative and are operational. The City and/or the City's authorized representatives will make an inspection to verify that the Work is complete and will notify the Contractor in writing of any incomplete or deficient Work. The Contractor will take immediate steps to remedy the stated deficiencies and give notice of correction to the Construction Manager. Upon receiving a notice of correction, the City or the City's authorized representatives will re-inspect the Work. The Contractor must correct all punch list items within 15 working days after the issuance of the punch list. Before acceptance of the Work the Contractor must submit: one set of the Project Record Drawings (As-Builts), and any equipment operating and maintenance instructions and data, warranties.

10.3 Work Acceptance.

- 10.3.1 All finished Work will be subject to inspection and acceptance or rejection by the City, the Construction Manager, and the Architect or Engineer and other government agencies having jurisdiction over the Work. Final acceptance of the Work will be at the discretion of the City.
- 10.3.2 The City will accept the Work in writing only when the Work has been completed to the City's reasonable satisfaction. Progress payments will in no way be construed as acceptance of any part of the Work.
- 10.3.3 In evaluating the Work, no allowance will be made for deviations from the Contract Documents unless already approved in writing in accordance with the requirements of Section 4, above.
- 10.3.4 The fact that the Work and materials have been inspected from time to time and that progress payments have been made does not relieve the Contractor of the responsibility of replacing and making good any defective or omitted work or materials in accordance with the requirements of the Contract Documents.
- 10.3.5 None of the provisions of this section, including acceptance of the Project, final payment, or use or occupancy of the Project Site shall constitute acceptance of Work not done in accordance with the Contract Documents nor relieve Contractor of liability relating to the express guarantees or responsibility for faulty materials or workmanship. Nothing in this section or the Contract Documents shall be construed to limit, relieve, or release Contractor's, subcontractors', and materials suppliers' liability to the City for damages sustained as a result of latent defects in materials, equipment, or the Work caused by the Contractor, its agents, suppliers, employees, or Subcontractors.

11. REMEDIES AND DISPUTES

- 11.1 Failure to Correct Work. Within ten (10) working days of receiving written notice from the City describing Work that is defective or that is otherwise not in accordance with the requirements of the Agreement and/or applicable law and directing that such Work be corrected, the Contractor and/or the Contractor's sureties must give the City written notice of the intent of the Contractor and/or the Contractor's sureties to correct such Work and commence correction of such Work in accordance with the City's notice and the Agreement. If the Contractor and/or the Contractor's sureties do not give the City written notice of intent to correct such Work and commence correction of such Work within ten (10) working days of receipt of the City's notice, then the City may correct

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such work and/or have such work corrected for the account and at the expense of the Contractor and/or its sureties, and the Contractor and/or its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other remedies that the City may have under the Agreement and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor. Contractor shall not be entitled to an extension of the Time of Completion because of a delay in the performance of the Work attributable to the City's exercise of its rights under this section.

11.2 Termination for Cause

11.2.1 In accordance with California Public Contract Code Section 7105, in addition to all other available remedies that the City may have under the Agreement, and at law or equity, the City may terminate the Contractor's control of the Work for any material breach of the Contract, including, but not limited to the following:

- 11.2.1.1 If the Contractor or any of its subcontractors engaged in the performance of the Work fails to timely perform the Work and/or any of the Contractor's material obligations under the Contract Documents, including but not limited to submission of an acceptable schedule, that have accrued except for due to reasons beyond the control of the Contractor pursuant to the Contract Documents.
- 11.2.1.2 If the Contractor is adjudged bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of its creditors.
- 11.2.1.3 If the Contractor or any of the subcontractors engaged in the performance of the Work persistently or repeatedly refuses or fails to supply enough properly skilled workmen or proper materials for the timely completion of the Work.
- 11.2.1.4 If the Contractor fails to make prompt payment to subcontractors engaged in the performance of the Work or for material or labor used in the performance of the Work in accordance with the Contract Documents and applicable law.
- 11.2.1.5 If the Contractor or any subcontractors engaged in the performance of the Work persistently disregards laws or ordinances applicable to the performance of the Work, or the instructions of the City, the Construction Manager, the Architect, or other authorized representatives of the City.

- 11.2.2 If the City intends to terminate the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will immediately serve written notice to the Contractor and its sureties in accordance with the Contract Documents. Notice of the City's intent to terminate the Contractor's control of the Work will be given by registered or certified mail and specify the grounds for termination, the required cure and the time by which the cure must be effected. Upon receipt of notice of the City's intent to terminate the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the Contractor will have ten (10) days from receipt of the notice or a longer time specified in the notice to cure its default. If the Contractor does not affect the required cure by the time specified in the notice, the City will issue a written notice of termination to the Contractor and its sureties by registered or certified mail. The notice of termination will specify: that upon receipt of the notice the Contractor's right to perform or complete the Work, including on behalf of the Contractor's sureties, is terminated; that the Contractor's sureties will have the right to take over and complete the Work and perform all of the Contractor's remaining obligations that have accrued under the Agreement; and that if the Contractor's sureties do not both give the City written notice of their intention to take over and perform the Agreement and commence completion of the Work and performance of all of the Contractor's remaining obligations that have accrued under the Agreement within ten (10) days after receipt of notice of termination that the City may declare the Contractor's sureties in default and take over the completion of the Work or have the Work completed for the account and at the expense of the Contractor and its sureties, and the Contractor and its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other available remedies that the City may have under the Contract Documents and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor.
- 11.2.3 Upon termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, the Contractor will, if so directed by the City, immediately remove from the Work site any and all materials and personal property belonging to the Contractor which have not been incorporated in the Work and the Contractor will be liable for all damages caused the City by reason of the Contractor's failure to complete the Work.
- 11.2.4 Upon termination of the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the

City reserves the right to refuse tender of the Contractor by any surety to complete the Work.

- 11.2.5 If the City completes or has completed any portion of, or the whole of the Work, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will neither be liable for nor account to the Contractor or the Contractor's sureties in any way for the time within which, or the manner in which such Work is performed, or for any changes made in such Work or for the money expended in satisfying claims and/or suits and/or other obligations in connection with completing the Work. If, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the unpaid balance of the Contract Price exceeds the expense of completing the Work, including compensation for additional legal, managerial and administrative services and all other amounts due for the completion of the Work and/or satisfaction of claims of the City and/or others arising out of the Agreement and any other charges that apply to the Contractor under the Agreement, the difference will be paid to the Contractor. If such expenses of completing the Work exceed the unpaid balance of the Contract Price, the Contractor or its sureties will pay the difference to the City.
- 11.2.6 If the Agreement or Contractor's control of the Work is terminated for any reason, Contractor waives all consequential damages resulting therefrom, including, but not limited to, the loss of any anticipated profit by the Contractor for the Work, the loss of profit on any potential or future jobs.
- 11.2.7 In accordance with California Government Code Section 4410, in the event a national emergency occurs, and public work being performed by contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the City and the Contractor may, by written agreement, terminate the Agreement. In accordance with California Government Code Section 4411, such an agreement will include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party will pay to the other or any other person, under the facts and circumstances in the case. Compensation to the Contractor will be determined on the basis of the reasonable value of the work done, including preparatory work. As an exception to the foregoing, in the

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case of any fully completed separate item or portion of the Work for which there is a separate contract price, the contract price shall control. The parties may in any other case adopt the contract price as the reasonable value of the work or any portion of the work done.

- 11.2.8 In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall have no greater rights than it would have following a termination for convenience. Any contractor claim arising out of a termination for cause shall be made in accordance with this section.

11.3 Termination for Convenience.

- 11.3.1 The City may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that termination is in the City's best interest. Termination shall be effected by the City delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.
- 11.3.2 Contractor shall comply strictly with the City's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- 11.3.3 Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by: (i) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule; and (ii) offset by payments made and other contract credits. In connection with any such calculation, however, the City shall retain all rights under the Contract Documents including, without limitation, claims, indemnities, or setoffs.
- 11.3.4 Under no circumstances may Contractor recover legal costs of any nature, nor may Contractor recover costs incurred after the date of the termination.

11.4 Disputes.

The procedure set forth in California Public Contracts Code section 9204 (as summarized in Exhibit B attached hereto) shall apply to all "claims" by the Contractor on the City, as that term is defined in Section 9204. With respect to "claims" or any portion of a claim not resolved by way of the procedure set forth in Section 9204, the following procedure shall thereafter apply as follows:

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- 11.4.1 In accordance with California Public Contract Code Section 20104.2, the following procedures apply to claims of \$375,000 or less between the Contractor and the City:
- 11.4.1.1 The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.
 - 11.4.1.2 For claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.2.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.2.2 The City's written response to the claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.
 - 11.4.1.3 For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.3.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.3.2 The City's written response to the claim, as further documented, shall be submitted to the

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Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

- 11.4.1.4 If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15 days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.
 - 11.4.1.5 Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.
 - 11.4.1.6 This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.
- 11.4.2 In accordance with California Public Contract Code Section 20104.4, the following procedures apply to civil actions to resolve claims of \$375,000 or less between the City and the Contractor:
- 11.4.2.1 Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded

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within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

11.4.2.2 If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

11.4.2.2.1 Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

11.4.2.2.2 In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

11.4.2.3 The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

11.4.3 In accordance with California Public Contract Code Section 20104.6:

11.4.3.1 The City shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

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114.3.2 In any suit filed under Public Contract Code Section 20104.4 concerning this contract, the City shall pay interest at the legal rate on any arbitration award or judgment. Such interest shall accrue from date the suit was filed.

11.5 Non-Waiver.

11.5.1 Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.

11.5.2 Neither acceptance of the whole or any part of Work by City nor any verbal statements on behalf of City or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to City herein nor any right to damages provided in the Contract Documents.

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CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 3

SPECIAL PROVISIONS

12. SPECIAL PROVISIONS

12.1 Description of Work.

The Work in general consists of the installation of a city-owned Verkada camera system at various City facilities including Bainbridge Park at 433 N Harold St., the Public Works Corp.Yard at 31301 Cedar St., the Wastewater Treatment Plant at 281 Jere Melo St., the Fort Bragg Police Department at 250 Cypress St., and City Hall at 416 N. Franklin Street in Fort Bragg CA. This Project will also include the installation of a City-owned access control system at the Fort Bragg Police Department. This project will include installation, programming, and end the user training necessary to provide fully operational camera and access control system at the aforementioned City facilities in accordance with this Contract, the Project Plans and Technical Specifications.

The estimate of the quantities of work to be done is approximate only, being as a basis for the comparison of bids, and the City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or any portion of the work as directed by the Construction Manager.

Incidental items of construction necessary to complete the whole Work in a satisfactory and acceptable manner as shown on the Project Plans and as provided for in the Technical Specifications and not specifically referred to in this section, will be understood to be furnished by the Contractor.

12.2 Construction Limitations.

The Contractor will be expected to conduct his or her operations in a manner that creates a minimum of damage to the natural vegetation and landscape. Ingress and egress must be via the existing driveways. Care must be exercised to avoid hazards that may cause injury to persons, animals or property either during working hours or after work hours, which will include dust control, backfilling trenches immediately following pipe laying and temporary fencing as required. Excavation made under this Contract must be backfilled before leaving the Work for the night.

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The Contractor will be responsible for obtaining permission from the property owners for any construction outside of the Work site or easements as shown on the plans. Equipment will be restricted to the immediate area of construction, pipe trenches will be backfilled as soon as possible.

Receptacles for construction residue, including oil, cleaning fluids, and litter must be covered. Such residues must be disposed of in a proper manner. Construction activity within the existing right-of-way must be scheduled to minimize traffic inconvenience and safety hazards to motorists, pedestrians and cyclists.

12.3 Storm Water Pollution Prevention.

The Contractor must perform the Work in compliance with all applicable requirements of the California State Water Resources Control Board pursuant to Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 ("General Permit") adopted pursuant to regulations adopted by the U.S. Environmental Protection Agency (USEPA) on November 16, 1990 and codified in 40 Code of Federal Regulations Parts 122, 123, 124. The General Permit applies to storm water discharges from construction sites that disturb land equal to or greater than one acre, and to construction activity that results in soil disturbances of less than one acre if the construction activity is part of a larger common plan of development that encompasses one acre or more of soil disturbance or if there is significant water quality impairment resulting from the activity. The General Permit requirements that may apply to the Contractor's performance of the Work include, but are not limited to:

- a. Development and implementation of a Storm Water Pollution Prevention Plan ("SWPPP") that specifies Best Management Practices ("BMPs") that will prevent all construction pollutants from contacting storm water and with the intent of keeping all products of erosion from moving off site into receiving waters.
- b. Elimination or reduction of non-storm water discharges to storm sewer systems and other waters of the nation.
- c. Inspection of all BMPs.

Portions of the Work that may be subject to the General Permit include, but are not limited to clearing, grading, stockpiling and excavation.

Prior to commencing performance of the Work, the Contractor must prepare and file a Notice of Intent to obtain coverage under the General Permit, a vicinity map, and the applicable fee, with the California State Water resources Control Board, Division of Water Quality, Storm Water Permit Unit, P.O. Box 1977, Sacramento, California 95812-1977.

Prior to commencing performance of the Work, the Contractor must also prepare an SWPPP in accordance with all applicable requirements of the General Permit and submit the SWPPP to the Construction Manager for approval.

The Contractor must also develop and implement a monitoring program to verify compliance with the General Permit.

The SWPPP must include a Project site map. Geometric equations, notes, details, and all data not related to water pollution control work shall be removed to provide clarity. A copy of the Project Plans must be used as a base plan, with the pertinent stage of construction shown as an overlay to accurately reflect Project Site conditions at various phases of construction.

The Contractor must revise and update the SWPPP whenever there is a change in construction operations that may affect the site drainage patterns or discharge of pollutants to surface waters, groundwaters, or a separate municipal storm sewer system.

Any fines, damages, Work delays or other impacts that result from failure of the Contractor or privities or agents of the Contractor to fully comply with the requirements of the General Permit or to fully implement the SWPPP will be solely the responsibility of the Contractor.

The Contractor must keep a copy of the General Permit, together with updates and revisions, at the Project Site and provide copies of the SWPPP at the request of the City.

12.4 Maintaining Traffic and Pedestrian Operations.

The Contractor must conduct his or her operations so as to cause the least possible obstruction and inconvenience to public traffic. Unless otherwise approved by the Construction Manager, all traffic must be permitted to pass through the Work.

Due to the need to accommodate and minimize inconvenience to the public, unless expressly specified or approved in writing by the Construction Manager, no road closures will be permitted. Public vehicular and

pedestrian traffic must be allowed to travel through the Work area with an absolute minimum of interruption or impedence unless otherwise provided for in the Special Provisions or approved in writing by the Construction Manager. The Contractor must make provisions for the safe passage of pedestrians around the area of Work at all times.

Residents affected by construction must be provided passage and access through the Work area to the maximum extent possible. Where existing driveways occur on the street, the Contractor must make provisions for the trench crossings at these points, either by means of backfill or by temporary bridges acceptable to the Construction Manager, so that the length of shut-down of any driveway is kept to a minimum. In addition, all driveways must be accessible at the end of each workday, and no driveway or property access may be closed for more than four (4) hours during the workday. Access to driveways, houses, and buildings along the road or street must be as convenient as possible and well maintained, and all temporary crossings must be maintained in good condition. To minimize the need for and complexity of detours, not more than one crossing or street intersection or road may be closed at any one time without the written approval of the Construction Manager.

The Contractor must provide multiple, advance written notices of closures to all affected property owners in a form approved by the Construction Manager.

Except as otherwise approved by the Construction Manager, the stockpiling or storing of material in City streets or rights of way shall be prohibited. Where this is unavoidable, all such materials must be piled or stored in a manner that will not obstruct sidewalks, driveways, or pedestrian crossings. Gutters and drainage channels must be kept clear and unobstructed at all times. All such materials shall be stored and handled in a manner that protects City streets, sidewalks, or other facilities from damage.

Where approved in advance by the Construction Manager, the Contractor must construct and maintain detours for the use of public traffic at his or her own expense. Failure or refusal of the Contractor to construct and maintain detours so approved at the proper time will be a material breach of the Contract subject to any and all remedies available pursuant to the Contract Documents and at law and equity. Such remedies include, but are not limited to, termination pursuant to Section 11.

Throughout performance of the Work, the Contractor must construct and adequately maintain suitable and safe crossings over trenches and such

detours as are necessary to care for the public and private traffic at all times including Saturdays, Sundays and holidays.

The Contractor will be responsible for keeping all emergency services, including the Fort Bragg police and fire departments informed of obstructions to, or detours around any public or private roads caused by reasons of his or her operations.

The Contractor must comply with the State of California, Department of Transportation Manual of warning signs, lights, and devices for use and performance of work within the job site.

The fact that rain or other causes, either within or beyond the control of the Contractor, may force suspension or delay of the Work, shall in no way relieve the Contractor of his or her responsibility of maintaining traffic through the Project and providing local access as specified in this section. The Contractor must, at all times, keep on the job such materials, force and equipment as may be necessary to keep roads, streets and driveways within the Project open to traffic and in good repair and shall expedite the passage of such traffic, using such force and equipment as may be necessary.

Full compensation for conforming to the requirements of this section will be deemed included in the prices paid or the various Contract items of Work, and no additional allowances will be made therefor.

12.5 Public Safety.

The Contractor must at all times conduct the Work in accordance with Construction Safety Orders of the Division of Industrial Safety, State of California, to ensure the least possible obstruction to traffic and inconvenience to the general public, and adequate protection of persons and property in the vicinity of the Work.

No pedestrian or vehicle access way may be closed to the public without first obtaining permission of the Construction Manager.

Should the Contractor fail to provide public safety as specified or if, in the opinion of the Construction Manager, the warning devices furnished by the Contractor are not adequate, the City may place any warning lights or barricades or take any necessary action to protect or warn the public of any dangerous condition connected with the Contractor's operations, and the Contractor will be liable to the City for, and the City may deduct from amounts due or that may become due to the Contractor under the Contract, all costs incurred including, but not limited to, administrative costs.

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Nothing in this section will be construed to impose tort liability on the City or Construction Manager.

Contractor acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

12.6 Protection of Existing Facilities and Property.

The Contractor must notify Underground Service Alert (USA) for marking the locations of existing underground facilities.

Subject to Section 5 of the General Provisions, the Contractor must take all necessary measures to avoid injury to existing surface and underground utility facilities in and near the Work site. Subject to Section 5 of the General Provisions, no error or omission of utility markouts will be construed to relieve the Contractor from his responsibility to protect all underground pipes, conduits, cables or other structures affected by the Work.

The existing underground facilities in the area of Work may include telephone, television and electrical cables, gas mains, water mains, sewer pipe and drainage pipe. The various utility companies must be notified before trenching begins and at such other times as required to protect their facilities. Subject to Section 5 of the General Provisions, all underground facilities must be located and exposed ahead of trenching to prevent damage to the facilities, and to determine the depth and character of all facilities that cross or infringe on the trench prism. The Contractor must immediately notify the Construction Manager of any facilities found. If damage should occur to the existing facilities, the utility company and the City must be notified immediately and, subject to Section 5 of the General Provisions, repairs acceptable to the utility company must be made at the Contractor's expense.

The Project Plans show the underground utilities on the site of the construction insofar as they are known to the City. The drawings may not

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show facilities apparent from visual inspection of the site or service laterals or appurtenances, the existence of which can be inferred from the presence of other visible facilities such as buildings, meters, junction boxes, etc. on or adjacent to the construction site.

If in the performance of the Work an existing utility is encountered that is not shown on the Project Plans and is not apparent or inferable from visual inspection of the Project site, the Project Inspector must be notified immediately. The Construction Manager will determine, subject to Section 5 of the General Provisions, whether the Project Plans or Technical Specifications should be modified, or whether the existing utility should be relocated or whether the Contractor must work around the existing utility. Subject to Section 5 of the General Provisions, the Contractor must replace, at his or her own expense, in as good condition as they were prior to the start of construction, all existing improvements and surroundings damaged by his or her operation. Reconstruction of all existing improvements must conform to CITY OF FORT BRAGG Public Works Standard Specifications and Details under the direction of and subject to the acceptance by the Construction Manager.

Subject to Section 5 of the General Provisions, should the Contractor fail to take adequate measures to avoid injury or damage to the facilities described above, the City may take any actions necessary to protect such facilities from the Contractor's operations. Subject to Section 5 of the General Provisions, the City may withhold the cost of injury to existing surface and underground utility facilities in and near the Work site from amounts due or that may become due the Contractor.

12.7 Preconstruction Conference.

A pre-construction conference will be scheduled, at which time the Contractor must present his or her proposed work schedule in accordance with Section 3.8 of the General Provisions, information concerning offsite yards, Subcontractors, location of disposal and stock pile areas, and traffic control plans. All such schedules will be subject to the approval of the Construction Manager and the applicable agencies.

City will schedule and administer intermittent progress meetings throughout duration of work. City will determine the location and time for the meetings.

12.8 Owner Notification.

The Contractor must notify all property owners and businesses affected by the Work at least 48 hours before Work is to begin. The notice must be in

writing in the form of a door hanger, and must indicate the Contractor's name and phone number, type of work, day(s) and time when Work will occur. Notices must be reviewed in advance and approved by the Construction Manager.

12.9 Emergency Service Providers Notifications.

The Contractor must furnish the name and phone number of a representative that can be contacted in the event of an emergency. Said information must be reported to the City Police Department dispatcher, and updated as required to provide 24-hour phone access.

12.10 Clean up.

Attention is directed to Section 4-1.02 of the Caltrans Standard Specifications, which section is made a part of this Contract.

Before final inspection of the Work, the Contractor must clean the construction site and all ground occupied by him in connection with the Work, of all rubbish, excess material, falsework, temporary structures and equipment. All parts of the Work shall be left in a neat and presentable condition.

Nothing herein shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Construction Manager.

12.11 Payment.

Payment for all work and work requirements specified in these Special Provisions shall be considered as included in the Contract Price and no additional allowances shall be made therefore.

12.12 Construction Staking.

Attention is directed to Section 3.9 of the General Provisions for information on Construction Staking.

12.13 Materials Testing Allowance.

Attention is directed to Section 3.10 of the General Provisions for information on Materials Testing Allowance.

12.14 Obstructions.

Attention is directed to Section 15, "Existing Highway Facilities," of the Caltrans Standard Specifications, which section is made a part of this Contract.

Attention is directed to the existence of overhead and underground power, telephone, and television cable poles, underground sewer mains and laterals, underground gas mains, and underground water mains and laterals within the area in which construction is to be performed.

Prior to starting the Work, the Contractor must (a minimum of 2 working days in advance) call Underground Service Alert (USA), toll free, at 811, and provide USA with all necessary data relative to the proposed work. USA will accept calls and process information to participating agencies who have underground facilities in the area between the hours of 7:30 a.m. and 5:00 p.m. daily, except Saturdays, Sundays, and holidays. Between the hours of 5:00 p.m. and 7:30 a.m. calls will be recorded and then processed after 7:30 a.m. For emergency situations, after hours and on Saturdays, Sundays and holidays, the Contractor shall contact the organization owning the affected facility. Upon notification, agencies having facilities in the area of the proposed excavation will mark their locations in the field using USA standard colors and codes to identify the facility.

The Contractor will be required to work around public and private utility facilities and other improvements that are to remain in place within the construction area, and he will be held liable to the owners of such facilities for interference with service resulting from his operations.

12.15 Hours of Work.

Unless otherwise specified herein, all construction activity, except for emergency situations, will be confined to Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m., to minimize nuisances to local residents. Mufflers and/or baffles will be required on all construction equipment to control and minimize noise. The Contractor must comply with all applicable noise regulations in the City's Zoning Ordinance.

Saturdays, Sundays, holidays and overtime shall not be regarded as working days. Work shall not be allowed on non-working days without the expressed approval of the Construction Manager. The Contractor shall make a request for approval in writing with the stipulation (implied or expressed) that the Contractor shall pay for all overtime labor charges at the applicable hourly rate of the City or contract employee performing duties of inspector and/or

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resident engineer. All overtime labor charges shall be deducted from the final payment along with any liquidated damages.

Work necessary for the proper care and protection of work already performed or in case of emergency may be allowed without permission of the Construction Manager.

12.16 Dust Control.

The Contractor must furnish all labor, equipment, and means required and carry out effective measures wherever and as often as necessary to prevent its operation from producing dust in amounts damaging to property, cultivated vegetation, or domestic animals, or causing a nuisance. The Contractor will be responsible for any damage resulting from any dust originating from the performance of the Work. The use of water resulting in mud on streets, sidewalks, or driveways, will not be permitted as a substitute for sweeping or other methods of dust control. The Contractor may not discharge smoke, dust, or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

Dust control must conform to the provisions in Sections 10-5, "Dust Control" and Section 18, "Dust Palliatives" of the Caltrans Standard Specifications, which section is made a part of this Contract.

12.17 Water for Construction and Dust Control.

Unless otherwise provided, the Contractor will be responsible for applying to the City's Utility Department to establish utility accounts (at no charge) for all water necessary to perform the Work. The Contractor must comply with all City requirements for construction water, including provision of deposits and provision of backflow prevention devices. In accordance with State law, backflow prevention devices for construction water connections must be re-tested when relocated. The Contractor will be responsible for the cost of any re-testing.

The Contractor is prohibited from operating gate valves, fire hydrants, pumps or any other components of the City water system. The Contractor must contact the City's utilities staff, a minimum of twenty-four (24) hours in advance, to operate these or any other components on the City water system.

12.18 Protection and Restoration of Vegetation.

Trees, lawns, shrubbery and vegetation that are not to be removed must be protected from damage or injury. Existing trees, shrubs, and other plants, that are not to be removed and are injured or damaged by reason of the Contractor's operations, must be replaced by the Contractor in accordance with the requirements in Section 20-3.01C, "Replacement," of the Caltrans Standard Specifications. Section 20-3.01C of the Caltrans Standard Specifications is made a part of this Contract.

When it is necessary to excavate adjacent to existing trees, shrubs, or hedges, the Contractor must use all possible care to avoid injury to the trees, shrubs, or hedges and their roots. No roots or limbs two inches (2") or larger in diameter may be cut without the express approval of the Construction Manager.

All roots two inches (2") in diameter and larger left in place must be wrapped with burlap to prevent scarring or excessive drying. When it is necessary to cut limbs and branches of trees to provide clearance for equipment used in construction, the Contractor must repair the damaged areas by properly painting with an emulsified asphalt type seal. All cuts through 1/2" or larger roots and limbs must be hand trimmed and cleanly cut before being repaired.

12.19 Surplus Material.

All material removed or excavated during the course of construction will be surplus. All surplus material will be the property of the Contractor and be disposed of outside the right-of-way, unless the City elects to salvage certain objects that are determined to be of historical interest. The City reserves the right of ownership of all objects that it elects to salvage, and the Contractor must protect such objects from subsequent damage until delivered unto the care of the owner.

12.20 Cultural Resources.

In accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470), the following procedures are implemented to ensure historic preservation and fair compensation to the Contractor for delays attendant to the cultural resources investigation. The Contractor hereby agrees to comply with these procedures.

12.21 Historical Finds.

In the event potential historical, architectural, archeological, or cultural resources (hereinafter called cultural resources) are discovered during subsurface excavations at the site of construction, the following procedures will apply:

1. The Contractor must immediately notify the Construction Manager and stop any Work that may jeopardize the find pending an investigation of its significance;
2. The Construction Manager will select a qualified archeologist (such as through the Northwest Information Center at Sonoma State University or other official contact) and wait for an archaeologist to complete an evaluation of significance before continuing Work in that area.
3. The Construction Manager will supply the Contractor with a "Stop Work Order" directing the Contractor to cease all portions of the Work that the Construction Manager determines may impact the find. The "Stop Work Order" will be effective until a qualified archaeologist assesses the value of the potential cultural resources. The "Stop Work Order" will contain the following:
 - a. A clear description of the Work to be suspended;
 - b. Any instructions regarding issuance of further orders by the Contractor for materials services;
 - c. Guidance as to action to be taken regarding Subcontractors;
 - d. Any direction to the Contractor to minimize costs; and
 - e. Estimated duration of the temporary suspension.
4. If the archaeologist determines the potential find is a bona fide cultural resource, the Construction Manager may extend the duration of the "Stop Work Order" in writing, and if so the "Stop Work Order" will remain in effect and Work subject to the "Stop Work Order" may not resume until authorized by the Construction Manager.

12.22 Cultural Resources Defined.

Possible indicators that a cultural resource has been found include, but are not limited to the following:

1. Prehistoric-era archaeological site indicators: obsidian tools, tool manufacture waste flakes, grinding and other implements, dwelling sites, animal or human bones, fossils, and/or locally darkened soil

containing dietary debris such as bone fragments and shellfish remains;

2. Historic-era site indicators: ceramic, glass, and/or metal.

12.23 Construction Manager's Discretion.

Once possible cultural resources are found at the Work site, the Construction Manager may use discretion to continue the Work, regardless of the cultural resource find, if the Construction Manager determines that there are overriding considerations such as the instability of the excavation site, the existence of adverse weather or other conditions that would preclude leaving the site exposed, or if the site would be unsafe to workers who would retrieve cultural resource items from therein.

Exhibit A (Contractors Quote)

EXHIBIT B

CLAIMS PROCEDURE

SUMMARY OF PUBLIC CONTRACT CODE § 9204

The following procedure will apply to any claims by the Contractor on the City:

A “claim” is a separate demand on the City by a contractor on a public works project and sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- A time extension, including relief from penalties for delay
- Payment by the City of money damages under the terms of the contract
- Payment of an amount that is disputed by the City

Initial Review

The claim must be supported by appropriate documentation. The City has 45 days within which to review the claim and provide the contractor with a written statement identifying the disputed and undisputed portions of the claim. If the City does not issue a written statement, the claim is deemed rejected in its entirety. The City will pay any undisputed portion of the claim within 60 days of issuing the statement.

Meet & Confer

If the contractor disputes the City’s written response, or if the City does not issue one, the contractor may request in writing an informal conference to meet and confer for possible settlement of the claim. The City will schedule the meet and confer conference within 30 days of this request and provide a written statement identifying the remaining disputed and undisputed portions of the claim within 10 business days of the meet and confer. The City will pay the undisputed portion within 60 days of issuing this statement.

Mediation

With respect to any disputed portion remaining after the meet and confer, the City and contractor will submit the matter to nonbinding mediation, agree to a mediator within 10 business days after issuing the written statement, and share mediation costs equally. If mediation is unsuccessful, then the terms of the public works agreement and applicable law will govern resolution of the dispute.

Miscellaneous Provisions

Amounts not paid by the City in a timely manner bear interest at 7% per annum. Subcontractors may submit claims via this procedure through the general contractor. The City and contractor may waive the requirement to mediate, but cannot otherwise waive these claim procedures.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-54

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Consent Calendar

Agenda Number: 5C.

Approve Purchase of Microsoft 365 Licensing Subscription Not to Exceed \$34,547.34; Contract subject to City Attorney Approval

Cart Detail

Cart: 1669924262

Created by: Deb Smith, , IT Manager, (707) 961-2823 106

Last modified by Erik Adams, , CA SLED Account Executive, (800) 800-0019 75012

Last modified: 12:15 PM February 25, 2025

Shipping to:

City of Fort Bragg
IT
Deb Smith
416 N Franklin St
FORT BRAGG, CA 95437

Payment Method:

Purchase Order #:
Secondary PO #:

Billing Address:

City of Fort Bragg
416 N Franklin St
Fort Bragg, CA 95437-3210

Delivery Method: Virtual - \$0.00

Product	Unit Price	Qty	Price
Microsoft Govt. CSP Microsoft 365 G3 GCC NCE 1 Year Term Paid Upfront 1 Year Commitment paid Annually In Stock Virtual delivery Item#: 41802076 Mfg. Part #: CFQ7TTC0J1ZM:0003	\$361.02 Annual Fee	86	\$31,047.72 Annual Fee
Microsoft Govt. CSP Exchange Online (Plan 1) GCC NCE 1 Year Term Paid Upfront 1 Year Commitment paid Annually In Stock Virtual delivery Item#: 41802073 Mfg. Part #: CFQ7TTC0LH16:000T	\$40.11 Annual Fee	20	\$802.20 Annual Fee
Microsoft Govt. CSP Exchange Online Archiving for Exchange Online Gov NCE 1 Year Term Paid Upfront 1 Year Commitment paid Annually In Stock Virtual delivery Item#: 41793009 Mfg. Part #: CFQ7TTC0LH0J:000N	\$30.08 Annual Fee	20	\$601.60 Annual Fee

Product	Unit Price	Qty	Price
Microsoft Govt. CSP Visio Plan 2 GCC NCE 1 Year Term Paid Upfront 1 Year Commitment paid Annually In Stock Virtual delivery Item#: 41802097 Mfg. Part #: CFQ7TTC0HD32:0018	\$150.42 Annual Fee	1	\$150.42 Annual Fee

Microsoft Govt. CSP Enterprise Mobility + Security G3 Governmental NCE 1 Year Term Paid Upfront 1 Year Commitment paid Annually In Stock Virtual delivery Item#: 41793006 Mfg. Part #: CFQ7TTCOLFJ2:000Q	\$97.27 Annual Fee	20	\$1,945.40 Annual Fee
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Cart Notes:

Notes from Submitter:

Generated by: Erik Adams For: Deb Smith

Notes from AM:

Deb, This is the final pricing for this. I was able to obtain better pricing for you. This is it!!

Order Summary

Product Subtotal:	\$34,547.34
Shipping & Handling: ⓘ	\$0.00
Tax: ⓘ	\$0.00
Order Total:	\$34,547.34



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-55

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Consent Calendar

Agenda Number: 5D.

Adopt City Council Resolution Approving Budget Amendment No. 2024/25-08 for Fiscal Year 2024/25

RESOLUTION NO. XXXX-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING BUDGET AMENDMENT NO. 2024/25-08 FOR FISCAL YEAR 2024/25

WHEREAS, funding was unidentified for the facilities camera & access control project when the FY24/25 budget was adopted; and

WHEREAS, emergency repairs to the Noyo River pump require additional work; and

WHEREAS, funding allocation is needed for mosaics for the sidewalk at the South Coastal Trail entryway (CDP-724); and

WHEREAS, funding allocation is needed for the City Hall sewer line replacement project; and

WHEREAS, the attached Exhibit A details the proposed amendments of funds for the facilities camera & access control project, repairs to the Noyo River pump, the mosaics, and the sewer line; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The adjustments to the FY 2024/25 Budget have been identified and are necessary, as shown in Exhibit A
2. The foregoing recitals are true and correct and are made a part of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby amend the previously adopted FY 2024/25 Budget to incorporate the changes enumerated in Exhibit A and authorize the City Manager to execute the amendment.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March 2024, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk

BUDGET AMENDMENT FY 2022/23

Budget Adjustment #: **2022/23-04**
 Budget FY: **FY 2022/23**

Account Description	Account #		FY 22/23	Current Budget	Increase (+) Budget Amt	Decrease (-) Budget Amt	Revised Total Budget Amt	Description
Expenditures								
1 Salaries & Wages - IT Lead	521	4394	0101	\$ 123,693	\$ 15,915		\$ 139,608	
Medical Premium - CE Officer	521	4394	0211	\$ 26,112	\$ -		\$ 26,112	
Dental Premium - CE Officer	521	4394	0213	\$ 1,928	\$ -		\$ 1,928	
VSP Premium - CE Officer	521	4394	0214	\$ 459	\$ -		\$ 459	
PERS - CE Officer	521	4394	0220	\$ 10,150	\$ 2,829		\$ 12,979	
Worker's Comp - CE Officer	521	4394	0231	\$ 2,037	\$ 749		\$ 2,786	
FICA/Medicare - IT Lead	521	4394	0252	\$ 9,258	\$ 3,434		\$ 12,692	
2 Transfer Code Enforcement Budget from the Community Development Department to the Police Department								
Salaries & Wages -Code Enforcement	110	4320	0101	\$ 299,956	\$ 76,609		\$ 223,347	Transfer of CE Officer Budget to PD
Medical Premium - CE Officer	110	4320	0211	\$ 51,350	\$ 17,674		\$ 33,677	Transfer of CE Officer Budget to PD
Dental Premium - CE Officer	110	4320	0213	\$ 3,733	\$ 1,212		\$ 2,521	Transfer of CE Officer Budget to PD
VSP Premium - CE Officer	110	4320	0214	\$ 917	\$ 229		\$ 688	Transfer of CE Officer Budget to PD
PERS - CE Officer	110	4320	0220	\$ 24,518	\$ 5,946		\$ 18,572	Transfer of CE Officer Budget to PD
Worker's Comp - CE Officer	110	4320	0231		\$ 1,276		\$ (1,276)	Transfer of CE Officer Budget to PD
FICA/Medicare - CE Officer	110	4320	0252	\$ 22,761	\$ 5,861		\$ 16,901	Transfer of CE Officer Budget to PD
Salaries & Wages -Code Enforcement	110	4200	0101	\$ 1,865,705	\$ 76,609		\$ 1,942,314	Transfer of CE Officer Budget to PD
Medical Premium - CE Officer	110	4200	0211	\$ 337,999	\$ 17,674		\$ 355,673	Transfer of CE Officer Budget to PD
Dental Premium - CE Officer	110	4200	0213	\$ 24,765	\$ 1,212		\$ 25,977	Transfer of CE Officer Budget to PD
VSP Premium - CE Officer	110	4200	0214	\$ 4,816	\$ 229		\$ 5,045	Transfer of CE Officer Budget to PD
PERS - CE Officer	110	4200	0220	\$ 374,904	\$ 5,946		\$ 380,850	Transfer of CE Officer Budget to PD
Worker's Comp - CE Officer	110	4200	0231	\$ 123,024	\$ 1,276		\$ 124,301	Transfer of CE Officer Budget to PD
FICA/Medicare - CE Officer	110	4200	0252	\$ 157,175	\$ 5,861		\$ 163,036	Transfer of CE Officer Budget to PD
3 Budget for a 2nd Code Enforcement Officer (November 2021-June 2022)								
Salaries & Wages - 2nd CE Officer	110	4200	0101	\$ 1,865,705	\$ 47,144		\$ 1,912,849	Budget- 2nd CE Officer
Medical Premium - 2nd CE Officer	110	4200	0211	\$ 337,999	\$ 10,876		\$ 348,875	Budget- 2nd CE Officer
Dental Premium - 2nd CE Officer	110	4200	0213	\$ 24,765	\$ 746		\$ 25,511	Budget- 2nd CE Officer
VSP Premium - 2nd CE Officer	110	4200	0214	\$ 4,816	\$ 141		\$ 4,957	Budget- 2nd CE Officer
PERS - 2nd CE Officer	110	4200	0220	\$ 374,904	\$ 3,659		\$ 378,563	Budget- 2nd CE Officer
Worker's Comp - 2nd CE Officer	110	4200	0231	\$ 123,024	\$ 786		\$ 123,810	Budget- 2nd CE Officer
FICA/Medicare - 2nd CE Officer	110	4200	0252	\$ 157,175	\$ 3,607		\$ 160,782	Budget- 2nd CE Officer
4 Revenues								
CDD- Grant Staff Time Reimb	110	4320	3318	\$ 98,000		\$ 98,000	\$ -	Transfer of CDD Grant Revenue-CE
PD- Grant Staff Time Reimb	110	4200	3318	\$ 268,420	\$ 98,000		\$ 366,420	Transfer of CDD Grant Revenue-CE
PD- Grant Staff time Reimb	110	4200	3318	\$ 268,420	\$ 66,958		\$ 335,378	Budget 2nd CE Grant Reimb
				\$ 340,724	\$ 206,807		\$ 6,948,770	

Reason for Amendment: RESOLUTION # : _____

Authorization:

Requested By: Finance/Admin Dept _____ Signature: _____ Date: _____

Approval: Isaac Whippy _____

Finance Use: Adriana Moreno Ramos _____

Attach copies of Resolution or other documentation



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-58

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Resolution

Agenda Number: 5E.

Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of ParkPlanet Stage Structure for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$76,267.06)

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE PURCHASE OF PARKPLANET STAGE STRUCTURE FOR THE BAINBRIDGE PARK ENHANCEMENT PROJECT, CITY PROJECT NO. PWP-00096, AND AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AGREEMENT (AMOUNT NOT TO EXCEED \$76,267.06)

WHEREAS, On September 11, 2023, City Council accepted the proposal from Melton Design Group (MDG), Inc. for the design of the Bainbridge Park Enhancement Project; and

WHEREAS, on May 28, 2024, Council reviewed the design development package prepared by MDG and authorized the Consultant to proceed to the construction document phase; and

WHEREAS, the project personnel received two estimates for the stage structure kit and ParkPlanets' estimate was the lowest as well as most closely met the desired appearance; and

WHEREAS, the estimated lead time for shipment of the stage is up to 12 weeks, thus staff is recommending the purchase of this equipment direct with this agreement; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The purchase of this stage is necessary to complete the scope of work associated with the Prop 68 Grant Funds.
2. Sufficient funds are available to purchase the stage as budgeted in FY 24/25 CIP.

NOW, THEREFORE, BE IT RESOLVED that the Project is exempt pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15301(d), 15303, 15304, and 15332; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the quote for the purchase of the stage for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and authorize the City Manager to execute the purchase agreement (Amount Not to Exceed \$76,267.06).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 10th day of March, 2025, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**Jason Godeke
Mayor**

ATTEST:

Diana Paoli
City Clerk



Park Planet
 a Division of Park Associates, Inc.
 415 Elm Street
 Red Bluff CA 96080

Quote# Q25-1750

Bainbridge Park

Bill To:

City of Fort Bragg
 416 North Franklin Street
 Fort Bragg CA 95437
 United States

Quote Date: 02/28/2025

Quote Expires: 03/30/2025

Terms: Net 30dys / Shipment

Quote Total: \$76,267.06

Contact Name	Contact Phone	Contact Email	Sales Rep	Sales Rep Email
Chantell O'Neal	+17079612823 ext. 133	coneal@fortbragg.com	Kyle Knox	kyle@parkplanet.com

Description	Vendor	Qty	Rate	Amount
BAINBRIDGE PARK - SHADE				
18' x 36' x 11'-6" Rectangular Hip Shelter Model #: RH18X36-11.5M-P5 24 Ga. Pre-Cut Multi-Rib Metal Roof Panel (Ribs @ 12' Centers) 5:12 Roof Slope Posts - 6" Bury Custom Roof Overhang 18"DIA Round Columns Ecoat/Powdercoat Frame Standard Roof & Frame colors (Upcharge for Custom Colors) Anchor Bolts & Templates Included Rebar Cages NOT included *Shelters are designed to be installed on level grade, with no elevation/slope.	ICON Shelter Systems Inc. (V)	1		\$50,586.00
ICON - Add On Add-On: T&G & Met-Tile Roofing	ICON Shelter Systems Inc. (V)	1	\$10,436.00	\$10,436.00
NPP Discount Vendor ID: VQ1D316 Customer Member ID#: *NPP Discount not valid unless customer is an NPP member	NPP - National Purchasing Partners, LLC	1	(\$4,271.54)	(\$4,271.54)
ICON - ENG Engineering & Calculations (includes foundation design) -will be delivered electronically	ICON Shelter Systems Inc. (V)	1	\$1,000.00	\$1,000.00
ICON Freight Freight to Jobsite	ICON Shelter Systems Inc. (V)	1	\$13,480.00	\$13,480.00

EXCLUSIONS

Equipment only. Installation to be supplied by others.



Park Planet
 a Division of Park Associates, Inc.
 415 Elm Street
 Red Bluff CA 96080

Quote# Q25-1750

Bainbridge Park

Description	Vendor	Qty	Rate	Amount
-------------	--------	-----	------	--------

Offloading & storage of equipment is the customer's responsibility. For most products a forklift rated for 5000lbs or more is recommended.

Subtotal	\$71,230.46
Tax Total (%)	\$5,036.60
Total	\$76,267.06

A PURCHASE ORDER OR SIGNED CHANGE ORDER MUST BE RECEIVED BEFORE ADDITIONAL EQUIPMENT, INSTALLATION, OR SERVICES CAN PROCEED. IF PAYING BY CREDIT CARD, A SURCHARGE WILL BE ASSESSED ON PAYMENT AMOUNT FOR 3.5% VISA/MC OR 5% AMEX.

Printed Name: _____ Title: _____

Authorized Signature: _____ Date: _____

**Purchasing agent who is authorized to enter into binding agreement for quoted entity.

**By signing this quote, I have read and agree to the quote Terms & Conditions listed below, on the following page.



Park Planet
a Division of Park Associates, Inc.
415 Elm Street
Red Bluff CA 96080

Quote# Q25-1750

Bainbridge Park

TERMS & CONDITIONS

1. General Notes Assembly, Installation and Offloading NOT included unless otherwise noted.
Payment and Performance bonds, Builder's Risk and special insurance NOT included unless stated and quoted.
Customer responsible for quantities and model numbers. Revised quote needed if quantities revised.
2. Payment / Ordering Credit terms specific to each customer. See terms in upper right corner of Park Planet quotes.
Purchase orders or purchase contracts are needed to order. If none available, a signed Park Planet quote may be used in lieu of a formal PO.
All past due accounts subject to 1 ½ % monthly finance charge. In the event legal action is required to effect collection, venue shall be Red Bluff, CA.
3. Shipping / Unloading Shipped by Common Carrier – Customer will need 2 to 4 people to unload. Liftgate NOT included unless quoted. Items will be boxed and / or stretch wrapped to pallets and customer is responsible for offloading. Delivery Drivers do NOT unload.
IMPORTANT: Customer is responsible for receiving and checking quantities and condition at time of delivery Please note any shortages or damages on delivery copy.
Notwithstanding anything to the contrary in any Contract Documents, Customer understands that estimated shipment times for materials are an estimate only. We have no control over shipment dates, We thus make no guarantee to Owner or Customer regarding the projected shipment dates for materials and shall not be liable for any loss caused by the timing of shipments.
4. Engineered Wood Fiber
Customer to provide access for Engineered Wood Fiber delivery with tractor truck and 53' trailer.
Compaction of the Engineered Wood Fiber is NOT included in the installation cost, if desired, please request an updated proposal.
5. General Notes for Purchased Installation
Installation does NOT include ground preparation, excavation, safety surfacing, and/or safety surfacing borders, prep work, flat work, grading, rerouting of water, electric, drainage or sprinkler lines unless otherwise noted in the proposal.
Demo of existing equipment or safety surfacing is NOT included unless otherwise stated in the proposal.
ROCK CLAUSE: Pricing is based on normal soil conditions which would allow an auger on a tractor to dig footings. If rocks/boulders interfere with the progress of the excavation, additional fees may apply.
ACCESS CLAUSE: Installation based on clear access to area. Crane service is NOT included. Customer to provide access for bobcat to work area, bobcat will be provided by the installer. Minimum access shall be 7' wide and 7' high. If adequate access is not provided additional charges may apply and repairs to landscape and irrigation may be required. Customer is responsible for any repairs to landscape if proper access is not provided.
UTILITY CLAUSE: Unless stated in writing in the quote proposal, installation does not include marking of utilities by Dig Alert or other similar entities. Customer can, however, call Dig Alert directly, Dig Alert CANNOT locate any private lines, PVC or plastic water lines. Installation does NOT include repair or relocating any underground utilities, such as drainage, irrigation, live water lines, main low voltage lines, gas, electrical, communication, or sewer etc.
Customers responsibility to provide locations of any utilities prior to commencement of work.
Customer is responsible for all landscape repairs such as, but not limited to damaged trees, bushes, lawn, curbing, sidewalks and/or asphalt paving caused by materials truck and/or 2ton bobcat needed to complete project.
6. Temporary Fencing
Security guards and/or temporary fencing to prevent injuries, vandalism and/or accidental damage to install area or to the rubberized surface while it sets is NOT included unless noted on quote. If desired, the installers can put up caution tape, but Temporary Fencing is recommended. Although the fencing, if provided, is intended to provide this security, the overall security of the property is ultimately the responsibility of customer. We are not responsible for any vandalism or injuries even with the provision of the fencing.
7. ADA Access
Play Equipment MUST be installed over an impact absorbing surface such as ADA compliant Engineered Wood Fiber or Rubber Surfacing. If not quoted, please call for details.
This area is NOT ADA compliant without the installation of compliant surfacing and an accessible route up to and into the playground area. Please call for details.
8. Poured in Place Rubber Surfacing
Rubber Surfacing cannot be installed during extreme weather conditions and may not be installed if rain or frost is forecasted during 48-72 hr. cure time. 24 Hour Manned Security is NOT included in Park Planet quotes.
9. Shade Shelters (non DSA)
Shade Shelter installation price EXCLUDES – unless otherwise stated in this quote engineering, drawings, calculations, permits, permit submittal, site plans, special inspections, soil reports, impact fees, special assessment fees. Customer is responsible for any and all of these items if required by the City/County.
PLEASE NOTE: Shade Orders are NOT released into production until permit is issued!
Shade Shelter installation price EXCLUDES concrete pad, footings, masonry columns, electrical wiring and lights unless otherwise noted.
10. Shade Shelters (DSA)
Fabrication cannot begin until AFTER DSA approval by your architect
DSA in-plant Welding Inspector to be hired by the School District, Welding Inspector fee has NOT been quoted.
School District / Architect responsible for submission of plans to DSA for DSA approval
Pricing does NOT include footings, steel cages, anchor bolts, or erecting of shade shelter unless otherwise noted.
11. Prevailing Wages – assumed and quoted unless specifically excluded due to private works.
Park Planet does not meet the Skilled & Trained Workforce Requirements and will not participate in same. Park Planet will not sign any PLA's for Union Work and is not signatory to any unions.



From: [Miranda Ramos](#)
To: [City Clerk](#)
Subject: Public Comment on Items 5E, 5F and 8A of 3/11/2025 Agenda
Date: Tuesday, March 11, 2025 11:35:24 AM

City Council & Staff,

I write today to express my support for the adoption of items 5E and 5F on the Consent Calendar and item 8A under Conduct of Business. The long-awaited and advocated for installation of artificial turf sport courts and other Bainbridge Park Enhancements will provide residents of Fort Bragg with more access to a "third space" where community can be strengthened through shared activities.

Thank you,
Miranda Ramos



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-59

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Resolution

Agenda Number: 5F.

Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of MTJ Sport Court Kit for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$111,000.00)

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE PURCHASE OF MTJ 5v5 SOCCER SPORT COURT KIT FOR THE BAINBRIDGE PARK ENHANCEMENT PROJECT, CITY PROJECT NO. PWP-00096, AND AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AGREEMENT (AMOUNT NOT TO EXCEED \$111,000.00)

WHEREAS, On September 11, 2023, City Council accepted the proposal from Melton Design Group (MDG), Inc. for the design of the Bainbridge Park Enhancement Project; and

WHEREAS, on May 28, 2024, Council reviewed the design development package prepared by MDG and authorized the Consultant to proceed to the construction document phase; and

WHEREAS, project personnel received two estimates for the 5v5 Soccer Sport Court Kit and MTJ's estimate was the lowest as well as most closely met the desired appearance; and

WHEREAS, the estimated lead time for shipment of the sport court kit is up to 10 weeks, thus staff is recommending the purchase of this equipment direct with this agreement; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The purchase of this soccer sports court is necessary to complete the scope of work associated with the Prop 68 Grant Funds.
2. Sufficient funds are available to purchase the sport court as budgeted in FY 24/25 CIP.

NOW, THEREFORE, BE IT RESOLVED that the Project is exempt pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15301(d), 15303, 15304, and 15332; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the quote for the purchase of the 5v5 Soccer Sport Court Kit for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and authorize the City Manager to execute the purchase agreement (Amount Not to Exceed \$111,000.00).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**Jason Godeke
Mayor**

ATTEST:

Diana Paoli
City Clerk

Outdoor 5v5 Soccer Proposal

No. 250306.B.FB

From



To

City of Fort Bragg
416 North Franklin Street
Fort Bragg CA 95437

For

Supply of two (2) Outdoor 5v5 Soccer Rebound Wall Field Kits @ 45' x 80' each size for
Harold O Bainbridge Park, 360 N Harrison St, Fort Bragg, CA

PROPOSAL DATE: March 6, 2025

This PROPOSAL is prepared exclusively for **City of Ft. Bragg** by **MTJ SPORTS** for supply of
2 Outdoor 5v5 Soccer Field Kits

We have made provision for following playing surfaces below:

2 Fields @ 45' wide x 80' long each, **Be Advised 80' field requires 86' space for egress of two (2) Goals @ 3' each**



WALL DASHBOARD SYSTEM W/ NETTING SIDES AND GOALS FOR 2 OUTDOOR FIELDS:

STRUCTURAL KIT:

Our pricing includes installing a 3' 8" high panel rebound boarding to the perimeter, topped with an aluminum profile channel securing the polyester net at 16' total height. Includes Tripple Anti-Corrosion Protection for all structures for 5 Year Limited Manufacturer's Warranty. No installation included (see below).

Structures: Steel pre-fabricated structural kit including all poles, Light poles are 17.5', for 2 Fixtures per pole using T-Bar mounts. Includes Tripple Anti-Corrosion Protection. Color: Burgundy RAL 3005

Wall Rebound Panels: Panels thickness 2-1/2" for rebound boarding, 3' 8" high, Color: White.

Side Netting: Custom Side Netting in 4mm black weather treated PE – mesh 4" sq, secured into aluminum profile channels. No Top Netting. All netting secured with 5mm (1/4") Coated Stainless Steel Cables. * Note: 2" mesh netting available for added cost.

Access Gate:

2 Standard Gates to each field, size 3' 9-3/8" x 6' 5-1/8" with locks
Additional Gates available for an added cost.

Goals: 1 Pair for each field. White Steel tube 3" Rd, White Net 2" square mesh braided, Goal size 6' 7" high x 10' wide, depth 3'.

LED Lights: No Light Fixtures included = By Others

Installation: No installation by MTJ Sports included for above (see below on MTJ Sports Supervision)

Synthetic Soccer Turf for 2 Fields: No Soccer Turf included = By Others

MTJ SPORTS ON-SITE INSTALLATION SUPERVISION & SUPPORT

Includes one (1) MTJ Sports Service Tech on site for duration of installation of above systems by others. Includes Travel, Room and Board.

Total Price for above:

One Hundred Eleven Thousand Dollars * \$111,000.00**

All material is guaranteed to be as specified. NO installation included in price. All final drawings will be submitted upon signing of contract and minimum 5% deposit.

Off Loading of materials on site by others.

MTJ SPORTS Terms and Conditions:

- Proposal Valid for 30 Days from above proposal date.
- Payment Terms: 5% Due against Final Drawings, 50% Due on Final Order with Signed Proposal, 40% Due on Materials Delivery and Start-up work, 5% due on Completion and Final Inspection.
- Extras: MTJ Sports shall not be required to perform any alterations, extras or additions in work unless MTJ Sports agrees to perform such work, agrees to the price to be paid to perform such alterations, extras or additions, and receives a signed change order which specifically refers to the Terms and Conditions set forth in this proposal.
- All material is to be installed by others under Supervision by MTJ Sports.
- Permits. Customer shall obtain all permits if required. MTJ Sports shall not be responsible for any permit relating to the work to be performed under this proposal.
- Retention. There shall be no retention unless specified in writing by parties.
- Force Majeure. MTJ Sports will not be liable for any loss, damage, or delay due to transportation problems, accident, fire, strike, riots, civil or military authority, insurrection, acts of God (including weather) or any cause beyond its reasonable control.
- Default: Attorneys' Fees. In the event of a Customer default or refusal to pay, MTJ Sports will be entitled to all expenses of collection, including attorney's fees and court costs.
- Governing Law: This Proposal shall be governed by and construed in accordance with the laws of the State of Illinois. Customers consent to the jurisdiction of the State courts of Illinois for all matters associated with this Proposal.
- Disclaimer Limitations. All work is to be completed in a workmanlike manner according to standard practices in the industry. MTJ Sports reserves the right to employ production and construction methods to best meet completed project objectives. Final in-place material specifications will be met as required by product descriptions contained in this Proposal. Other than the warranties set

forth above, MTJ Sports disclaims all warranties, express or implied, with respect to the work to be performed under this Proposal. MTJ Sports shall not be liable for any damage to the work performed under this proposal caused by Customer's, or third parties, intentional or reliant conduct including improper or faulty site-preparation work. In no event shall MTJ Sports' liability exceed the amount paid to in connection with such work; nor shall MTJ Sports be responsible for any special, incidental, or consequential damages. MTJ Sports shall not be liable for any errors or omissions contained in any plans or specifications of Customer or any third party. Notwithstanding any law, ordinance, or regulation to the contrary, Customer agrees not to institute or maintain any action or proceeding against MTJ Sports with respect to this Proposal or the work performed, or materials provided pursuant to it more than twenty-four (24) months after completions.

PRODUCT WARRANTY:

MTJ Sports represents the highest quality products from industry leading Manufacturers. All Product Warranties are the sole responsibility of each Manufacturer, and applies only to the original purchaser. The Manufacturers Product Warranty covers manufacturing defects in materials. Any miss-use may void the warranty. Our manufacturers have specific warranty coverage for each of their products, therefore it is important to identify and reference all warranty limitations for the products that you intend to purchase. Copies of Manufacturers Warranty is available from MTJ Sports upon request. MTJ Sports will assist with processing any warranty claim. The manufacturer will review each claim and have final say in its resolution. Any product warranty claim must be sent MTJ Sports in writing outlining the application and issue, within the valid warranty term.

Thank you for the opportunity to provide you with our Proposal. Please contact me for any questions and references in the area.

Sincerely,
 Mats Jonmarker
 MTJ Sports
 309-853-7210
mats@mtjsports.com
www.mtjsports.com

Acceptance of Price Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above. This Proposal will become a Contract between MTJ Sports and Client upon signing.

Total: \$111,000.00

Signature: _____ Date: _____

By: _____
 Name / Title

From: [Miranda Ramos](#)
To: [City Clerk](#)
Subject: Public Comment on Items 5E, 5F and 8A of 3/11/2025 Agenda
Date: Tuesday, March 11, 2025 11:35:24 AM

City Council & Staff,

I write today to express my support for the adoption of items 5E and 5F on the Consent Calendar and item 8A under Conduct of Business. The long-awaited and advocated for installation of artificial turf sport courts and other Bainbridge Park Enhancements will provide residents of Fort Bragg with more access to a "third space" where community can be strengthened through shared activities.

Thank you,
Miranda Ramos

From: [Jacob Patterson](#)
To: [City Clerk](#)
Subject: Additional Public Comment -- 3/11/25 CC Mtg., Item No. 5F, Sports Court
Date: Monday, March 10, 2025 11:10:13 AM

City Council,

I see that the artificial turf agenda item was moved from former Item 5G to a new conduct of business Item 8A, but the sports court enclosure in 5F was not. IMO, both items should have been combined and moved to conduct of business. Actually, the one that likely needs discussion isn't the turf, it is the sports court enclosure because that is the aspect that isn't in alignment with prior discussions. The Council (except Tess) seemed to be fine with artificial turf and it was certainly discussed as the plan. The enclosure and two separate mini soccer fields with fencing that precludes their use for community events in addition to soccer is still buried in the consent calendar and that is the one the Council should discuss and provide some direction. It would have been fine to discuss both but the more important item hasn't been addressed through a discussion and council direction about the sports court configuration and how it fits and interacts with the rest of Bainbridge Park.

As such, I recommend one or more of you pull Item 5F for separate discussion and direction to staff prior to just approving ordering equipment that will limit the soccer field sports court to sports use rather than leaving it flexible enough to accommodate special event use as well. If we want to still order the proposed enclosure that is certainly up to you but I think it merits discussion and an actual decision not just an assumption that a significant decision like that can be made at the staff level with minimal public participation or review.

--Jacob

From: [Jacob Patterson](#)
To: [City Clerk](#)
Subject: Public Comment -- 3/11/25 CC Mtg., Item Nos. 5E & 5G, Bainbridge Park Sports Court
Date: Thursday, March 6, 2025 4:05:41 PM

City Council & Staff,

I am dismayed by the consent calendar for Tuesday's special council meeting because of the two items concerning the proposed sports court component of the Bainbridge Park enhancement project. Items 5E and 5G concern the purchase of materials for the eventual sports court, but this component's design characteristics have yet to be fully approved even if the overall concept received City Council support. Numerous design issues concerning the sports court surround and artificial turf were discussed at the meeting when the Council reviewed the preliminary designs. These concerns appear to have been ignored since that meeting based on the proposed equipment that is shown in the vendors attached proposals.

These outstanding design detail issues have not been resolved or approved and yet we have consent calendar items rather than a conduct of business item that will determine those outstanding details without any discussion or approval of the details themselves. This should not occur. In the least, the Council should be presented with the options being proposed (and their alternatives) to make the ultimate decision about the as-of-yet undetermined specific design aspects of sports court.

For example, what kind of fence barrier and gate designs are involved? We discussed use and access concerns regarding the gates to the sports court but without evaluating the alternatives, how can we collectively know the selected vendor and product best addresses those concerns? Staff shouldn't be making that determination on their own outside the public process yet that is what is effectively happening through this consent calendar items that don't even have explanatory staff reports presenting the options for public scrutiny and Council decision. The choice has been made for you (and for all of us) by these items being presented as they are. In fact, if you look at the single included proposal, it doesn't resemble what was discussed before and clearly precludes use of the sports court for anything other than sports and we couldn't use them as part of a community event in the park. There are even two fields rather than one, which was proposed previously, and the courts have permanent internal dividers that break up the overall space. There are no double gates to allow for event flow, etc. This will clearly interfere with the mix of likely uses for this areas of the park but that is being ignored despite it being discussed as a concern to address during previous agenda items.

Moreover, the suggested CEQA categorical exemptions don't clearly apply to this overall project because the sports court involves artificial turf and thus the likely exposure of court users, particularly children, to turf chemicals needs to be evaluated regarding health and safety concerns due to that exposure. Instead, the City is claiming arguably inapplicable CEQA exemptions that can't apply (even if they superficially appear to relate to the project) because there are actual health and safety concerns that may very well lead to unmitigatable significant environmental impacts. (Please see prior-submitted documentation at relevant agenda items of the known health and safety risks from exposure to artificial turf.) The point isn't that we definitely have a stumbling block and concern to proceeding as proposed, the issue is that we haven't properly evaluated that concern by doing an end-run around environmental review of this City project through these categorical exemptions that only apply in general but don't apply to projects that present actual issues. (Note that the exemptions, other than existing

facilities, would likely apply to a sports court with natural turf.).

Because the City is not seeking normal planning review of this construction project, we are not even trying to address the CEQA issues that would normally be addressed through that process. Instead, we are potentially entering into contracts for project components and asserting, likely falsely, that those contracts are exempt when their review and approval has been separated from the overall project in a piecemeal fashion. You could be wasting our money and time by agreeing to buy materials that we might be required to swap out for something else as mitigation for the potentially significant impacts due to exposure to the chemicals in the specific turf that is proposed once sufficient review is complete. In short, this overall project has been troubled by procedural issues and mistakes and it appears we haven't learned anything from our earlier missteps in an apparent rush to try to get this project built this summer because staff didn't undertake a timely review of the proposed turf.

I recommend pulling the three Banbridge Park agenda items and holding an de facto conduct of business review or postponing these items to the next meeting where we can properly address the various issues through an open and transparent public process, which the community deserves.

Regards,

--Jacob

From: [Jacob Patterson](#)
To: [City Clerk](#)
Subject: Re: Public Comment -- 3/11/25 CC Mtg., Item Nos. 5E & 5G, Bainbridge Park Sports Court
Date: Thursday, March 6, 2025 4:21:13 PM

City Council & Staff,

As a follow-up to my comments about artificial turf, please review and consider the studies and concerns about the health and safety issues at the following links to the specific documents:

<https://cleanwater.org/2024/09/16/turf-artificial-harm-very-real>
<https://pubmed.ncbi.nlm.nih.gov/articles/PMC10262297/> [Note: this article is from the National Institutes of Health (NIH) so not some crackpot theory.]
<https://www.beyondplastics.org/fact-sheets/synthetic-turf>
<https://www.safehealthyplayingfields.org/>

The studies describe in the above-linked documents clearly document the health and safety concerns due to exposure to the chemicals in artificial turf, including turf made from polyethylene, the material used in the "grass" yarn for the proposed turf (see <https://polyturf.com/champion-sport>).

Staff was made aware of these issues quite a while ago and had plenty of time to undertake an analysis of the health and safety impacts of exposure to polyethylene but chose not to do that and are now trying to rush you into purchasing this particular product for our new youth sports fields without adequate review and consideration of the safer alternatives. This is shameful and unacceptable, IMO.

Regards,

--Jacob

On Thu, Mar 6, 2025 at 4:05 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
City Council & Staff,

I am dismayed by the consent calendar for Tuesday's special council meeting because of the two items concerning the proposed sports court component of the Bainbridge Park enhancement project. Items 5E and 5G concern the purchase of materials for the eventual sports court, but this component's design characteristics have yet to be fully approved even if the overall concept received City Council support. Numerous design issues concerning the sports court surround and artificial turf were discussed at the meeting when the Council reviewed the preliminary designs. These concerns appear to have been ignored since that meeting based on the proposed equipment that is shown in the vendors attached proposals.

These outstanding design detail issues have not been resolved or approved and yet we have consent calendar items rather than a conduct of business item that will determine those outstanding details without any discussion or approval of the details themselves. This should not occur. In the least, the Council should be presented with the options being proposed (and their alternatives) to make the ultimate decision about the as-of-yet undetermined specific design aspects of sports court.

For example, what kind of fence barrier and gate designs are involved? We discussed use and access concerns regarding the gates to the sports court but without evaluating the alternatives, how can we collectively know the selected vendor and product best addresses those concerns? Staff shouldn't be making that determination on their own outside the public process yet that is what is effectively happening through this consent calendar items that don't even have explanatory staff reports presenting the options for public scrutiny and Council decision. The choice has been made for you (and for all of us) by these items being presented as they are. In fact, if you look at the single included proposal, it doesn't resemble what was discussed before and clearly precludes use of the sports court for anything other than sports and we couldn't use them as part of a community event in the park. There are even two fields rather than one, which was proposed previously, and the courts have permanent internal dividers that break up the overall space. There are no double gates to allow for event flow, etc. This will clearly interfere with the mix of likely uses for this areas of the park but that is being ignored despite it being discussed as a concern to address during previous agenda items.

Moreover, the suggested CEQA categorical exemptions don't clearly apply to this overall project because the sports court involves artificial turf and thus the likely exposure of court users, particularly children, to turf chemicals needs to be evaluated regarding health and safety concerns due to that exposure. Instead, the City is claiming arguably inapplicable CEQA exemptions that can't apply (even if they superficially appear to relate to the project) because there are actual health and safety concerns that may very well lead to unmitigatable significant environmental impacts. (Please see prior-submitted documentation at relevant agenda items of the known health and safety risks from exposure to artificial turf.) The point isn't that we definitely have a stumbling block and concern to proceeding as proposed, the issue is that we haven't properly evaluated that concern by doing an end-run around environmental review of this City project through these categorical exemptions that only apply in general but don't apply to projects that present actual issues. (Note that the exemptions, other than existing facilities, would likely apply to a sports court with natural turf.)

Because the City is not seeking normal planning review of this construction project, we are not even trying to address the CEQA issues that would normally be addressed through that process. Instead, we are potentially entering into contracts for project components and asserting, likely falsely, that those contracts are exempt when their review and approval has been separated from the overall project in a piecemeal fashion. You could be wasting our money and time by agreeing to buy materials that we might be required to swap out for something else as mitigation for the potentially significant impacts due to exposure to the chemicals in the specific turf that is proposed once sufficient review is complete. In short, this overall project has been troubled by procedural issues and mistakes and it appears we haven't learned anything from our earlier missteps in an apparent rush to try to get this project built this summer because staff didn't undertake a timely review of the proposed turf.

I recommend pulling the three Banbridge Park agenda items and holding an de facto conduct of business review or postponing these items to the next meeting where we can properly address the various issues through an open and transparent public process, which the community deserves.

Regards,

| --Jacob



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-72

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Consent Calendar

Agenda Number: 5G.

Adopt City Council Resolution Approving First Amendment to Professional Services Agreement with Lake Tech (Amount Not To Exceed \$37,273.20)

The City secured professional services from Lake Tech to perform water quality assessment work needed for an Aquaculture Feasibility Study, which is a component of the Noyo Harbor Blue Economy Visioning, Resiliency, and Implementation Plan. Delays with the California Department of Fish and Wildlife Science Collection Permit has created the need to extend project timeline.

The proposed first amendment to Lake Tech contract would add eight months of service for \$13,573.20, for a total amount not to exceed \$37,273.20).

**FIRST AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT
WITH LAKE TECH**

THIS FIRST AMENDMENT is made and entered into this 11th day of March 2025, by and between the CITY OF FORT BRAGG, hereinafter referred to as “City,” and Lake Tech, a California S corporation (81-4086707) located at 122 Castro Street, Richmond, California 94801 (“Consultant”).

WHEREAS, the City and Consultant entered into a Professional Services Agreement (“Contract”) on February 14, 2024 for an amount not to exceed \$23,700; and

WHEREAS, the Consultant is an independent contractor secured to perform water quality assessment work for an Aquaculture Feasibility Study, which is a component of the Noyo Harbor Blue Economy Visioning, Resiliency and Implementation (BEVRI) Plan funded with LCP 22-07 grant program funds; and

WHEREAS, delays with California Department of Fish and Wildlife Science Collection Permit to place red abalone, purple urchin, Pacific oysters and Bull kelp in the Noyo River has created the need to extend project timeline; and

WHEREAS, the City is pleased with the services provided by Lake Tech and wishes to continue contracting with Lake Tech for eight additional months at \$13,573.20 for a total amount not to exceed \$37,273.20 as set forth in Exhibit B attached hereto and incorporated herein by reference.

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, City and Consultant hereby agree that the Professional Services Agreement for water quality assessment work as part of the LCP 22-07 Grant Project, is hereby amended as follows:

1. **2.0 Compensation, Billing and Prevailing Wages:**

Paragraph 2.1 (Compensation), is hereby amended to state “Consultant’s total compensation shall not exceed Thirty-Nine Thousand Two Hundred Seventy-Three Dollars and Eighteen Cents (\$37,273.20), and shall be paid in accordance with the fee schedule set forth in Exhibit B”.

2. **3.0 Time of Performance**

Paragraph 3.1 (Commencement and Completion of Work), is hereby amended to state “Consultant will complete services in accordance with this Agreement by October 31, 2025”.

3. **4.0 Term and Termination**

Paragraph 4.1 (Term), is hereby amended to state “This Agreement shall commence on the Effective Date and expire on October 31, 2025”.

Except as expressly amended herein, the Professional Services Agreement between the City and Consultant dated March 11, 2025, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

CONSULTANT:

By: _____
Joseph Monaco
Its: **President/CEO**

CITY OF FORT BRAGG:

By: _____
Isaac Whippy
City Manager

ATTEST:

Diana Paoli
City Clerk

APPROVED AS TO FORM:

Baron J. Bettenhausen
City Attorney

RESOLUTION NO. -2025

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING FIRST AMENDMENT TO PROFESSIONAL SERVICES
AGREEMENT LAKE TECH FOR WATER QUALITY ASSESSMENT FOR
LCP 22-07 GRANT PROJECT, AND AUTHORIZING THE
CITY MANAGER TO EXECUTE CONTRACT (AMOUNT NOT TO
EXCEED \$37,273.20)**

WHEREAS, the California Coastal Commission awarded the City of Fort Bragg \$898,990 in Local Coastal Program Grant funds (LCP 22-07); and

WHEREAS, on February 14, 2024 the City entered into a professional services agreement with Lake Tech to provide water quality assessment for LCP 22-07 Grant Project (“Project”); and

WHEREAS, delays with California Department of Fish and Wildlife Science Collection Permit has created the need to extend project timeline; and

WHEREAS, proposals were reviewed and evaluated by representatives from the City, Noyo Harbor District, and California Sea Grant on the basis of capabilities, qualifications, and responsiveness; and

WHEREAS, the City is pleased with the services provided by Lake Tech and wishes to continue contracting with Lake Tech for eight additional months; and

WHEREAS, all costs associated with this contract are covered with LCP 22-07 grant funds; and

WHEREAS, the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Section 15306, Information Collection.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the first amendment to Professional Services Agreement with Lake Tech for LCP 22-07 Grant Project, and authorizes the City Manager to execute contract (Amount Not to Exceed \$37,273.20).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March 2025, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

JASON GODEKE
Mayor

ATTEST:

Diana Paoli
City Clerk

LakeTech, inc.
 2021 Brush St
 Oakland, California 94612
 United States

Mobile: 4153070943
 www.laketechn.com

BILL TO
City of Fort Bragg
 Sarah McCormick

smccormick@fortbragg.com

Invoice Number: 1013

Invoice Date: February 4, 2025

Payment Due: March 6, 2025

Amount Due (USD): \$13,573.20

 [Pay Securely Online](#)

Items	Quantity	Price	Amount
<p>LakeTech - Professional Annual subscription to the platform for 1 entity o Annual training for staff o Tech support o Unlimited users o lot device connectivity \$10/ month o Subscribers are entitled to a 10% discount at https://shop.laketechn.com/</p>	0.66666	\$3,000.00	\$1,999.98
<p>Buoy-in-a-box (Just add water!) Annual rental of Lake-Link Buoy: o Advanced Buoy 1 Year. Monitoring parameters: (e.g.) Temperature, Conductivity, Dissolved Oxygen, Turbidity, Chlorophyll-a, pH, o Professional Buoy 1 Year. Monitoring parameters: Temperature and Dissolved Oxygen at multiple depths</p> <p>Additional Services: Included o Real-time alerts and alarms. o Life-time warranty on all components. o Monthly cellular data fees included.</p> <p>Equipment remains the property of LakeTech</p>	0.66666	\$8,500.00	\$5,666.61

LakeTech, inc.
2021 Brush St
Oakland, California 94612
United States

Mobile: 4153070943
www.laketechn.com

Items	Quantity	Price	Amount
Service Contract Service contracts are to maintain, clean and calibrate monitoring equipment, cameras and weather stations, etc.. All consumables are covered under service contract (calibration solutions, sensor caps, battery replacements)	0.66666	\$8,500.00	\$5,666.61
IoT Device 3 Vulinks x 8 months	24	\$10.00	\$240.00

Total: \$13,573.20

Amount Due (USD): \$13,573.20

Pay Securely Online



link.waveapps.com/n9hs3j-hx6pfz



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-73

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Consent Calendar

Agenda Number: 5H.

Receive and File Minutes of the October 25, 2024 Community Development Committee Meeting



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Community Development Committee

Friday, October 25, 2024

4:00 PM Town Hall, 363 N. Main Street and Via Video Conference

Special Meeting

MEETING CALLED TO ORDER

Chair Godeke called the meeting to order at 4:00 PM

ROLL CALL

Staff Present: City Manager Whippy, Assistant Planner Peters, Administrative Assistant Flynn

Present: 2 - Mayor Bernie Norvell and Vice Mayor Jason Godeke

1. APPROVAL OF MINUTES

A motion was made by Committee Member Godeke, seconded by Committee Member Norvell that the minutes be approved for Council Review. The motion carried by the following votes:

Aye: 2 - Mayor Norvell and Vice Mayor Godeke

1A. [24-966](#) Minutes of the September 24, 2024 Community Development Committee

1B. [24-987](#) Minutes of the October 22, 2024 Community Development Committee

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. CONDUCT OF BUSINESS

3A. [24-708](#) Provide Direction to Staff regarding Installation of Outdoor Exercise Equipment on the Coastal Trail

Assistant Planner Peters presented the report. City Manger Whippy offered three potential options for funding sources. Committee members asked clarifying questions regarding the cost estimate Staff provided. Chair Godeke discussed the option of utilizing Blue Zones grant funding.

Public Comment: Jacob Patterson, Annemarie Weibel

Discussion: Assistant Planner Peters clarified that the pictures of equipment in the report were for examples of types of equipment for reference. Mayor Norvell discussed the nexus for the report and noted similar sets in other communities. Committee members discussed location options and build of the structures.

Committee members directed staff to bring the report forward to City Council which includes an updated cost estimate.

4. MATTERS FROM COMMITTEE / STAFF

Administrative Assistant Flynn gave updates on upcoming Limited Term Permits.

Chair Godeke gave an update on tree planting in the community.

Assistant Planner Peters gave an update on the Central Business District oral reports shifting to Economic Development.

ADJOURNMENT

Chair Godeke adjourned the meeting at 4:25 PM



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-57

Agenda Date: 3/11/2025

Version: 1

Status: Consent Agenda

In Control: Special City Council

File Type: Resolution

Agenda Number: 8A.

Adopt City Council Resolution of the Fort Bragg City Council Approving the Purchase of Polyurf Champion Sport Turf for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and Authorizing City Manager to Execute Purchase Agreement (Amount Not to Exceed \$64,898.59)

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE PURCHASE OF POLYTURF CHAMPION SPORT TURF FOR THE BAINBRIDGE PARK ENHANCEMENT PROJECT, CITY PROJECT NO. PWP-00096, AND AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AGREEMENT (AMOUNT NOT TO EXCEED \$64,898.59)

WHEREAS, On September 11, 2023, City Council accepted the proposal from Melton Design Group (MDG), Inc. for the design of the Bainbridge Park Enhancement Project; and

WHEREAS, on May 28, 2024, Council reviewed the design development package prepared by MDG and authorized the Consultant to proceed to the construction document phase; and

WHEREAS, project personnel received three estimates for turf products, Polyturfs estimate was in the middle of the cost estimates received, but their product best meets the needs of the City; and

WHEREAS, The Fort Bragg Municipal Code 3.20.060 E. allows award of a contract for goods or services to a vendor who meets the City’s requirements when the products are not of uniform quality and is in the best interest of the City; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The purchase of this turf is necessary to complete the scope of work associated with the Prop 68 Grant Funds.
2. Sufficient funds are available to purchase the turf as budgeted in FY 24/25 CIP.

NOW, THEREFORE, BE IT RESOLVED that the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Section 15301(d), 15303, 15304, and 15332; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the quote for the purchase of the turf for the Bainbridge Park Enhancement Project, City Project No. PWP-00096, and authorize the City Manager to execute the purchase agreement (Amount Not to Exceed \$64,898.59).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk



United Sports Surfacing of America

4000 Barranca Pkwy, Ste 250
Irvine, CA 92604

Quotation

Date	Estimate #
3/1/2025	41044

Customer	Ship To
City of Fort Bragg Chantell O'Neal Public Works Engineering 416 N Franklin Street Fort Bragg, CA 95437	Fort Bragg CA 95437

Other	Terms	Customer Contact	Rep
		Customer Phone	
	Net 30	Customer Fax	
		Customer E-mail	conecal@fortbragg.com

Description	Qty	Unit	Total
Polyturf Champion Sport Mini Pitch Field System with Pervious Pavement Elastic Layer underlayment. 7,200 sq ft -SUPPLY MATERIALS ONLY QUOTE			
Polyturf CHAMPION incorporates 1 1/8" Pile Height , 75 oz. fiber weight, two tone green synthetic yarn fiber with tan thatch zone and polyurethane backing .Cool Reflect heat reducing fiber technology. Dimension: (x6) 15 'x 80'	7,200	2.5955	18,687.60T
POLYTURF Seam Tape Roll 250 LF pre cut LF (12" wide x 250' length)	2	154.00	308.00T
Polyturf Turf Claw Synthetic Turf Adhesive ,5 gallon pails yields approximately 300 linear feet.	2	446.60	893.20T
Polyturf Green Acrylic Coated Cool Reflect Sand infill , #16 mesh (50 lbs) bags (x288) Rubberway Pervious Pavement Elastic Layer Underlayment Materials to be (mixed onsite and poured in place) for Base Layer beneath Synthetic turf Approx.(7200) sf Up to 1" Thickness (25 mm) (x454) 100% Recycled Rubber Granules Bits / Rubberway Enviro Binder 3000 (Amber Hue) (x8) Drums 460 lbs TXIB Finishing Solvent (x6) pails	288	25.20	7,257.60T 23,680.81T
Deliver cost to zip code with pre delivery notification. Shipping Terms; Contractor/Owner assumes full responsibility for adequate access to site. If the load is unable to delivered contractor will be responsible for re-delivery fee. Freight quote is valid for 7 days. We cannot guarantee delivery lead times.	1	9,557.92	9,557.92
COSTS EXCLUDE THE PERIMETER INTERIOR EDGE RECYCLED PLASTIC LUMBER HEADER BOARD Which will need to be supplied by the installation contractor unless requested			

SubTotal
Sales Tax (8.88%)
Total

Date: _____
Signature of Acceptance _____

Phone #	E-Mail	Web Site
(877) 288-0045	info@sustainablesurfacing.com	www.sustainablesurfacing.com



United Sports Surfacing of America

4000 Barranca Pkwy, Ste 250
Irvine, CA 92604

Quotation

Date	Estimate #
3/1/2025	41044

Customer	Ship To
City of Fort Bragg Chantell O'Neal Public Works Engineering 416 N Franklin Street Fort Bragg, CA 95437	Fort Bragg CA 95437

Other	Terms	Customer Contact	Rep
		Customer Phone	
	Net 30	Customer Fax	
		Customer E-mail	

Description	Qty	Unit	Total
Accepted Payment Methods: Wire Transfer, Direct Bank Deposit or Credit Card. A Credit Card Merchant processing fee of 3.5% will be added to invoice for purchases paid by credit card. Bonding information on the project and pre approved Credit approval will be required to offer 30 day terms to General Contractor.		0.00	0.00
Lead Time is approximately 3-5 weeks on materials		0.00	0.00
SubTotal			
Sales Tax (8.88%)			
Total			

Date: _____
Signature of Acceptance _____

Phone #	E-Mail	Web Site
(877) 288-0045	info@sustainablesurfacing.com	www.sustainablesurfacing.com



United Sports Surfacing of America

4000 Barranca Pkwy, Ste 250
Irvine, CA 92604

Quotation

Date	Estimate #
3/1/2025	41044

Customer	Ship To
City of Fort Bragg Chantell O'Neal Public Works Engineering 416 N Franklin Street Fort Bragg, CA 95437	Fort Bragg CA 95437

Other	Terms	Customer Contact	Rep
		Customer Phone	
	Net 30	Customer Fax	
		Customer E-mail	

Description	Qty	Unit	Total
<p>Thank you for your business!</p> <p>You are a valued customer, and we want you to receive this order exactly as intended.</p> <p>This order reflects a material sale only and not installed surfacing. Therefore, no installed product warranty are available · We guarantee our POLYTURF products to be free from manufacturing defects in both material and workmanship.</p> <p>All sales are final, and product is non-returnable.</p> <p>Upon delivery of your order, please do a thorough inspection of the freight to notate any damages, missing pieces, mangled pallets / packaging, etc. If the shipment is not correct and intact, please notate the damages on the delivery receipt with driver signature and immediately take pictures of the freight including clear photos of any damages. For United Sports Surfacing of America, Inc. arranged freight, please report any issues to sandra@sustainablesurfacing.com.</p> <p>Payment Remittance Information To pay by check you must reference your sales order number. Checks should be made payable to United Sports Surfacing of America and sent to 4000 Barranca Pkwy, Ste 250, Irvine, CA 92604.</p> <p>To pay by credit card, please contact Accounts Payable at acct@sustainablesurfacing.com.</p>			0.00T

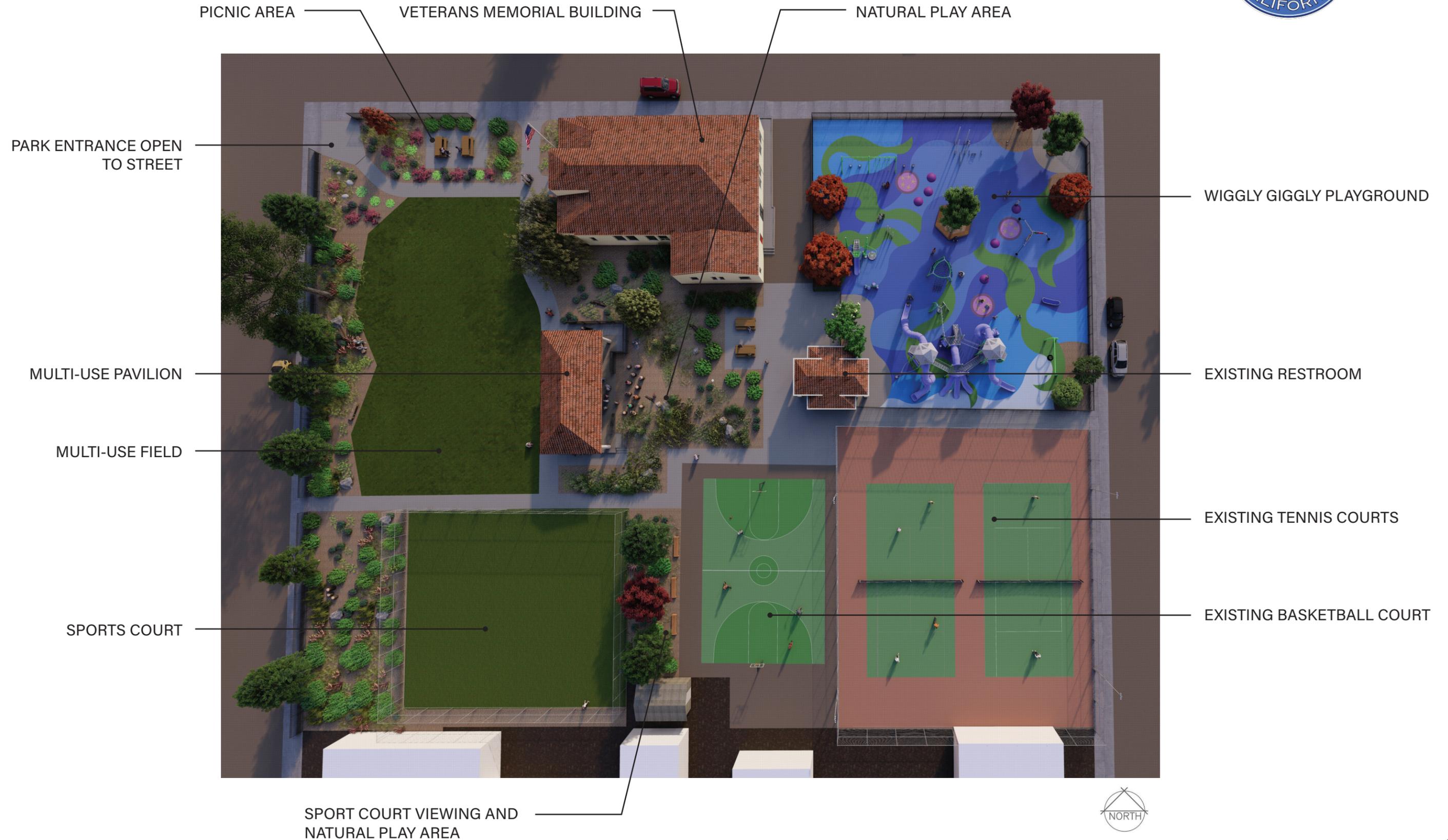
Quote is valid for 24 hours. All prices subject to change without notice. Lead time: Allow 3-4 wks for processing.
We accept Mastercard & Visa. If paying by CC a 3% cost increase on materials will be added.. All past due invoices subject to 1.5% per month service charge and/or Stop Notice. Customer Agrees to pay attorney fees and collection expense in the event of delinquent payment.
All sales are final, and product is non-returnable.
By signing this quotation, you are accepting the terms, conditions, and price set henceforth.

Date: _____
Signature of Acceptance _____

SubTotal	\$60,385.13
Sales Tax (8.88%)	\$4,513.46
Total	\$64,898.59

Phone #	E-Mail	Web Site
(877) 288-0045	info@sustainablesurfacing.com	www.sustainablesurfacing.com

BAINBRIDGE PARK



From: [Miranda Ramos](#)
To: [City Clerk](#)
Subject: Public Comment on Items 5E, 5F and 8A of 3/11/2025 Agenda
Date: Tuesday, March 11, 2025 11:35:24 AM

City Council & Staff,

I write today to express my support for the adoption of items 5E and 5F on the Consent Calendar and item 8A under Conduct of Business. The long-awaited and advocated for installation of artificial turf sport courts and other Bainbridge Park Enhancements will provide residents of Fort Bragg with more access to a "third space" where community can be strengthened through shared activities.

Thank you,
Miranda Ramos

From: [Jacob Patterson](#)
To: [City Clerk](#)
Subject: Public Comment -- 3/11/25 CC Mtg., Item Nos. 5E & 5G, Bainbridge Park Sports Court
Date: Thursday, March 6, 2025 4:05:41 PM

City Council & Staff,

I am dismayed by the consent calendar for Tuesday's special council meeting because of the two items concerning the proposed sports court component of the Bainbridge Park enhancement project. Items 5E and 5G concern the purchase of materials for the eventual sports court, but this component's design characteristics have yet to be fully approved even if the overall concept received City Council support. Numerous design issues concerning the sports court surround and artificial turf were discussed at the meeting when the Council reviewed the preliminary designs. These concerns appear to have been ignored since that meeting based on the proposed equipment that is shown in the vendors attached proposals.

These outstanding design detail issues have not been resolved or approved and yet we have consent calendar items rather than a conduct of business item that will determine those outstanding details without any discussion or approval of the details themselves. This should not occur. In the least, the Council should be presented with the options being proposed (and their alternatives) to make the ultimate decision about the as-of-yet undetermined specific design aspects of sports court.

For example, what kind of fence barrier and gate designs are involved? We discussed use and access concerns regarding the gates to the sports court but without evaluating the alternatives, how can we collectively know the selected vendor and product best addresses those concerns? Staff shouldn't be making that determination on their own outside the public process yet that is what is effectively happening through this consent calendar items that don't even have explanatory staff reports presenting the options for public scrutiny and Council decision. The choice has been made for you (and for all of us) by these items being presented as they are. In fact, if you look at the single included proposal, it doesn't resemble what was discussed before and clearly precludes use of the sports court for anything other than sports and we couldn't use them as part of a community event in the park. There are even two fields rather than one, which was proposed previously, and the courts have permanent internal dividers that break up the overall space. There are no double gates to allow for event flow, etc. This will clearly interfere with the mix of likely uses for this areas of the park but that is being ignored despite it being discussed as a concern to address during previous agenda items.

Moreover, the suggested CEQA categorical exemptions don't clearly apply to this overall project because the sports court involves artificial turf and thus the likely exposure of court users, particularly children, to turf chemicals needs to be evaluated regarding health and safety concerns due to that exposure. Instead, the City is claiming arguably inapplicable CEQA exemptions that can't apply (even if they superficially appear to relate to the project) because there are actual health and safety concerns that may very well lead to unmitigatable significant environmental impacts. (Please see prior-submitted documentation at relevant agenda items of the known health and safety risks from exposure to artificial turf.) The point isn't that we definitely have a stumbling block and concern to proceeding as proposed, the issue is that we haven't properly evaluated that concern by doing an end-run around environmental review of this City project through these categorical exemptions that only apply in general but don't apply to projects that present actual issues. (Note that the exemptions, other than existing

facilities, would likely apply to a sports court with natural turf.).

Because the City is not seeking normal planning review of this construction project, we are not even trying to address the CEQA issues that would normally be addressed through that process. Instead, we are potentially entering into contracts for project components and asserting, likely falsely, that those contracts are exempt when their review and approval has been separated from the overall project in a piecemeal fashion. You could be wasting our money and time by agreeing to buy materials that we might be required to swap out for something else as mitigation for the potentially significant impacts due to exposure to the chemicals in the specific turf that is proposed once sufficient review is complete. In short, this overall project has been troubled by procedural issues and mistakes and it appears we haven't learned anything from our earlier missteps in an apparent rush to try to get this project built this summer because staff didn't undertake a timely review of the proposed turf.

I recommend pulling the three Banbridge Park agenda items and holding an de facto conduct of business review or postponing these items to the next meeting where we can properly address the various issues through an open and transparent public process, which the community deserves.

Regards,

--Jacob

From: [Jacob Patterson](#)
To: [City Clerk](#)
Subject: Re: Public Comment -- 3/11/25 CC Mtg., Item Nos. 5E & 5G, Bainbridge Park Sports Court
Date: Thursday, March 6, 2025 4:21:13 PM

City Council & Staff,

As a follow-up to my comments about artificial turf, please review and consider the studies and concerns about the health and safety issues at the following links to the specific documents:

<https://cleanwater.org/2024/09/16/turf-artificial-harm-very-real>
<https://pmc.ncbi.nlm.nih.gov/articles/PMC10262297/> [Note: this article is from the National Institutes of Health (NIH) so not some crackpot theory.]
<https://www.beyondplastics.org/fact-sheets/synthetic-turf>
<https://www.safehealthyplayingfields.org/>

The studies describe in the above-linked documents clearly document the health and safety concerns due to exposure to the chemicals in artificial turf, including turf made from polyethylene, the material used in the "grass" yarn for the proposed turf (see <https://polyturf.com/champion-sport>).

Staff was made aware of these issues quite a while ago and had plenty of time to undertake an analysis of the health and safety impacts of exposure to polyethylene but chose not to do that and are now trying to rush you into purchasing this particular product for our new youth sports fields without adequate review and consideration of the safer alternatives. This is shameful and unacceptable, IMO.

Regards,

--Jacob

On Thu, Mar 6, 2025 at 4:05 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
City Council & Staff,

I am dismayed by the consent calendar for Tuesday's special council meeting because of the two items concerning the proposed sports court component of the Bainbridge Park enhancement project. Items 5E and 5G concern the purchase of materials for the eventual sports court, but this component's design characteristics have yet to be fully approved even if the overall concept received City Council support. Numerous design issues concerning the sports court surround and artificial turf were discussed at the meeting when the Council reviewed the preliminary designs. These concerns appear to have been ignored since that meeting based on the proposed equipment that is shown in the vendors attached proposals.

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Moreover, the suggested CEQA categorical exemptions don't clearly apply to this overall project because the sports court involves artificial turf and thus the likely exposure of court users, particularly children, to turf chemicals needs to be evaluated regarding health and safety concerns due to that exposure. Instead, the City is claiming arguably inapplicable CEQA exemptions that can't apply (even if they superficially appear to relate to the project) because there are actual health and safety concerns that may very well lead to unmitigatable significant environmental impacts. (Please see prior-submitted documentation at relevant agenda items of the known health and safety risks from exposure to artificial turf.) The point isn't that we definitely have a stumbling block and concern to proceeding as proposed, the issue is that we haven't properly evaluated that concern by doing an end-run around environmental review of this City project through these categorical exemptions that only apply in general but don't apply to projects that present actual issues. (Note that the exemptions, other than existing facilities, would likely apply to a sports court with natural turf.)

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I recommend pulling the three Banbridge Park agenda items and holding an de facto conduct of business review or postponing these items to the next meeting where we can properly address the various issues through an open and transparent public process, which the community deserves.

Regards,

| --Jacob



BAINBRIDGE PARK ENHANCEMENTS PROJECT

5V5 SOCCER COURTS

EVALUATED ALTERNATE SURFACE OPTIONS



- Concrete
- Asphalt
- Tile



USER PREFERENCE AND FUNCTIONALITY GRASS V. TURF

GRASS

Increased Person Power	Increased Maintenance Cost Over Time	Water
		Fertilizer
		Pesticides
		Gophers
		Frequent Maintenance
		Grass Reseeding

- Difficult to water in droughts
- Does not provide year-round play
 - with the local rainy season; and
 - downtime requirements for grass re-growth

TURF

- G-Max rating ~ ensuring cushion for fall protection
- Consistent, even surfaces, reducing injury risks compared to uneven grass fields
- Good drainage for year-round play (as soon as an hour after a rain event)
- Very low maintenance expectations for first 10 years.
- Meets requirements of the grant scope and the expectations of the soccer stakeholders

STAFF RESEARCH

- Scientific Literature Review
- Safer Turf Options

FBMC 3.20.060 E.

- Unsurprisingly, not all things turf are of standardized or uniform quality, and thus Council has the authority to award the contract for a purchase to the vendor that is in the best interests of the City.

Companies	Turf System	Installation Estimates	Estimated Total
Polyturf	\$65,000	\$129,000	\$194,000
XtremeTurf	\$45,000	\$40,000	\$85,000
SynLawn	\$83,000	\$225,000	\$308,000

POLYTURF

- Underlayment is poured in place (stabilized) monolithic rubber surface.
- Turf Grass used by PolyTurf is similar to the yarn used in carpets or rugs
- Durability
 - Reference check with Oakland Parks and Recreation Department
 - Polyturf Champion Sport Mini Field System was installed 14 years ago
 - 5000 students/week
 - Just now experiencing their first issues with the turf surface and Polyturf is sending them the patching package



QUESTIONS?



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 24-1091

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 8B.

Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Joint Build Agreement with California Department of Technology with City Attorney Approval as to Form



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: March 11, 2025

DEPARTMENT: Economic Development Department

PREPARED BY: Sarah McCormick, Economic Development Manager

PRESENTER: Sarah McCormick, Economic Development Manager

AGENDA TITLE: Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Joint Build Agreement with California Department of Technology with City Attorney Approval as to Form

RECOMMENDATION

Adopt City Council Resolution Authorizing City Manager to Execute Joint Build Agreement with California Department of Technology with City Attorney Approval as to Form

BACKGROUND

The California Middle Mile Broadband Initiative (MMBI) is designed to provide high-speed broadband service to unserved and underserved communities. It is the physical fiber optic infrastructure that enables internet connectivity and is made up of high-capacity fiber lines that carry large amounts of data at high speeds over long distances.

The California Department of Technology (CDT) and the Office of Broadband and Digital Literacy has been tasked to oversee the acquisition and management of contracts for the development, construction, maintenance and operation of MMBI network, retain a third-party administrator to construct and establish the network (Caltrans), and to create a nine-member Middle Mile Advisory Committee to monitor the development and construction.

The City of Fort Bragg has been actively participating in the rollout of this extraordinary investment administered by the California Public Utilities Commission (CPUC). For example, the CPUC awarded the City \$479,000 of Local Agency Technical Assistance (LATA) grant program funds to advance our desktop design and cost estimates to a project level detail. The CPUC also awarded the City \$10.3 million in Federal Funding Account (FFA) grant program funds to construct a last-mile network that will function as a municipal broadband utility.

DISCUSSION AND ANALYSIS

In May 2024, Governor Newsom proposed significant cuts to broadband expansion programs in an effort to address a budget shortfall. The proposed cuts would have removed

AGENDA ITEM NO. 3A

several segments of the MMBI network – including the portion serving the City of Fort Bragg. In response, the City offered to partner with the State to ensure our community would not miss out on this historical investment.

City staff has been meeting on a regular basis with staff from California Department of Technology (CDT) to implement a joint build. CDT is identified as the lead for the project, with Caltrans overseeing construction activities, and the City acting as a partner. Construction costs are estimated to be \$1,292,500, with the City obligated to pay our pro rata share of the actual build cost. The terms of the payment schedule have been aligned with FFA reimbursement milestones, as shown in the table below.

Invoice Event	Amount Owning*
Completion of 10 % of the Project	10% [\$129,150]
Completion of 35% of the Project	25% [\$322,875]
Completion of 60% of Project	25% [\$322,875]
Completion of 85% of Project	25% [\$322,875]
Acceptance of a Completion Notice with respect to the Joint Build	15% [\$193,725]
Total	\$1,291,500

Maintenance Fee payment amounts for each contract year:

Contract Year	Maintenance Fee
1	\$1,435.00
2	\$1,478.05
3	\$1,522.39
4	\$1,568.06
5	\$ 1,615.11
6	\$1,663.56
7	\$1,713.47
8	\$1,764.87

9	\$1,817.82
10	\$1,872.35
11	\$1,928.52
12	\$1,986.38
13	\$2,045.97
14	\$2,107.35
15	\$2,170.57
16	\$2,235.68
17	\$2,302.75
18	\$2,371.84
19	\$2,442.99
20	\$2,516.28
Total:	\$38,558.99

Anticipated construction schedule:

Construction Forecast Plan for the Fort Bragg Area	
April 2025	Begin at north end
Mid-July 2025	Finish at south end
End of August 2025	Begin all site restoration
Mid-October 2025	Finish all site restoration
October/November 2025	Begin bridge crossings
January/February 2026	Finish bridge crossings

FISCAL IMPACT/FUNDING SOURCE

The City of Fort Bragg received \$10.3 million of Federal Funding Account Program grant funds, and Congressman Huffman approved \$1 million of Community Project Funding to construct this project. Council has directed staff to utilize debt financing and unidentified

grant program awards to finance the remaining \$3.3 million needed for this capital improvement project estimated at \$14.7 million.

Staff is currently working on due diligence activities to acquire Mendocino Community Network, as well as potential debt financing strategies to close the funding gap. In addition, staff is currently preparing to apply for California Broadband Equity, Access, and Deployment (BEAD) program grant funds. The grant application window opens in March 25 and ends April 23, 2025. Nationally, the BEAD Program will provide \$42.25 billion. California has been allocated approximately \$1.86 billion, which is based on California's share of unserved locations.

In addition, California was awarded a \$70.2 million Digital Equity Capacity Grant by the National Telecommunications and Information Administration (NTIA) to support the California Digital Equity Plan. Staff is tracking digital literacy grant programs in order to implement digital inclusion activities, training programs, and to make equipment available to community members.

ENVIRONMENTAL ANALYSIS:

California Department of Technology is the lead for this project, and responsible for all permitting, environmental review and construction.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

GOAL 1: Invigorate Economic Opportunity and Community Vibrancy

1D. Develop and maintain affordable and reliable high-speed fiber-optics infrastructure to support and attract diverse businesses, online education, and remote employment that will connect Fort Bragg to the world.

- Construct, manage, and maintain a municipal broadband utility that provides citywide access to underground networks with industry-leading speeds to provide secondary communication during emergencies and support businesses.

ATTACHMENTS:

1. Resolution XXXX-2025

NOTIFICATION:

1. "Notify Me" subscriber lists: Economic Development Planning; Fort Bragg Downtown Businesses; and Blue Economy

RESOLUTION NO. -2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING CITY MANAGER TO EXECUTE JOINT BUILD AGREEMENT WITH CALIFORNIA DEPARTMENT OF TECHNOLOGY TO CO-LOCATE MUNICIPAL BROADBAND UTILITY PROJECT (PWP-00130) INFRASTRUCTURE AND CALIFORNIA MIDDLE MILE BROADBAND INITIATIVE INFRASTRUCTURE, WITH CITY ATTORNEY APPROVAL AS TO FORM

WHEREAS, the California Middle Mile Initiative (MMBI) is designed to provide high speed broadband infrastructure to unserved and underserved communities, such as Fort Bragg; and

WHEREAS, due to budget deficits, significant cuts were proposed to the MMBI that would have removed the segment serving Fort Bragg; and

WHEREAS, the City offered to partner with the State to ensure the Fort Bragg community would benefit from the historic broadband investment of MMBI infrastructure; and

WHEREAS, the proposed agreement was drafted to co-locate the City's last-mile infrastructure with the State of California's middle-mile infrastructure; and

WHEREAS, California Department of Technology is identified as the lead for the project, with Caltrans managing construction activities, and the City acting as a fiscal partner to pay our pro rata share of costs; and

WHEREAS, Federal Funding Account grant program funds in the amount of \$10,300,000 were awarded to the City by the California Public Utilities Commission for the Municipal Broadband Utility Project; and

WHEREAS, Council directed staff to apply for additional grants and pursue debt financing strategy to fund the remaining of this capital improvement project that is currently estimated to be \$17.2 million.

NOW, THEREFORE, BE IT RESOLVED that the Recitals set forth above are true and correct and are incorporated herein as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED that City Council of the City of Fort Bragg does hereby authorize City Manager to execute Joint Build Agreement with California Department of Technology to co-locate Municipal Broadband Utility Project (PWP-00130) infrastructure with MMBI infrastructure, subject to City Attorney Approval as to Form

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-29

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 8C.

Receive Report and Consider Adopting City Council Resolution Approving OMNIA Partners Cooperative Purchasing Agreement for Municipal Broadband Utility Project, Public Works Project No. 130, Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,190,313.31) Following City Attorney Approval As To Form, and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: March 11, 2025

DEPARTMENT: Economic Development Department

PREPARED BY: Sarah McCormick, Economic Development Manager

PRESENTER: Sarah McCormick, Economic Development Manager

AGENDA TITLE: Receive Report and Consider Approving City Council Resolution Approving OMNIA Partners Cooperative Purchasing Agreement for Municipal Broadband Utility Project, PWP-000130, Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,190,313.31); and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c), 15304(f)

RECOMMENDATION

Adopt City Council Resolution Approving OMNIA Partners Cooperative Purchasing Agreement for Municipal Broadband Utility Project, Public Works Project No. 130, Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,190,313.31), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c), 15304(f)

BACKGROUND

Broadband deployment is a cornerstone initiative aimed at invigorating economic opportunity, fostering community vibrancy, and bridging the digital divide in Fort Bragg. The project prioritizes the development of affordable, reliable high-speed fiber-optic infrastructure to enhance existing businesses, attract a diversity of new businesses, support online education and healthcare, enable remote work, and connect Fort Bragg globally.

The City's network includes a centralized data center at C.V. Starr equipped with core-routing, firewall, maintenance switches, and Optical Line Terminal (OLT) equipment. This data hub connects to fifteen (15) Distribution Areas (DAs), which aggregate fiber locations and distribute connectivity via underground conduit and fiber. From each DA, fiber cable extends to local service terminals (flowerpots), with final underground drops installed upon service requests, ensuring flexibility and responsiveness to user needs.

The City's last-mile network will connect to the California Middle Mile Initiative, enhancing reliability and redundancy while also ensuring all residents and businesses have access to industry leading speeds.

AGENDA ITEM NO. 8B

DISCUSSION AND ANALYSIS

The construction window for the Municipal Broadband Utility Project is constrained due to the use of American Rescue Plan Act (ARPA) funds that expire in December 2026. Given the short construction window and supply chain timelines, California Public Utility Commission (CPUC) staff recommended the City purchase major construction materials, so that when a Contractor is secured, work can immediately commence.

Fort Bragg Municipal Code (FBMC) Section 3.20.030 (F) allows for exemptions to the City's standard purchasing procedures if:

Contracts for which other public agencies have gone through a competitive bidding process and are able to have the bid prices they received extended to the City. These "cooperative purchasing" or "piggyback purchasing" agreements (including, but not limited to, CCOP State Department of General Services, U.S. General Services Administration, any county, and state cooperative purchasing pools) in which the City is eligible to participate may be used in lieu of any bidding requirement under this chapter.

Graybar Industries is a leading distributor of data communication products, an MMBI logistics provider, and is part of the OMNIA Public Sector Program. OMNIA is the largest cooperative purchasing organization dedicated to public sector procurement. Contracts available through OMNIA provide a mechanism to reduce procurement time, while also ensuring consistent and competitive pricing.

Graybar has a 26-year history with OMNIA as a supplier for Communication/Data needs. The lead public agency the City would be piggybacking from is the City of Kansas City, Missouri – Contract No. EV2370. Please see attached quote for product details and costs (Att. 2 – Graybar Quote).

FISCAL IMPACT/FUNDING SOURCE

The City of Fort Bragg received \$10.3 million of Federal Funding Account Program grant funds, and Congressman Huffman approved \$1 million of Community Project Funding to construct this project. Council has directed staff to utilize debt financing and unidentified grant program awards to finance the remaining funds needed for this capital improvement project originally estimated at \$14.7 million. **UPDATE: Project costs have increased 17%, for a total estimated cost of \$17.2 million.**

Staff is currently working on due diligence activities to acquire Mendocino Community Network, as well as potential debt financing strategies to close the funding gap. In addition, staff is currently preparing to apply for California Broadband Equity, Access, and Deployment (BEAD) program grant funds. The grant application window opens in March 25 and ends April 23, 2025. Nationally, the BEAD Program will provide \$42.25 billion. California has been allocated approximately \$1.86 billion, which is based on California's share of unserved locations.

In addition, California was awarded a \$70.2 million Digital Equity Capacity Grant by the National Telecommunications and Information Administration (NTIA) to support the California Digital Equity Plan. Staff is tracking digital literacy grant programs in order to

implement digital inclusion activities, training programs, and to make equipment available to community members.

ENVIRONMENTAL ANALYSIS:

The City determined the Municipal Broadband Utility Project is exempt under the following California Environmental Quality Act (CEQA) Section(s):

Class 1: CEQA Section 15301 provides examples of existing facilities including (b) existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services". The proposed project is a public utility service – one of three public utilities provided by the City of Fort Bragg (water, wastewater, broadband).

Class 2: Should replacement or reconstruction of water and/or wastewater utilities be necessary, CEQA Guidelines Section 15302(c) allows for the such work so long as work involves negligible or no expansion of capacity.

Class 4: The primary construction method involves Horizontal Directional Drilling with little impact to street, alley and sidewalk surfaces. Any damaged surfaces will be restored to condition existing prior to the undergrounding. Should minor trenching and backfill be necessary, Section 15304 exempts minor alterations to land including subsection (f) "minor trenching and backfilling where the surface is restored".

CEQA Section 15300.2 contains exceptions to Categorical Exemptions, none of which apply to this project because:

- a) the project location is within a previously disturbed area (existing street/alley/sidewalk), NOT within a particularly sensitive environment;
- b) the project has a single scope and contains design considerations to accommodate future unknown needs that will avoid cumulative impacts to street infrastructure and traffic;
- c) the project involves minor alterations to existing streets, alleys, and sidewalks within existing right-of-way, and within existing disturbed areas;
- d) the project is not occurring within an officially designated state scenic highway;
- e) the project will not be deployed on a hazardous waste site. Should the project expand to the former Mill Site, appropriate steps will be taken to ensure authorization and compliance with Department of Toxic Substance Control and Coastal Act requirements.
- f) the proposed project will be underground and not cause substantial adverse change in the significance of historical resources. The City coordinates with Sherwood Valley Band of Pomo Indians to ensure tribal monitoring during ground disturbing activities.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

GOAL 1: Invigorate Economic Opportunity and Community Vibrancy

1D. Develop and maintain affordable and reliable high-speed fiber-optics infrastructure to support and attract diverse businesses, online education, and remote employment that will connect Fort Bragg to the world.

- Construct, manage, and maintain a municipal broadband utility that provides citywide access to underground networks with industry-leading speeds to provide secondary communication during emergencies and support businesses.

ATTACHMENTS:

1. Resolution XXXX-2025
2. Graybar Quote

NOTIFICATION:

1. "Notify Me" subscriber lists: Economic Development Planning; Fort Bragg Downtown Businesses; and Blue Economy
2. Sergio Velasquez, OMNIA Partners Public Sector
3. Chris Alben, Graybar Representative

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE PURCHASE OF MAJOR CONSTRUCTION MATERIALS FOR THE MUNICIPAL BROADBAND PROJECT, PWP-00130, THROUGH OMNI PARTNER COOPERATIVE AGREEMENT AND AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AGREEMENT (AMOUNT NOT TO EXCEED \$1,190,313.31)

WHEREAS, the construction window for the Municipal Broadband Utility Project is constrained due to use of American Rescue Act Plan (ARPA) funds that expire in December 2026; and

WHEREAS, the short construction window is further complicated with supply chain timelines; and

WHEREAS, the California Public Utility Commission staff recommends the City purchase major construction materials so that work can commence efficiently; and

WHEREAS, Fort Bragg Municipal Code (FBMC) Section 3.20.030 (F) allows for the use of cooperative purchasing in lieu of any bidding requirement; and

WHEREAS, Graybar Industries is a leading distributor of data communication products and part of the OMNIA Public Sector Program, which is the largest cooperative purchasing organization dedicated to public sector procurement; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The purchase of major construction materials is necessary to complete the Municipal Broadband Utility Project under timeline of Federal Funding Account (FFA) grant program timeline.
2. The City received \$10.3 million of FFA grant funds and staff is actively seeking grants and debt financing strategies to close the funding gap of this \$17.2 million capital improvement.

NOW, THEREFORE, BE IT RESOLVED that the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Section 15301(d), 15303, 15304, and 15332; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the quote for the purchase of major construction materials through OMNIA Partners purchasing agreement for the Municipal Broadband Utility Project PWP-00130, and authorize the City Manager to execute the purchase agreement (Amount Not to Exceed \$1,190,313.31).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

**AYES:
NOES:
ABSENT:**

**ABSTAIN:
RECUSED:**

**Jason Godeke
Mayor**

ATTEST:

**Diana Paoli
City Clerk**



Date: 2/24/2025
Quote Prepared For: Sarah McCormick
Company Name: City of Ft Bragg
Company Address: 416 North Franklin Street
Fort Bragg, CA 95437

Fort Bragg FTTH									
Manufacturer	Part #	Description	Qty	Unit Price	UOM	Line Total	Availability	Notes	
OFS	AT-3CE833X-012	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 12F	153000	\$0.30	ft	\$45,900.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE833X-024	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 24F	48500	\$0.35	ft	\$16,975.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE833X-048	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 48F	11500	\$0.46	ft	\$5,290.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE833X-072	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 72F	3500	\$0.58	ft	\$2,030.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE833X-096	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 96F	6500	\$0.69	ft	\$4,485.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE843X-288	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 288F	11800	\$1.56	ft	\$18,408.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
OFS	AT-3CE843X-432	Fiber optic cable, Ribbon, Non-Armored, Gel-Free, 432F	3200	\$2.30	ft	\$7,360.00	10-12 weeks ARO	Non-Cancellable / Non-Returnable	
DuraLine	2044542610	HDPE Conduit, 1-1/4", SDR 11, w/ 18awg tracer wire, 6,950ft per reel	90300	\$0.36	ft	\$32,526.00	3-4 weeks ARO	Non-Cancellable / Non-Returnable	
DuraLine	2044542620	HDPE Conduit, 2", SDR 11 w/ 18awg tracer wire, 3,000ft per reel	141000	\$0.79	ft	\$111,390.00	3-4 weeks ARO	Non-Cancellable / Non-Returnable	
Generic	PVC-80-2	PVC Conduit, 4", Schedule 80, 10ft Stick	250	\$2.10	ft	\$525.00	Graybar Stock		
Jensen	200093596	Handholes (Polymer Concrete) (17 x 30 x 24) Tier 22, Lid Text "FB FIBER"	489	\$321.00	ea	\$156,969.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	100027294	Handhole, Concrete, 17x30x12 w/ 17x30x12 Extension, Traffic rated steel lid	264	\$291.00	ea	\$76,824.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	100002053	17x30x12 Concrete Extension	264	\$125.00	ea	\$33,000.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	200071390	17x30 Steel lid, Galvanized, "FB FIBER" Name plate	264	\$411.00	ea	\$108,504.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	200070124	Handholes (Polymer Concrete) (24x36x24) Tier 22, Lid Text "FB FIBER"	44	\$689.00	ea	\$30,316.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	100002059	Handhole, Concrete, 24x36x12 w/ 24x36x12 Extension, Traffic rated 2pc steel lid	15	\$352.00	ea	\$5,280.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	100002060	24x36x12 Concrete Extension	15	\$172.00	ea	\$2,580.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Jensen	200078830	24x36 Steel lid, 2pc, Galvanized, "FB FIBER" Name plate	15	\$831.00	ea	\$12,465.00	Starting in 4-5 weeks	Non-Cancellable / Non-Returnable	
Old Castle	30601004	Handholes (Polymer Concrete) (30 x 60 x 30), Tier 22, Lid Text "FB FIBER"	17	\$1,375.00	ea	\$23,375.00	3-4 weeks ARO	Non-Cancellable / Non-Returnable	
Old Castle	12121270	Handhole, (Polymer) (12x12x12) Tier 22, Lid Text "FB FIBER"	549	\$155.00	ea	\$85,095.00	2-3 weeks ARO	Non-Cancellable / Non-Returnable	
Old Castle	12121270	Handhole, (Polymer) (12x12x12) Tier 22, Lid Text "FB FIBER"	244	\$155.00	ea	\$37,820.00	2-3 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	058514-000	FOSC 450B, 6 entry ports, 6 cable attachments, no splice trays, B6 standard slack basket, 3 gnd lugs	41	\$242.00	ea	\$9,922.00	Graybar Stock	058514-000 FOSC450-B6-6-NT-0-B3V CommScope	
Commscope	709972-000	FOSC™ B Ribbon Fiber Tray	41	\$25.00	ea	\$1,025.00	Graybar Stock	709972-000 FOSC-ACC-A/B-TRAY-12-RBN CommScope	
Commscope	757849-000	SMOUV Fiber Optic Splice Heat Shrink Protective Sleeve for 12 Fiber ribbons - 50 per pack	1700	\$0.95	ea	\$1,615.00	Graybar Stock	757849-000 SMOUV-1120-R1/12-02 CommScope	
Commscope	931866-000	FOSC 450D, 6 entry ports, 6 cable attachments, no splice trays, D6 standard slack basket, 6 gnd lugs	1	\$360.00	ea	\$360.00	Graybar Stock	931866-000 FOSC450-D6-6-NT-0-D6V CommScope	
Commscope	061064-000	FOSC™ D Ribbon Fiber Tray	2	\$39.00	ea	\$78.00	Graybar Stock	061064-000 FOSC-ACC-D-TRAY-RIBN-24 CommScope	
Commscope	MHD-MODA-0025F	Hardened Multifiber Optical Connector (HMFOC) cable assembly, HMFOC jack to stub, 12-fiber, 25 feet	15	\$101.00	ea	\$1,515.00	8-10 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	CC9545-000	Wideband Splitter, planar, singlemode, 1 x 4, symmetrical split ratio	131	\$31.70	ea	\$4,152.70	Factory Stock	GBID 25691236	
Commscope	HXT-BAAEA0100FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 100 ft/30 m HMFOC Plug (female/no pin) tail, with mounting bracket	9	\$450.00	ea	\$4,050.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA0250FU000	NOVUX™ Prodigy™ Hardened indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 250 ft/76 m HMFOC Plug (female/no pin) tail, with mounting bracket	209	\$477.00	ea	\$99,693.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA0500FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 500 ft/76 m HMFOC Plug (female/no pin) tail, with mounting bracket	194	\$530.00	ea	\$102,820.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA0750FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 750 ft/76 m HMFOC Plug (female/no pin) tail, with mounting bracket	46	\$573.00	ea	\$26,358.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA01000FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 1,000 ft HMFOC Plug (female/no pin) tail, with mounting bracket	14	\$623.00	ea	\$8,722.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA01500FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 1,500 ft HMFOC Plug (female/no pin) tail, with mounting bracket	7	\$712.00	ea	\$4,984.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	
Commscope	HXT-BAAEA02000FU000	NOVUX™ Prodigy™ Hardened Indexing Terminal, Prodigy Adapter ports, 12F, 1:8 Splitter, 1 Forward port, 1 Reverse port, Dielectric flat loose tube, 2,000 ft HMFOC Plug (female/no pin) tail, with mounting bracket	2	\$819.00	ea	\$1,638.00	6-8 weeks ARO	Non-Cancellable / Non-Returnable	

Subtotal	\$1,084,049.70
Est Shipping	\$10,000
Est Tax (8.88%)	\$96,263.61
Grand Total	\$1,190,313.31



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-40

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 8D.

Receive Report and Consider Adopting City Council Resolution Approving Professional Services Agreement with GHD to Provide Construction Management Services for the Municipal Broadband Project, Public Works Project No. 130, Authorizing City Manager to Execute Contract (Amount Not To Exceed \$1,449,466.60), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: March 10, 2025

DEPARTMENT: Economic Development Department

PREPARED BY: Sarah McCormick, Economic Development Manager

PRESENTER: Sarah McCormick, Economic Development Manager

AGENDA TITLE: Receive Report and Consider Adoption of City Council Resolution Approving Contract with GHD, for Construction Management Services (PWP-00130), Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,449,466.60), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c), 15304(f).

RECOMMENDATION

Adopt of City Council Resolution Approving Contract with GHD, for Construction Management Services (PWP-00130), Authorizing City Manager to Execute Contract (Amount Not to Exceed \$1,449,466.60), and Finding the Project Exempt from CEQA under CCR 15301(b), 15302(c), 15304(f).

BACKGROUND

Broadband deployment is a cornerstone initiative aimed at invigorating economic opportunity, fostering community vibrancy, and bridging the digital divide in Fort Bragg. The project prioritizes the development of affordable, reliable high-speed fiber-optic infrastructure to enhance existing businesses, attract a diversity of new businesses, support online education and healthcare, enable remote work, and connect Fort Bragg globally.

The City's network includes a centralized data center at C.V. Starr equipped with core-routing, firewall, maintenance switches, and Optical Line Terminal (OLT) equipment. This data hub connects to fifteen (15) Distribution Areas (DAs), which aggregate fiber locations and distribute connectivity via underground conduit and fiber. From each DA, fiber cable extends to local service terminals (flowerpots), with final underground drops installed upon service requests, ensuring flexibility and responsiveness to user needs.

The City's last-mile network will connect to the California Middle Mile Initiative, enhancing reliability and redundancy while also ensuring all residents and businesses have access to industry leading speeds.

DISCUSSION AND ANALYSIS

The City released a Request for Proposals to solicit proposals from qualified firms interested in providing construction management services for the City's Municipal Broadband Utility

AGENDA ITEM NO. 8C

Project. The City received three (3) timely proposals. Two of the proposals were considered responsive. The proposal from GHD is for an amount not to exceed \$1,449,466.60. The proposal received from EN Engineering, LLC totaled \$2,172,365. Staff recommendation is to award GHD the Construction Management Contract.

FISCAL IMPACT/FUNDING SOURCE

The City of Fort Bragg received \$10.3 million of Federal Funding Account Program grant funds, and Congressman Huffman approved \$1 million of Community Project Funding to construct this project. Council has directed staff to utilize debt financing and unidentified grant program awards to finance the remaining funds needed for this capital improvement project originally estimated at \$14.7 million. **UPDATE: Project costs have increased 17%, for a total estimated cost of \$17.2 million.**

Staff is currently working on due diligence activities to acquire Mendocino Community Network, as well as potential debt financing strategies to close the funding gap. In addition, staff is currently preparing to apply for California Broadband Equity, Access, and Deployment (BEAD) program grant funds. The grant application window opens in March 25 and ends April 23, 2025. Nationally, the BEAD Program will provide \$42.25 billion. California has been allocated approximately \$1.86 billion, which is based on California's share of unserved locations.

In addition, California was awarded a \$70.2 million Digital Equity Capacity Grant by the National Telecommunications and Information Administration (NTIA) to support the California Digital Equity Plan. Staff is tracking digital literacy grant programs in order to implement digital inclusion activities, training programs, and to make equipment available to community members.

ENVIRONMENTAL ANALYSIS:

The City determined the Municipal Broadband Utility Project is exempt under the following California Environmental Quality Act (CEQA) Section(s):

Class 1: CEQA Section 15301 provides examples of existing facilities including (b) existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services". The proposed project is a public utility service – one of three public utilities provided by the City of Fort Bragg (water, wastewater, broadband).

Class 2: Should replacement or reconstruction of water and/or wastewater utilities be necessary, CEQA Guidelines Section 15302(c) allows for the such work so long as work involves negligible or no expansion of capacity.

Class 4: The primary construction method involves Horizontal Directional Drilling with little impact to street, alley and sidewalk surfaces. Any damaged surfaces will be restored to condition existing prior to the undergrounding. Should minor trenching and backfill be

necessary, Section 15304 exempts minor alterations to land including subsection (f) "minor trenching and backfilling where the surface is restored".

CEQA Section 15300.2 contains exceptions to Categorical Exemptions, none of which apply to this project because:

- a) the project location is within a previously disturbed area (existing street/alley/sidewalk), NOT within a particularly sensitive environment;
- b) the project has a single scope and contains design considerations to accommodate future unknown needs that will avoid cumulative impacts to street infrastructure and traffic;
- c) the project involves minor alterations to existing streets, alleys, and sidewalks within existing right-of-way, and within existing disturbed areas;
- d) the project is not occurring within an officially designated state scenic highway;
- e) the project will not be deployed on a hazardous waste site. Should the project expand to the former Mill Site, appropriate steps will be taken to ensure authorization and compliance with Department of Toxic Substance Control and Coastal Act requirements.
- f) the proposed project will be underground and not cause substantial adverse change in the significance of historical resources. The City coordinates with Sherwood Valley Band of Pomo Indians to ensure tribal monitoring during ground disturbing activities.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

GOAL 1: Invigorate Economic Opportunity and Community Vibrancy

1D. Develop and maintain affordable and reliable high-speed fiber-optics infrastructure to support and attract diverse businesses, online education, and remote employment that will connect Fort Bragg to the world.

- Construct, manage, and maintain a municipal broadband utility that provides citywide access to underground networks with industry-leading speeds to provide secondary communications during emergencies and support businesses.

COMMUNITY OUTREACH

Action will be taken to ensure the community is aware of construction activities. This will be accomplished with press releases, social media, utility bill inserts, door hangers, announcements at public meetings, posters, and signage.

ATTACHMENTS:

1. Resolution XXXX-2025
2. Agreement

NOTIFICATION:

1. "Notify Me" subscriber lists: Economic Development Planning; Fort Bragg Downtown Businesses; and Blue Economy
2. Tim Dillenburg, GHD Construction Manager

RESOLUTION NO. -2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING PROFESSIONAL SERVICES AGREEMENT WITH GHD TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE MUNICIPAL BROADBAND UTILITY PROJECT (PWP-00130), AND AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT (AMOUNT NOT TO EXCEED \$1,449,466.60)

WHEREAS, the City of Fort Bragg released a request for proposals on December 18, 2024, seeking qualified firms interested in contracting with the City of Fort Bragg to provide construction management services for the Municipal Broadband Utility Project (“Project”); and

WHEREAS, the City received three (3) proposals were received of which two (2) were considered responsive: 1) GHD with an amount not to exceed \$1,449,466.60; and 2) EN Engineering, LLC for an amount not to exceed \$2,172,365; and

WHEREAS, staff reviewed and interviewed firms and has the proper license and experience and meets the necessary requirements to complete the Project as bid; and

WHEREAS, staff recommends selecting GHD as best suited firm to perform construction management services for this Project; and

WHEREAS, grant funding in the amount of \$10,300,000 was awarded by the California Public Utilities Commission for this project; and

WHEREAS, Council directed staff to apply for additional grants and pursue debt financing strategy to fund the remaining of this capital improvement project that is currently estimated to be \$17.2 million; and

WHEREAS, the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Sections: 15301(b) because the Project is a public utility service – one of three public utilities provided by the City of Fort Bragg; 153302(c) because if replacement or reconstruction of water/sewer utilities are necessary there will be no expansion of capacity; and 15304(f) because the primary construction method is undergrounding utilizing horizontal directional drill boring to lessen impacts; and

NOW, THEREFORE, BE IT RESOLVED that the Recitals set forth above are true and correct and are incorporated herein as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED that City Council of the City of Fort Bragg does hereby approve Professional Services Agreement with GHD to provide construction management services for the Municipal Broadband Utility Project (PWP-00130), and authorizes the City Manager to execute contract (amount not to exceed \$1,449,466.60).

The above and foregoing Resolution was introduced by Councilmember _____ , seconded by Councilmember _____ , and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

AYES:

**NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**Jason Godeke
Mayor**

ATTEST:

**Diana Paoli
City Clerk**

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH
GHD Inc.**

THIS AGREEMENT is made and entered into this day of March, 2025 (“Effective Date”), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and GHD Inc., 2235 Mercury Way, Suite 150 Santa Rosa, CA 95407 (“Consultant”).

W I T N E S S E T H :

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide Project Management and Construction Management Services for the Municipal Broadband Utility Project, as more fully described herein; and

B. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

C. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

D. WHEREAS, the legislative body of the City on March 10, 2025 by Resolution No. authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Work. Consultant shall provide the professional services described in the Consultant’s Proposal (“Proposal”), attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times

observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City as hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability except as permitted pursuant to Section 12940 of the Government Code. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability. Consultant shall cause the paragraphs contained in this Section

to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense. All insurance requirements contained in this Agreement are independently applicable to any and all subcontractors that Consultant may engage during the term of this Agreement.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION, BILLING AND PREVAILING WAGES

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in **Exhibit A**, for a total amount not to exceed One Million Four Hundred Forty Nine Thousand Four Hundred Sixty Six Dollars and Sixty Cents (\$ 1,449,466.60).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but not more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction.

City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the date of final payment.

2.5 Prevailing Wage Requirements In accordance with California Labor Code Section 1720, this project is subject to prevailing wage compliance monitoring and enforcement by the Department of Industrial Regulation. The Consultant and subcontractors engaged in performance of the Work must comply with Labor Code Section 1771.1.

(a) Payment of Prevailing Wages: In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Work is to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the Public Works Department and shall be made available on request. The Consultant and subcontractors engaged in the performance of the Work shall pay no less than these rates to all persons engaged in performance of the Work.

(b) Legal Working Days: In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the Work is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.

(c) Payroll Records: Pursuant to Labor Code Section 1776, Consultant and any subcontractor(s) shall 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 by Consultant or any subcontractor in connection with this Agreement. Each payroll record shall 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) The employer has complied with the requirements of Sections 1771, 1881, and 1815 of the Labor Code for any work performed by his or her employees on this Project. The payroll records shall be certified and shall be available for inspection at all reasonable hours in accordance with the

requirements of Labor Code Section 1776. Consultant shall also furnish each week to CITY's Project Administration Division a statement with respect to the wages of each of its employees during the preceding weekly payroll period.

(d) Registration with DIR: Consultant and any subcontractor(s) of Consultant shall comply with the provisions of Labor Code Section 1771 and Labor Code Section 1725.5 requiring registration with the DIR.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the issuance of Notice to Proceed. Said services shall be performed in strict compliance with the schedule set forth in the Scope of Work attached hereto as **Exhibit A**. Consultant will complete the services in accordance with this Agreement by June 30, 2026. The Time of Completion may only be modified by a written amendment of the Agreement signed by both the City and the Consultant and in accordance with its terms.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and expire on September 30, 2026 unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this

Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

The City shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination within thirty-five (35) days after service of the notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant. City shall not be liable for any claim of lost profits.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following

minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Broad-form commercial general liability, in a form at least as broad as ISO form #CG 20 01 04 13, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate, combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit. If Consultant maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the high limits maintained by the Consultant.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, each incident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident for any employee or employees of Consultant. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Before execution of this Agreement by the City, the Consultant shall file with the City Clerk the following signed certification:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City Clerk before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law

or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions (“E&O”) liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. Architects’ and engineers’ coverage shall be endorsed to include contractual liability. If the policy is written as a “claims made” policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

Neither the City nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by Consultant under this Agreement are adequate to protect Consultant. If Consultant believes that any such insurance coverage is insufficient, Consultant shall provide, at its own expense, such additional insurance as Consultant deems adequate.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant’s sole cost and expense."
- (c) Other insurance: "The Consultant’s insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."

- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance and endorsements shall be attached hereto as **Exhibit B** and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The Project Manager designated to work directly with Consultant in the performance of this Agreement will be John Smith. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision,

which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates Tim Dillenburg as its Project Manager, who shall represent it and be its agent in all consultations with City during the term of this Agreement and who shall not be changed by Consultant without the express written approval by the City. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or if mailed, shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Tel: _____
Fax: _____

IF TO CITY:
City Clerk
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
Tel: 707-961-2823
Fax: 707-961-2802

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless.

If Consultant is not a design professional performing “design professional” services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant’s sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City’s specifications or Consultant’s Proposal, which shall be of no force and effect.

If Consultant is a design professional performing “design professional” services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant’s sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City’s specifications or Consultant’s Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social

Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City, but shall be made available to the City within ten (10) days of request or within ten (10) days of termination. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information,

data, preliminary notes and working documents, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 7920.000 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 7924.510, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved

by giving precedence in the following order, if applicable: This Agreement, the City's Request for Proposals, the Consultant's Proposal.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraph and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.27. Use of Recycled Paper Products. In the performance of this Agreement, Consultant shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

CONSULTANT

By: _____

Isaac Whippy

Its: City Manager

By: _____

Its: _____

ATTEST:

By: _____

Diana Sanchez

City Clerk

APPROVED AS TO FORM:

By: _____

Baron J. Bettenhausen

City Attorney

EXHIBIT A

CONSULTANT'S PROPOSAL

(Scope of Work, Fee Schedule and Time Table)

EXHIBIT B
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-43

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 8E.

Adopt City Council Resolution Awarding Construction of Municipal Broadband Project, Public Works Project No.130, to HP Communications as the Lowest Responsive Bidder and Authorizing City Manager to Execute Contract Following City Attorney Approval As To Form (Amount Not To Exceed \$9,966,164.75), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c) and 15304(f)



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: March 11, 2025

DEPARTMENT: Economic Development Department

PREPARED BY: Sarah McCormick, Economic Development Manager

PRESENTER: Sarah McCormick, Economic Development Manager

AGENDA TITLE: Receive Report and Consider Adoption of City Council Resolution Awarding Construction of Municipal Broadband Utility Project (PWP-00130) to HP Communications, Inc, as the Lowest Responsible Bidder, Authorizing City Manager to Execute Contract Following City Attorney Approval As To Form (Amount Not To Exceed \$9,996,165.75), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c), 15304(f)

RECOMMENDATION

Adopt City Council Resolution Awarding Construction of Municipal Broadband Utility Project (PWP-00130) to HP Communications Inc., as the Lowest Responsible Bidder and Authorizing City Manager to Execute Contract Following City Attorney Approval As To Form (Amount Not To Exceed \$9,996,165.75), and Finding the Project Exempt from CEQA under 14 CCR 15301(b), 15302(c), 15304(f).

BACKGROUND

Broadband deployment is a cornerstone initiative aimed at invigorating economic opportunity, fostering community vibrancy, and bridging the digital divide in Fort Bragg. The project prioritizes the development of affordable, reliable high-speed fiber-optic infrastructure to enhance existing businesses, attract a diversity of new businesses, support online education and healthcare, enable remote work, and connect Fort Bragg globally.

Project construction includes the underground installation of digital infrastructure utilizing horizontal directional drill boring within existing right of way. Conduit and fiber will be placed under sidewalks and alleyways. Vaults, handholes, and flower pots will be installed flush to surfaces.

The network includes a centralized data center at C.V. Starr equipped with core-routing, firewall, maintenance switches, and Optical Line Terminal (OLT) equipment. This data hub connects to fifteen (15) Distribution Areas (DAs), which aggregate fiber locations and distribute connectivity via underground conduit and fiber. From each DA, fiber cable extends

AGENDA ITEM NO. 8D

to local service terminals (flowerpots), with final underground drops installed upon service requests, ensuring flexibility and responsiveness to user needs.

The City's last-mile network will connect to the California Middle Mile Initiative, enhancing reliability and redundancy while also ensuring all residents and businesses have access to industry leading speeds.

DISCUSSION AND ANALYSIS

Bids to construct the Municipal Broadband Utility Project were opened on Thursday, February 27, 2025, at 2:00 PM. One timely bid was received from HP Communications, Inc. for a total of \$9,996,164.75. The bid received is considered responsive and responsible. Staff recommendation is to accept the proposal by HP Communications, Inc.

FISCAL IMPACT/FUNDING SOURCE

The City of Fort Bragg received \$10.3 million of Federal Funding Account Program grant funds, and Congressman Huffman approved \$1 million of Community Project Funding to construct this project. Council has directed staff to utilize debt financing and unidentified grant program awards to finance the remaining funds needed for this capital improvement project originally estimated at \$14.7 million. **UPDATE: Project costs have increased 17%, for a total estimated cost of \$17.2 million.**

Staff is currently working on due diligence activities to acquire Mendocino Community Network, as well as potential debt financing strategies to close the funding gap. In addition, staff is preparing to apply for California Broadband Equity, Access, and Deployment (BEAD) program grant funds. The grant application window opens on March 25 and ends on April 23, 2025. Nationally, the BEAD Program will provide \$42.25 billion. California has been allocated approximately \$1.86 billion, which is based on California's share of unserved locations.

In addition, California was awarded a \$70.2 million Digital Equity Capacity Grant by the National Telecommunications and Information Administration (NTIA) to support the California Digital Equity Plan. Staff is tracking digital literacy grant programs in order to bring digital inclusion activities, and training programs, and make equipment available to community members.

ENVIRONMENTAL ANALYSIS:

The City determined the Municipal Broadband Utility Project is exempt under the following California Environmental Quality Act (CEQA) Section(s):

Class 1: CEQA Section 15301 provides examples of existing facilities including (b) existing facilities of both investor and publicly-owned utilities to provide electric power, natural gas, sewerage, or other public utility services". The proposed project is a public utility service – one of three public utilities provided by the City of Fort Bragg (water, wastewater, broadband).

Class 2: Should replacement or reconstruction of water and/or wastewater utilities be necessary, CEQA Guidelines Section 15302(c) allows for the such work so long as work involves negligible or no expansion of capacity.

Class 4: The primary construction method involves Horizontal Directional Drilling with little impact to street, alley and sidewalk surfaces. Any damaged surfaces will be restored to condition existing prior to the undergrounding. Should minor trenching and backfill be necessary, Section 15304 exempts minor alterations to land including subsection (f) "minor trenching and backfilling where the surface is restored".

CEQA Section 15300.2 contains exceptions to Categorical Exemptions, none of which apply to this project because:

- a) the project location is within a previously disturbed area (existing street/alley/sidewalk), NOT within a particularly sensitive environment;
- b) the project has a single scope and contains design considerations to accommodate future unknown needs that will avoid cumulative impacts to street infrastructure and traffic;
- c) the project involves minor alterations to existing streets, alleys, and sidewalks within existing right-of-way, and within existing disturbed areas;
- d) the project is not occurring within an officially designated state scenic highway;
- e) the project will not be deployed on a hazardous waste site. Should the project expand to the former Mill Site, appropriate steps will be taken to ensure authorization and compliance with Department of Toxic Substance Control and Coastal Act requirements.
- f) the proposed project will be underground and not cause substantial adverse change in the significance of historical resources. The City coordinates with Sherwood Valley Band of Pomo Indians to ensure tribal monitoring during ground disturbing activities.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

GOAL 1: Invigorate Economic Opportunity and Community Vibrancy

1D. Develop and maintain affordable and reliable high-speed fiber-optics infrastructure to support and attract diverse businesses, online education, and remote employment that will connect Fort Bragg to the world.

- Construct, manage, and maintain a municipal broadband utility that provides citywide access to underground networks with industry-leading speeds to provide secondary communications during emergencies and support businesses.

COMMUNITY OUTREACH

Action will be taken to ensure the community is aware of construction activities. This will be accomplished with press releases, social media, utility bill inserts, door hangers, announcements at public meetings, posters, and signage.

ATTACHMENTS:

1. Resolution XXXX-2025
2. Agreement

NOTIFICATION:

1. "Notify Me" subscriber lists: Economic Development Planning; Fort Bragg Downtown Businesses; and Blue Economy
2. HP Communications, Inc.

RESOLUTION NO. -2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AWARDING CONSTRUCTION OF MUNICIPAL BROADBAND UTILITY PROJECT, PUBLIC WORKS PROJECT NO. 00130, TO HP COMMUNICATIONS AS THE LOWEST RESPONSIVE BIDDER AND AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT (AMOUNT NOT TO EXCEED \$9,966,164.75)

WHEREAS, the City of Fort Bragg released construction bid documents to solicit bids to construct the Municipal Broadband Utility Project (“Project”) on January 28, 2025; and

WHEREAS, one (1) timely bid was received from HP Communications for an amount not to exceed \$9,966,164.75; and

WHEREAS, staff reviewed bid proposal and checked references; and

WHEREAS, the City has confirmed that Hp Communications has the proper license and experience and meets the necessary requirements to complete the Project as bid; and

WHEREAS, the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”), Sections: 15301(b) because the Project is a public utility service – one of three public utilities provided by the City of Fort Bragg; 153302(c) because if replacement or reconstruction of water/sewer utilities are necessary there will be no expansion of capacity; and 15304(f) because the primary construction method is undergrounding utilizing horizontal directional drill boring to lessen impacts; and

WHEREAS, grant funding in the amount of \$10,300,000 was awarded by the California Public Utilities Commission for this project; and

WHEREAS, Council directed staff to apply for additional grants and pursue debt financing to fund the remaining of this capital improvement project currently estimated to be \$17.2 million.

NOW, THEREFORE, BE IT RESOLVED that the Recitals set forth above are true and correct and are incorporated herein as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED that City Council of the City of Fort Bragg does hereby award construction of the Municipal Broadband Utility Project, Public Works Project No. 130, and authorizes the City Manager to execute contract (amount not to exceed \$9,966,164.75).

The above and foregoing Resolution was introduced by Councilmember _____ , seconded by Councilmember _____ , and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March, 2025, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 25-56

Agenda Date: 3/11/2025

Version: 1

Status: Business

In Control: Special City Council

File Type: Staff Report

Agenda Number: 8F.

Adopt a Resolution of the Fort Bragg City Council Awarding the Town Hall Retrofit & Bathroom Remodel Project, City Project No. PWP-00122, to Adams Commercial General Contracting, Inc. as the Lowest Responsible Bidder, Approving Budget Amendment 2024/25-09, Authorizing the City Manager to Execute Contract (Not To Exceed \$793,205), and Finding the Project Exempt from CEQA under 14 CCR 15301



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: March 11, 2025

DEPARTMENT: Public Works Department

PREPARED BY: Alfredo Huerta, Assistant City Engineer

PRESENTER: John Smith, Public Works Director

AGENDA TITLE:

Adopt City Council Resolution Awarding the Town Hall Retrofit & Bathroom Remodel Project, City Project No. PWP-00122, to Adams Commercial General Contracting, Inc. as the Lowest Responsible Bidder, Approving Budget Amendment 2024/25-09, and Authorizing the City Manager to Execute Contract (Not To Exceed \$793,205); Categorical Exemption 15301

RECOMMENDATION

Adopt Council Resolution Accepting the Lowest Responsive Bid, Awarding the Town Hall Retrofit & Bathroom Remodel Project, City Project No. PWP-00122 to Adams Commercial General Contracting, Inc., Approving Budget Amendment 2024/25-09, and Authorizing City Manager to Execute Contract (Amount Not To Exceed \$793,205.00); Categorical Exemption 15301.

BACKGROUND

The Town Hall Retrofit & Bathroom Remodel Project (Project) construction was advertised for bidding in January 2025. The Project is in the City's 2024/2025 Capital Project list with a budget of \$140,000. Bids for the construction of the Project were opened on February 25, 2025. Four bids were received (Attachment 1), with the lowest bid coming from Adams Commercial General Contracting, Inc. (ACGC) for \$793,205. The contractor has the proper license and experience and meets the requirements to be considered a responsive bidder, and staff recommends making the award.

DISCUSSION AND ANALYSIS

The Fort Bragg Town Hall building was constructed in 1912 as the Fort Bragg Commercial Bank building. Over the years, the building has been used as a County Court House and Sheriff's Office. The City acquired the building in 1989 after it was damaged in the September 1987 fires. In 1990, the City completed fire damage repairs and remodeled Town Hall for use as a meeting and public gathering venue. Town Hall wall coverings and window coverings were updated in 1992. In 2009, the exterior of the building was painted and the parapets were replaced. In 2011, Town Hall lights were retrofitted as part of a city-wide energy efficiency project. In 2014, improvements were made to the meeting hall, including sound and video for public meetings, energy

AGENDA ITEM NO. 8E

efficiency and lighting at the Council dais, flooring and window coverings, and interior paint.

Based on an expected 10-year life-cycle for exterior paint, the outside of Town Hall was due to be repainted in FY 21/22. In addition to painting, the current Project will repair damage caused by moisture near doors and windows, replace all windows, update storage and A/V areas, and remodel the restrooms to make them more accessible and visible for public use.

The Community Development Committee reviewed the preliminary plans and provided direction on the design of the project in June 2024. The design Architect, Calpo Hom & Dong Architects, completed the design in December 2024, and City staff put the Project out to bid in January 2025. The City received four (4) responsive bids when the bid period closed on February 25, 2025. One from ACGC for \$793,205, one from Pro-Ex Construction, Inc. for \$931,700; one from Interstate Drywall, Inc. for \$1,109,800; and one from Cupples and Sons Construction Inc. for \$1,110,302. As required by the California Public Contract Code and the City's Municipal Code, the apparent low bidder is being recommended for the contract award.

FISCAL IMPACT/FUNDING SOURCE

This project was budgeted for \$140,000 in the FY 24/25 budget, which was carried over from the previous fiscal year(s) and was based only on the inclusion of the exterior paint and moisture damage repairs, not the bathroom remodel, window replacement, or A/V and storage upgrades since those changes came along after the original budget analysis. The lowest base bid from ACGC is \$793,205, leaving a shortfall of \$655,495.70. This project requires a building permit with an estimated cost of \$5,000 and the rental of temporary bathrooms at Town Hall with an estimated cost of \$3,000 that were not previously accounted for. Staff is recommending a budget amendment BA 2024/25-09 (Attachment 2) to increase the CIP budget by \$663,495.70 to cover the base bid, building permit, and bathroom rental. Funds are available in the Internal Services Fund (Facilities) to cover this additional amount.

ENVIRONMENTAL ANALYSIS:

The Project is exempt under the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15301 Existing Facilities. This exemption is appropriate because the project involves alterations such as partitions, plumbing and electrical conveyances on the preexisting facilities that are mainly repair and maintenance and do not expand the footprint of the site or surrounding area.

There will be a short-lived increase in greenhouse gas emissions during the construction phase due to the equipment necessary for the performance of the work. Increases in greenhouse gases will only occur during actual construction. All Air Quality Management District best management practices for minimizing greenhouse gas emissions during construction will be incorporated into the daily activities of this project.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

This project is consistent with General Plan Element 3 Public Facilities, which is intended to identify essential public facilities, buildings, and services and to ensure that the existing and future population of Fort Bragg is provided with the best feasible level of public services and infrastructure. This project has also been a priority for City Council since 2022 as the project provides a service to the community with the upgrades to the public restrooms and maintenance to Town Hall, which is used for public gatherings and events.

ALTERNATIVES:

Direct staff to reject all current bids and re-bid the project.

ATTACHMENTS:

1. Resolution
2. Bid Opening Results
3. Budget Amendment 2024/25-09
4. ACGC Construction Contract

NOTIFICATION:

1. Adams Commercial General Contracting, Inc.
2. Pro-Ex Construction, Inc.
3. Interstate Drywall, Inc.
4. Cupples and Sons Construction, Inc.

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING CONTRACT WITH ADAMS COMMERCIAL GENERAL CONTRACTING, INC. FOR CITY PROJECT NO. PWP-00122; APPROVING BUDGET AMENDMENT 2024/25-09; AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT (AMOUNT NOT TO EXCEED \$793,205); AND FINDING THE PROJECT EXEMPT FROM CEQA UNDER 14 CCR 15301

WHEREAS, in April 2023, the City Council approved a professional services agreement with Calpo Hom & Dong Architects (CH&D) to provide design and engineering services for the Town Hall and Facilities Remodel Project; and

WHEREAS, in June 2024, the Community Development committee reviewed preliminary plans and provided direction on the design of the project, with the final design completed by CH&D in December 2024; and

WHEREAS, in accordance with California Public Contract Code 20164 and other applicable laws, the Town Hall Retrofit & Bathroom Remodel Project, PWP-00122 (the "Project") was advertised for bid on January 23, 2025; and

WHEREAS, four (4) responsive bids were received for this Project (Exhibit A), one from Adams Commercial General Contracting, Inc. in the amount of \$793,205.00, one from Pro-Ex Construction, Inc. for \$931,700.00, one from Interstate Drywall, Inc. for \$1,109,800.00, and one from Cupples and Sons Construction, Inc. for \$1,110,302.00; and

WHEREAS, Adams Commercial General Contracting, Inc. (ACGC) is the low bidder, and the City has confirmed that ACGC has the proper license and experience and meets the requirements to complete the Project as bid; and

WHEREAS, the project is budgeted in the 2024/2025 Capital Improvement Program for \$140,000; and

WHEREAS, the bid from ACGC leaves a budget shortfall of \$655,495.70; and

WHEREAS a budget amendment for \$663,495.70 (BA 2024/25-09) is necessary to ensure sufficient funds to complete the proposed construction work, cover the cost of the building permit, and temporary bathroom rental; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The bid of Adams Commercial General Contracting, Inc. meets the requirements of the Project bid documents and is considered responsive.
2. Sufficient funds are available to complete the Project.
3. Adams Commercial General Contracting, Inc. has the proper licenses to complete the Project and, based upon previous experience in completing similar projects, is a responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Project *is exempt* pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15301 because the project involves alterations such as partitions, plumbing and electrical conveyances on the preexisting facilities that are mainly repair and maintenance and do not expand the footprint of the site or surrounding area; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby approve Budget Amendment No. 2024/25-09 (Exhibit B), amending the FY 2024/25 Budget to appropriate \$661,205 to cover additional project costs; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the bid of Adams Commercial General Contracting, Inc. for the Town Hall Retrofit & Bathroom Remodel Project, Project No. PWP-00122 and authorize the City Manager to execute the same upon execution by the Contractor (amount not to exceed \$793,205.00).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of March 2025, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

JASON GODEKE
Mayor

ATTEST:

Diana Paoli
City Clerk



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823

BID OPENING

Town Hall Retrofit and Bathroom Remodel Project
City Project No. PWP-00122

Bids were opened on February 25, 2025 at 2:00 p.m. by Emily Reno, Administrative Assistant. City staff present in addition included: Alfredo Huerta and John Smith

Four (4) bids were received. Said bids were from:

- | | | |
|----|--|------------------|
| 1. | Adams Commercial General Contracting, Inc.
339 2 nd St. Eureka, Ca 95501 | Bid: \$793,205 |
| 2. | Pro-Ex Construction, Inc.
3223 Luyung Dr. Ranco Cordova, Ca 95437 | Bid: \$931,700 |
| 3. | Interstate Drywall Inc.
DBA Interstate Companies, Inc.
215 East St. Woodland, Ca 95776 | Bid: \$1,109,800 |
| 4. | Cupples and Sons Construction Inc.
221 Olive Lane Suite G Ukiah Ca, 95482 | Bid: \$1,110,302 |

The bids contained bid security in accordance with the Notice Inviting Bids for this project.

The bids will be reviewed by City Staff and a recommendation will be made to the Fort Bragg City Council at their regular meeting of March 10, 2025, at 6:00 p.m., or as soon thereafter as the matter may be heard.

Administrative Assistant

cc: Planholders

CITY OF FORT BRAGG
416 N. Franklin Street
Fort Bragg, California 95437

CONTRACT CHECK LIST

Complete, accurate, executed copies of the following documents must be submitted to the CITY OF FORT BRAGG in accordance with the bid package issued by the City for the Town Hall Retrofit & Bathroom Remodel, PWP-00122, within ten (10) working days of receiving written notice of award of the project. The bidder's security of any successful bidder that fails to do so will be forfeited to the City.

- _____ Contract Check List
- _____ Contract, Part 1
- _____ Contract, Part 2 – General Provisions
- _____ Contract, Part 3 – Special Provisions
- _____ Performance Bond
- _____ Payment Bond
- _____ Maintenance Bond
- _____ Certificates of Insurance and Endorsements

CONTRACT, PART 1

1. RECITALS

- A. Notice Inviting Bids.
- B. Bid Opening
- C. Project Award.
- D. Required Documents.
- E. Investigation and Verification of Site Conditions.

2. CONTRACT TERMS

- 1. The Work.
- 2. Location of Work.
- 3. Time for Completion
- 4. Remedies for Failure to Timely Complete the Work.
- 5. Contract Price and Payment.
- 6. Prevailing Wages.
- 7. The Contract Documents.
- 8. Provisions Incorporated by Reference.
- 9. Interpretation of Contract Documents.
- 10. Assignment Prohibited.
- 11. Contractor's License Certification.
- 12. Severability.
- 13. Project Representatives

CONTRACT, PART 2 GENERAL PROVISIONS

1. DEFINITIONS

2. PLANS AND SPECIFICATIONS

- 2.1 Documents Furnished by City.
- 2.2 Ownership of Documents Furnished by City.
- 2.3 Technical Specifications and Project Plans.

3. CONTROL OF WORK AND MATERIAL

- 3.1 Construction Manager's Status.
- 3.2 Architect or Engineer's Status.
- 3.3 Inspection and Testing of Work and Material.
- 3.4 Samples Furnished by the Contractor.
- 3.5 Materials and Substitutions.
- 3.6 Maintenance and Examination of Records.
- 3.7 Advertising
- 3.8 Project Schedule.

- 3.9 Construction Staking.
- 3.10 Materials Testing.

4. CHANGES IN WORK

- 4.1 City Directed Change Orders.
- 4.2 Writing Requirement.
- 4.3 Contractor Proposed Change Orders.
- 4.4 All Change Orders.
- 4.5 Change Order Pricing.
- 4.6 Liability Under Unapproved Change Orders.
- 4.7 Changes Subject to Contract Documents.
- 4.8 Change Order Disputes.
- 4.9 Change in Time for Completion.

5. TRENCHING AND UTILITIES

- 5.1 Contractor to Locate Underground Facilities.
- 5.2 Excavation More Than Four Feet Deep.
- 5.3 Excavation of Five Feet or More.
- 5.4 Utility Relocation Costs.
- 5.5 Concealed or Unknown Conditions.
- 5.6 Underground Facilities not owned or built by the City
- 5.7 Contractor's compensation for claimed latent or materially different Project conditions

6. PROJECT FACILITIES

- 6.1 Work Site Offices.
- 6.2 City Rights of Access and Ownership

7. PROSECUTION AND PROGRESS OF THE WORK

- 7.1 Liquidated Damages.
- 7.2 No Damage for Avoidable Delays.
- 7.3 Unavoidable Delays.
- 7.4 No Damage for Contractor Caused Delay.
- 7.5 No Damage for Other Delay.
- 7.6 Delays Caused by the City and/or Its Privities.
- 7.7 Weather Delays.
- 7.8 Delay Claims.
- 7.9 Contractor Coordination of the Work.

8. CONTRACTOR RESPONSIBILITIES

- 8.1. Eligibility.
- 8.2 Non Discrimination.
- 8.3 Supervision of the Work.
- 8.4 Contractor's Superintendent.
- 8.5 Competent Employees.
- 8.6 Items Necessary for Proper Completion of the Work.

- 8.7 Construction Reports.
- 8.8 Subcontracting.
- 8.9 Insurance.
- 8.10 Indemnities.
- 8.11 Licenses/Permits.
- 8.12 California Labor Code Requirements.
- 8.13 Laws and Ordinances.
- 8.14 Guaranty.
- 8.15 Safety.

9. MEASUREMENT AND PAYMENT

- 9.1 F.O.B.
- 9.2 Payment
- 9.3 Non-Allowable Direct Charges.
- 9.4 Retention.
- 9.5 Securities in Lieu of Retention.

10. PROJECT ACCEPTANCE AND CLOSEOUT

- 10.1 Occupancy.
- 10.2 Work Completion and Final Inspection.
- 10.3 Work Acceptance.

11. REMEDIES AND DISPUTES

- 11.1 Failure to Correct Work
- 11.2 Termination for Cause
- 11.3 Termination for Convenience.
- 11.4 Disputes.
- 11.5 Non-Waiver.

CONTRACT, PART 3 SPECIAL PROVISIONS

12. SPECIAL PROVISIONS

- 12.1 Description of Work.
- 12.2 Construction Limitations.
- 12.3 Storm Water Pollution Prevention.
- 12.4 Maintaining Traffic and Pedestrian Operations.
- 12.5 Public Safety.
- 12.6 Protection of Existing Facilities and Property.
- 12.7 Preconstruction Conference.
- 12.8 Owner Notification.
- 12.9 Emergency Service Providers Notifications
- 12.10 Clean up.
- 12.11 Payment.
- 12.12 Construction Staking.
- 12.13 Materials Testing Allowance.
- 12.14 Obstructions.

- 12.15 Hours of Work.
- 12.16 Dust Control.
- 12.17 Water for Construction and Dust Control.
- 12.18 Protection and Restoration of Vegetation.
- 12.19 Surplus Material.
- 12.20 Cultural Resources.
- 12.21 Historical Finds.
- 12.22 Cultural Resources Defined.
- 12.23 Construction Manager's Discretion.

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City of Fort Bragg
Project No. PWP-00122
Contract Check List

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 1

The CITY OF FORT BRAGG, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”) enters into this Contract, dated [REDACTED], for reference purposes only, with Adams Commercial General Contracting, Inc. 339 2nd Street Eureka, CA 95501 (“Contractor”).

RECITALS

- A. NOTICE INVITING BIDS. The City gave notice inviting bids to be submitted by February 25, 2025 for the Town Hall Retrofit & Bathroom Remodel (“Project”) by published notice and/or posting in accordance with California Public Contract Code Section 20164 and other applicable law.
- B. BID OPENING. On February 25, 2025, City representatives opened the bids for the Project and read the bids aloud.
- C. PROJECT AWARD. On March 10, 2025, the City Council awarded the Project to the Contractor and directed City staff to send the Contractor written notice of award of the project. The City Council conditioned award of the project on the Contractor’s providing executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award of the project.
- D. REQUIRED DOCUMENTS. The Contractor has provided the City executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award.
- E. INVESTIGATION AND VERIFICATION OF SITE CONDITIONS. The Contractor warrants that it has conducted all necessary pre-bid investigations and other obligations, and agrees that it shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work. In executing this Contract, Contractor shall rely on the results of its own independent investigation and shall not rely on City-supplied information regarding above ground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.

CONTRACT TERMS

The City and the Contractor agree as follows:

- 1. THE WORK. The Contractor shall furnish all equipment, tools, apparatus, facilities, material labor, and skill necessary to perform and complete in a good and workmanlike manner the Town Hall Retrofit & Bathroom Remodel project (“Work”) as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents

City of Fort Bragg
Project No. PWP-00122
Contract, Part 1

and applicable law.

2. LOCATION OF WORK.

The Work will be performed at the following location:

363 N Main Street, Fort Bragg, CA 95437 APN 008-151-01

3. TIME FOR COMPLETION. The Contractor must complete the Work in accordance with the Contract Documents within 128 working days from the date specified in the City's Notice to Proceed ("Time for Completion").

4. REMEDIES FOR FAILURE TO TIMELY COMPLETE THE WORK. If the Contractor fails to fully perform the Work in accordance with the Contract Documents by the Time for Completion, as such time may be amended by change order or other modification to this Contract in accordance with its terms, and/or if the Contractor fails, by the Time for Completion, to fully perform all of the Contractor's obligations under this Contract that have accrued by the Time for Completion, the Contractor will become liable to the City for all resulting loss and damage in accordance with the Contract Documents and applicable law. The City's remedies for the Contractor's failure to perform include, but are not limited to, assessment of liquidated damages of \$500 per day in accordance with California Government Code Section 53069.85 and the Contract Documents, and/or obtaining or providing for substitute performance in accordance with the Contract Documents.

5. CONTRACT PRICE AND PAYMENT. As full compensation in consideration of completion of the Work in accordance with the Contract Documents and in consideration of the fulfillment of all of the Contractor's obligations under the Contract Documents, the City will pay the Contractor in lawful money of the United States the total price of Seven Hundred Ninety-Three Thousand Two Hundred Five Dollars \$793,205 (the "Contract Price") as specified in the Contractor's completed Bid Schedule dated February 25, 2025, and attached to and incorporated in this Contract. Payment to the Contractor under this Contract will be for Work actually performed in accordance with the Contract Documents and will be made in accordance with the requirements of the Contract Documents and applicable law. The City will have no obligation to pay the Contractor any amount in excess of the Contract Price unless this Contract is first modified in accordance with its terms. The City's obligation to pay the Contractor under this Contract is subject to and may be offset by charges that may apply to the Contractor under this Contract. Such charges include but are not limited to, charges for liquidated damages and/or substitute performance in accordance with the Contract Documents.

The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Contractor, its subcontractors, subconsultants, architects, engineers, and" vendors or otherwise arising out of Contractor's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA,

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and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

6. PREVAILING WAGES. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 et seq., the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the City Public Works Department and will be made available on request. Throughout the performance of the Work the Contractor must comply with all provisions of the Contract Documents and all applicable laws and regulations that apply to wages earned in performance of the Work.

6.1. Contractor acknowledges and agrees that it shall comply with the requirements of California Public Contracts Code sections 2600 et seq., in its entirety and, in particular, those sections related to Skilled and Trained Workforce. By its execution of this agreement Contractor certifies and warrants that it is aware of the requirement of California Public Contracts Code section 2600 et seq. and its requirements as to a Skilled and Trained Workforce.

7. THE CONTRACT DOCUMENTS. This Contract consists of the following documents ("Contract Documents"), all of which are incorporated into and made a part of this Contract as if set forth in full. In the event of a conflict between or among the Contract Documents, precedence will be in the following order:

7.1 This Part 1 of the Contract and change orders and other amendments to this Contract signed by authorized representatives of the City and the Contractor.

7.2 The General Provisions, Part 2 of the Contract, and change orders and other amendments to the General Provisions signed by authorized representatives of the City and the Contractor.

7.3 The Special Provisions, Part 3 of the Contract, addenda to the Special Provisions signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized representatives prior to bid opening, and change orders and other amendments

to the Special Provisions signed by authorized representatives of the City and the Contractor.

- 7.4 The Technical Specifications, addenda to the Technical Specifications signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the City and the Contractor.
- 7.5 The Project Plans, addenda to the Project Plans signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the City and the Contractor.
- 7.6 Notice Inviting Bids
- 7.7 Instructions to Bidders
- 7.8 The successful bidder's completed Proposal Cover Page and Bid Schedule
- 7.9 The successful bidder's completed Contractor License Information
- 7.10 The successful bidder's completed List of Proposed Subcontractors
- 7.11 The successful bidder's Workers Compensation Insurance Certification
- 7.12 The successful bidder's completed Non-collusion Affidavit
- 7.13 The successful bidder's Debarment Certification
- 7.14 The successful bidder's completed Certificates of Insurance and Endorsements
- 7.15 The successful bidder's executed Performance Bond
- 7.16 The successful bidder's executed Payment Bond
- 7.17 The Maintenance Bond form included in the bid package that the Contractor must execute prior to release of final payment under the Contract
- 7.18 The successful bidder's Qualification Statement, if any
- 7.19 The successful bidder's signed Signature Form

- 8. PROVISIONS INCORPORATED BY REFERENCE. Provisions or parts of provisions that are incorporated by reference and not set forth at length in any of the Contract Documents will only form a part of this Contract to the extent the Contract Documents expressly make such provisions or parts of provisions a part of this Contract. For example, published public works agreement provisions, such as those of the State of California Department of Transportation Standard Specifications (known as the Standard Specifications) are only a part of this Contract to the extent expressly incorporated in the Contract by section number. When such published provisions are made a part of this Contract, references in the published provisions to other entities,

such as the State, the Agency, or similar references, will be deemed references to the City as the context of this Contract may require.

9. INTERPRETATION OF CONTRACT DOCUMENTS. Any question concerning the intent or meaning of any provision of the Contract Documents, including, but not limited to, the Technical Specifications or Project Plans, must be submitted to the Public Works Director, or his/her designee, for issuance of an interpretation and/or decision by the authorized Public Works Director in accordance with the requirements of the Contract Documents. Interpretations or decisions by any other person concerning the Contract Documents will not be binding on the City. The decision of the Public Works Director, or his/her designee, shall be final.
10. ASSIGNMENT PROHIBITED. The Contractor may not assign part or all of this Contract, or any monies due or to become due under this Contract, or any other right or interest of the Contractor under this Contract, or delegate any obligation or duty of the Contractor under this Contract without the prior written approval of an official authorized to bind the City and an authorized representative of Contractor's surety or sureties. Any such purported assignment or delegation without such written approval on behalf of the City and the Contractor's sureties will be void and a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
11. CONTRACTOR'S LICENSE CERTIFICATION. By signing this Contract the Contractor certifies that the Contractor holds a valid Type B license issued by the California State Contractors Licensing Board, and that the Contractor understands that failure to maintain its license in good standing throughout the performance of the Work may result in discipline and/or other penalties pursuant to the California Business and Professions Code, and may constitute a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
12. SEVERABILITY. If any term or provision or portion of a term or provision of this Contract is declared invalid or unenforceable by any court of lawful jurisdiction, then the remaining terms and provisions or portions of terms or provisions will not be affected thereby and will remain in full force and effect.
13. PROJECT REPRESENTATIVES
 - 13.1 The City has designated Alfredo Huerta as its Project Manager to act as its Representative in all matters relating to the Contract. If Project Manager is an employee of City, Project Manager is the beneficiary of all Contractor obligations to the City including, without limitation, all releases and indemnities.

Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the City, to accept work, and to make decisions or actions binding on the City, and shall have sole signature authority on behalf of the City.

The City may assign all or part of the Project Manager's rights, responsibilities and duties to a construction manager or other City representative.

13.2 The Contractor has designated Will Adams as its Project Manager to act as Contractor's Representative in all matters relating to the Contract. The Contractor's Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the Contractor and to make decisions or actions binding on the Contractor, and shall have sole signature authority on behalf of the Contractor.

SIGNATURES ON FOLLOWING PAGE

Executed on _____, by

CONTRACTOR

By: _____
Title: _____

[Attach Notary Acknowledgment Page]

CITY

By: Isaac Whippy
Title: City Manager

ATTEST:

By: _____
Diana Paoli
City Clerk

APPROVED AS TO FORM:

By: _____
Baron J. Bettenhausen
City Attorney

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 2
GENERAL PROVISIONS

1. DEFINITIONS

The following terms as used in any agreement of which these General Provisions are a part are defined as follows:

- 1.1 **Architect or Engineer:** The person or persons so specified on the title sheet of the Technical Specifications and/or Project Plans.
- 1.2 **ASTM:** American Society for Testing and Materials, latest edition.
- 1.3 **Bid Package:** All of the documents listed as comprising the entire Bid Package as specified in the Instructions to Bidders and representing the full set of documents made available to bidders on the Project.
- 1.4 **Caltrans Standard Specifications:** Caltrans construction manual entitled, "State of California, Department of Transportation, Standard Specifications," latest edition.
- 1.5 **City:** CITY OF FORT BRAGG.
- 1.6 **Construction Manager:** The City's authorized representative for administration and overall management of the Project contract and Work. The Construction Manager is the official point of contact between the City, the Architect and/or Engineer, and the Contractor. The Construction Manager for this project shall be Assistant City Engineer Alfredo Huerta.
- 1.7 **Contract:** The agreement between the City and Contractor concerning the Project, as evidenced by and comprised of the Contract Documents.
- 1.8 **Contract Documents:** All documents identified in Section 7 of Part 1 of the Contract.
- 1.9 **Contractor:** The successful bidder for the Project and party to the Project agreement with the City as specified in the Project agreement. Adams Commercial General Contracting, Inc.
- 1.10 **Days:** Unless otherwise specified in the Contract Documents, Days mean working days.
- 1.11 **Project:** The Town Hall Retrofit & Bathroom Remodel Project as described in the Technical Specifications and Project Plans.
- 1.12 **Project Inspector:** The party or parties charged by the City with inspecting the Work for compliance with the requirements of the Contract Documents and

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General Provisions

applicable laws and regulations. The Project Inspector acts under the direction of the City and shall coordinate with the Construction Manager and Architect as directed by the City in accordance with the Contract Documents.

- 1.13 **Project Plans:** The primarily graphic detailed requirements concerning the Project contained in Volume 3 of the Bid Package and any addenda to the Project Plans signed by authorized City representatives and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the City and the Contractor in accordance with the requirements of the Contract Documents.
- 1.14 **Subcontractor:** A person, firm or corporation that is obligated as a party to a contract with the Contractor to perform part of the Project work. For purposes of these General Provisions Subcontractors include, but are not limited to, those that are obligated as parties to a contract with the Contractor to specially fabricate and install a portion of the Project Work according to the Technical Specifications and/or Project Plans.
- 1.15 **Technical Specifications:** The detailed Project requirements contained in Volume 3 of the Bid Package and any addenda to the Technical Specifications signed by authorized City representatives and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the City and the Contractor in accordance with the requirements of the Contract Documents.
- 1.16 **Time for Completion:** The Time for Completion is the time by which the Work must be completed, as defined in the Contract, Part 1, or as modified in a writing, executed by the City and Contractor.
- 1.17 **Work:** The furnishing of all equipment, tools, apparatus, facilities, material, labor and skill necessary to perform and complete in a good and workmanlike manner the Project as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.
- 1.18 **Written Notice:** Will be deemed to have been duly served for purposes of these General Provisions and any agreement of which they are a part if delivered in person to the individual or to a member of the firm or to any office of the corporation for whom the notice is intended, or if sent by registered or certified mail to the last known business address known to the party giving notice. Unless otherwise specified in the Contract Documents, the last known address of the Contractor shall be that listed in the Contractor's completed Proposal Cover Page and Bid Schedule.

2. PLANS AND SPECIFICATIONS

- 2.1 Documents Furnished by City. The City will furnish to the Contractor, free of charge, one (1) set of reproducible Project Plans and five (5) sets of prints of the Project Plans and Technical Specifications for execution of the Work. Throughout the performance of the Work the Contractor must keep one copy of the Project Plans and Technical Specifications in good order and available for review by the Construction Manager, the Engineer, the Architect, and any other City contractors or representatives.
- 2.2 Ownership of Documents Furnished by City. All documents furnished by the City, including, but not limited to, the Technical Specifications, Project Plans, and any copies, are the property of the City. Documents furnished by the City may not to be used on any other work. All documents furnished by the City must be returned to City upon completion of the Work.
- 2.3 Technical Specifications and Project Plans.
- 2.3.1 The Technical Specifications and Project Plans are complementary and intended to mutually describe the Work necessary to complete the Project in accordance with the Contract Documents.
- 2.3.2 In general, the Project Plans indicate dimensions, position and kind of construction, and the Technical Specifications indicate qualities and methods. Any Work indicated on the Project Plans and not mentioned in the Technical Specifications or vice versa must be furnished as though fully set forth in both. Work that is not particularly detailed, marked or specified shall be the same as similar Work that is detailed, marked or specified. The Contractor must furnish items necessary for the operation of equipment depicted in the Project Plans or specified in the Technical Specifications that are suitable to allow such equipment to function properly at no extra charge.
- 2.3.3 Contractor shall perform reasonably implied parts of Work as “incidental work” although absent from Drawings and Specifications. Incidental work includes any work not shown on Drawings or described in Specifications that is necessary or normally or customarily required as a part of the Work shown on Drawings or described in Specifications. Incidental work includes any work necessary or required to make each installation satisfactory, legally operable, functional, and consistent with the intent of Drawings and Specifications or the requirements of Contract Documents. Contractor shall perform incidental work without extra cost to City. Incidental work shall be treated as if fully described in Specifications and shown on

Drawings, and the expense of incidental work shall be included in price Bid and Contract Sum.

- 2.3.4 Before undertaking each portion of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown in the Contract Documents and all applicable field measurements. Contractor shall be responsible for any errors that might have been avoided by such comparison. The Contractor must notify the Construction Manager and the Architect in writing as soon as possible of any apparent errors or inconsistencies, including, but not limited to, typographical or notational errors in the Project Plans, Technical Specifications, and/or in work done by others affecting the Work. The Construction Manager will issue written instructions concerning any such apparent errors, inconsistencies, or clarifications with reasonable promptness and these shall be binding on the Contractor. If Contractor believes that a written response, clarification or interpretation justifies an adjustment in the Contract Sum or Contract Time, Contractor shall give City prompt written notice. If the parties are unable to agree to the amount or extent of the adjustment, if any, then Contractor shall perform the Work in conformance with City's response, clarification, or interpretation and may make a written claim for the adjustment as provided in Section 11. If the Contractor proceeds with Work impacted by apparent errors or inconsistencies without instructions from the Construction Manager, the Contractor shall do so at its sole risk and shall have all of the obligations and the City shall have all of the rights and remedies specified in Section 11 concerning any resulting damage or defect.
- 2.3.5 The General Provisions apply with equal force to all of the Work, including extra work authorized by the Construction Manager in accordance with the Contract Documents. The Contractor must submit any required shop diagrams and/or drawings by the times and in the quantities indicated in the Technical Specifications. Any such shop diagrams and/or drawings must show completely the Work to be done, expanding on the Project Plans concerning details not previously shown, field conditions and the condition of the Work. Architect or Engineer review of such shop diagrams and/or drawings will concern conformance with the requirements of the Contract Documents only. The Architect or Engineer assumes no responsibility for the correctness or accuracy of the dimensions or any other contents of any shop diagrams and/or drawings submitted by the Contractor. The Contractor must check all dimensions at the Work site. Shop diagrams and/or drawings must be clearly marked with the name of the Project and the name of the Contractor, subcontractor or supplier making the submittal, and must be stamped and signed by the Contractor and submitted under a signed transmittal letter from the Contractor

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General Provisions

certifying that all dimensions have been checked at the Work site. These requirements are mandatory. The Architect or Engineer will not review shop diagrams and/or drawings that do not satisfy these requirements. The Contractor will be responsible for any and all discrepancies between dimensions of the actual Project site and/or Work and those shown on shop diagram and/or drawings submitted by the Contractor, and for any other errors contained in or resulting from such shop diagrams and/or drawings, including, but not limited to, errors in material and/or equipment quantities and any resulting errors, delays or additional cost in the performance of the Work. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any discrepancies or errors in shop diagrams and/or drawings submitted by the Contractor, and concerning any resulting errors, delays or additional costs in the performance of the Work.

3. CONTROL OF WORK AND MATERIAL

- 3.1 Construction Manager's Status. The Construction Manager will administer the Project in accordance with the Contract Documents. After execution of the agreement and issuance of the Notice to Proceed, all correspondence and/or instructions concerning the Project between the Contractor and/or City shall be forwarded through the Construction Manager. Except as otherwise provided in the Contract Documents, the Construction Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, or procedures or for safety precautions in connection with the Work. The Construction Manager, however, will have authority to reject materials and/or workmanship that do not conform to the requirements of the Contract Documents. The Construction Manager will also have the authority to require inspection or testing of the Work.
- 3.2 Architect or Engineer's Status. The Architect or Engineer will advise the Construction Manager concerning decisions on all claims of the Contractor and all other matters relating to the execution and progress of the Work or the interpretation of the Contract Documents. The Architect or Engineer will also advise the Construction Manger concerning Work that does not conform to the Contract Documents. Whenever, in the Architect's or Engineer's opinion, it is necessary or advisable in accordance with the Contract Documents, the Architect or Engineer may recommend to the Construction Manager inspection or testing of the Work, whether or not such Work is then fabricated, installed or completed.
- 3.3 Inspection and Testing of Work and Material.
 - 3.3.1 The City, the Construction Manager, the Architect or Engineer and their representatives will have access to the Work at all times wherever it is

in preparation or progress. The Contractor must provide proper facilities for such access and for inspection.

- 3.3.2 The Contractor must inspect all materials as delivered and promptly return all defective materials without waiting for their rejection by the Construction Manager or Architect or Engineer.
- 3.3.3 If the Construction Manager, the Technical Specifications, or any laws, ordinances, or any public authority require any Work to be tested or approved, the Contractor must give the Construction Manager timely notice of the Contractor's readiness for inspection. Inspections will be promptly made, and where practicable, at the source of supply. Any work subject to such testing that is covered up without timely notice to the Construction Manager or without the approval or consent of the Construction Manager must, if required by the Construction Manager, be uncovered for examination at the Contractor's expense. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work subject to testing that is covered up without timely notice to the Construction Manager and that is not uncovered for examination at the Contractor's Expense if required by the Construction Manager.
- 3.3.4 Tests of materials or qualification tests required by the Contract Documents must be made in accordance with the Technical Specifications and the requirements of the California Building Standards Code as adopted by the City and other applicable law. Copies of all testing reports shall be distributed as required in the Technical Specifications.
- 3.3.5 The City or its representatives may order re-examination of questioned Work. If ordered to do so, the Contractor must uncover such Work. If such Work is found to be according to the Contract Documents, the City shall pay the cost of uncovering and restoring the Work, unless such Work was subject to testing and covered up without timely notice to or approval of the Construction Manager. If re-examined Work is found not in accordance with the Contract Documents, the Contractor must pay the cost of uncovering and restoring the Work. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any re-examined Work not in accordance with the Contract Documents that the Contractor fails to uncover and restore at the Contractor's expense.
- 3.3.6 The Contractor must replace or correct without charge any material or workmanship found not to conform to the requirements of the Contract Documents, unless the City consents to accept such material or workmanship with an appropriate adjustment in the Contract Price. The Contractor must promptly segregate and remove non-conforming

material from the Work site. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or correct without charge any material or workmanship that does not conform to the requirements of the Contract Documents and that the City has not consented to accept.

3.4 Samples Furnished by the Contractor. The Contractor must furnish all samples for approval as directed in sufficient time to permit the Architect or Engineer to examine, approve and select samples before they are required by the progress of the Work. Portions of the Work for which samples are required and for which the Architect or Engineer has selected samples must be in accordance with such approved samples. Samples must be sent prepaid to the office of the Construction Manager or to such place as the Construction Manager may direct.

3.5 Materials and Substitutions.

3.5.1 Materials used for the Work must be new and of the quality specified. When not particularly specified, materials must be the best of their class or kind. The Contractor must, if required, submit satisfactory evidence as to the kind and quality of materials.

3.5.2 If the Contractor submitted complete information to the Public Works Department for products proposed as equals in accordance with the Bid Package, and the City approved such products proposed as equals in writing, the Contractor may either furnish such products approved as equals, or furnish the products listed by manufacturer name, brand or model number in the Technical Specifications or Project Plans. The City retains the right, in its sole discretion, to accept or reject any other proposed substitution. To be considered, proposals concerning products proposed as equals must include sufficient information to permit the City to determine whether the products proposed as equals will satisfy the same performance requirements as products listed by manufacturer's name, brand or model number. Such performance requirements may include, but are not limited to, size, strength, function, appearance, ease of maintenance and repair, and useful life requirements. If the City does not accept a proposed substitution, the Contractor must furnish the product specified in the Technical Specifications or Project Plans for the Contract Price, regardless of whether the product is specified by manufacturer's name, brand or model number, or otherwise.

3.5.3. During the performance of the Work, all materials must be neatly stacked, properly protected from the weather and other adverse impacts, and placed so as to avoid interference with efficient progress of the Work, with other activities of the City, or with the use of existing

City facilities by the public. All materials must be delivered so as to ensure efficient and uninterrupted progress of the Work. Materials must be stored so as to cause no obstruction and so as to prevent overloading of any portion of the Work. The Contractor will be responsible for damage or loss of materials delivered to and/or stored at the Work site due to weather or other causes. The Contractor must promptly remove from the Work site all materials rejected by the City or its representatives as failing to conform to the requirements of the Contract Documents, whether such non-conforming materials have been incorporated in the Work or not. If the City or its representatives so direct, the Contractor must promptly replace and re-execute Work performed by the Contractor and order the replacement and re-execution of Work performed by subcontractors using non-conforming materials with materials that satisfy the requirements of the Contract Documents without expense to the City. The Contractor will bear the expense of making good all Work destroyed or damaged by such removal. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or re-execute Work using non-conforming materials, and/or to make good all work destroyed or damaged by such removal and/or execution.

- 3.6 Maintenance and Examination of Records. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to the City for reference. Upon completion of the Work, Contractor shall deliver to the City, the Project Record Documents, Samples and Shop Drawings and as-built drawings.

Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittals; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to the City. At the completion of the Project, Contractor shall deliver all such records to the City to have a complete set of record as-built drawings.

The City may examine and audit at no additional cost to the City all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports and other Project related data of the Contractor, subcontractors engaged in performance of the Work, and suppliers providing supplies, equipment and other materials required for the Work, including computations and projections related to bidding, negotiating, pricing or performing the Work or contract modifications and other materials concerning the Work, including, but not limited to, Contractor daily logs, in order to evaluate the accuracy, completeness, and currency of cost, pricing, scheduling and any other project related data. The Contractor will make available all such Project related data at all reasonable times for examination, audit, or reproduction at the Contractor's business office at or near the Work site, and at any other location where such Project related data may be kept until three years after final payment under the Agreement. Pursuant to California Government Code Section 8546.7, if the amount of public funds to be expended is in excess of \$10,000, this Contract shall be subject to the examination and audit of the State Auditor, at the request of the City, or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

- 3.7 Advertising. No advertising signs of any kind may be displayed on the Work site, or on fences, offices or elsewhere adjacent to the Work site.
- 3.8 Project Schedule. Prior to the pre-construction meeting, the Contractor shall submit a baseline schedule showing each task of Work, including, as required by the City, equipment procurement and delivery (Contractor and City supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on site, and necessary interface with the City and third parties. The baseline schedule shall include the sequence of each task, the number of days required to complete each task, and the critical path controlling the completion of the entire Work. The schedule shall allow for the completion of the entire Work within the Time for Completion.
 - 3.8.1 City Review of Schedule. The City may review the Contractor's submitted schedule and may note any exceptions. The Contractor shall correct any exceptions noted by the City within five (5) working days of being notified of the exceptions.
 - 3.8.2 Update of Schedule. After submission of a schedule to which the City has taken no exceptions, the Contractor shall submit an updated schedule on a biweekly basis until completion of the Work. The updated schedule shall show the progress of Work as of the date specified in the updated schedule. Contractor shall provide the City with an electronic copy of each updated schedule.

- 3.8.3 Float. The baseline schedule and all later submitted schedules shall show early and late completion dates for each task. The number of days between these dates shall be designated as "Float." The Float shall be designated to the Project and shall be available to both the City and the Contractor as needed to complete the Work in accordance with the Contract.
- 3.8.4 Failure to Submit Schedule. If the Contractor fails to submit the schedule within the time period specified in this section or submit a schedule to which the City has taken uncorrected exceptions, the City may withhold payments to the Contractor until such schedules are submitted and/or corrected in accordance with the Contract documents.
- 3.8.5 Responsibility for Schedule. The Contractor will be solely and exclusively responsible for creating the schedule and properly updating it. The City may note exceptions to any schedule submitted by the Contractor. However, the Contractor will be solely responsible for determining the proper method of addressing such exceptions, and the City's review of the schedule will not create scheduling obligations for the City.
- 3.8.6 Contractor's baseline schedule and progress schedules shall be in the form of a CPM (arrow) diagram. Contractor shall provide the City with native format electronic schedules and hard copies of the baseline schedule, schedule updates, and look ahead schedules. All electronic and hard copies of the schedule that Contractor provides to the City shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- 3.8.7 The City has no obligation to accept an early completion date.
- 3.8.8 The City may request a recovery schedule should Contractor fall 21 or more Days behind any schedule milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates. The recovery schedule shall show the intended critical path. If the City requests, Contractor shall also: secure and demonstrate appropriate subcontractor and supplier consent to the recovery schedule; and submit a written plan and narrative explaining on trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or subcontractors.
- 3.8.9 If the Contractor requests an extension of the Time for Completion, it shall submit the request in a writing that provides information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. The writing shall include this narrative and a schedule diagram depicting how the changed Work or other

impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current schedule impact or critical path or otherwise. Any requests of an extension of the Time for Completion stemming from an alleged project delay shall be made within five (5) days of the commencement of the alleged delay, explain the reason for delay, include the anticipated length of the delay, and contain a narrative justifying the extension, in addition to the other information and schedules required by this section.

- 3.9 Construction Staking. All Work done under this Contract must be in conformance with the Project Plans and staked by the Engineer in the field. The Contractor must inform the Engineer, forty-eight (48) hours in advance, of the time and places at which he or she wishes to do work, in order that lines and grades may be furnished and necessary measurements for record and payment made, with the minimum of inconvenience to the Engineer and delay to the Contractor.
- 3.10 Materials Testing. Materials will be tested by the CITY OF FORT BRAGG or its authorized agent, following State of California Test Methods. Statistical testing may not be used. All individual samples must meet the specified test results. Each material used must meet the specified requirements.

The Contractor must request and coordinate all testing. All tests must occur in the presence of the Project Inspector. The City will, at its sole discretion, have the right to reject any and/or all test results that do not meet this requirement, and to order a retest in the presence of the Project Inspector. The costs for all retests so ordered will be the responsibility of the Contractor. The cost of all retests will be charged to the Contractor at the actual cost plus 30 percent, with a minimum charge of \$150.00 per test to cover staff and administrative costs.

The City, at its sole expense, will provide all initial material and compaction tests. Sampling and testing will comply with Chapter 6 of the Caltrans Construction Manual, at a minimum. Where conditions vary, the City may perform additional testing. Cost for testing of materials offered in lieu of the specified materials will be the responsibility of the Contractor. Cost for R-value tests when required by the Standard Specifications will be the responsibility of the Contractor.

Testing will only be performed on normal City working days between the hours of 8:00 a.m. and 4:00 p.m. unless other arrangements are made in advance. Tests performed outside of these hours may be subject to increased charges.

The Contractor must request all tests in writing a minimum of two (2) working days in advance of the time desired. A minimum of one working day must be allowed for compilation and reporting of data and test results after tests have

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been performed. No subsequent layer of material may be placed until a passing test is obtained and acknowledged by the City.

Concrete and asphalt may be supplied only from suppliers approved and certified by the State Department of Transportation. Proposed mix designs for all concrete and asphalt concrete to be placed within the CITY OF FORT BRAGG must be provided to and approved by the City, prior to placement.

The Contractor must coordinate with the City concerning any additional testing as required.

4. CHANGES IN WORK

- 4.1 City Directed Change Orders. The City may at any time during the progress of the Work direct any amendments to the Work or any of the Contract Documents, including, but not limited to the Technical Specifications, or Project Plans. Such amendments will in no way void the agreement, but may be applied to amend the Contract Price or Time for Completion, if such amendments affect the Contract Price, the Project schedule, or any other provision of the Contract Documents based on a fair and reasonable valuation of the amendment in accordance with this Section 4.
- 4.2 Writing Requirement. Change orders and other amendments to the Technical Specifications, the Project Plans, or other Contract Documents may be made only by a writing executed by authorized representatives of the City and the Contractor.
- 4.3 Contractor Proposed Change Orders. Unless the Construction Manager otherwise authorizes or the City and the Contractor otherwise agree, change order proposals submitted by the Contractor must be submitted to the Construction Manager no later than the time of the proposed change.
- 4.4 All Change Orders. All change order proposals must be submitted on completed Change Order forms provided by the City. All such change order proposals must itemize all cost impacts of the proposed change order and include a total price for that change order and the amended Contract Price that would become effective upon execution of the change order. All change order proposals must specify any change in the Project schedule, or in any project milestone including, but not limited to, the Time for Completion, under the change order, and must provide information justifying the requested change in the Time for Completion. It is understood that change orders that do not specify a change in any milestone, including, but not limited to, the Time for Completion, will be accomplished by the Time for Completion then in effect.
- 4.5 Change Order Pricing. Change order pricing will be governed by the following:

- 4.5.1 Unit prices specified in the Contract Documents will apply to cost impacts involving items for which the Contract Documents specify unit prices.
 - 4.5.2 Cost impacts involving items for which no unit prices are specified will be calculated by adding the itemized actual direct cost that would be added or reduced under the change order and an allowance for indirect costs in accordance with this Section. Itemization for direct costs for required labor must include the classifications of labor required, the total hours required for each classification, the hourly rate for each classification and other labor related costs such as liability and workers compensation insurance, social security, retirement and unemployment insurance. All other cost impacts for which no unit prices are specified must be itemized as appropriate, including the cost of tools, vehicles, phones and other equipment, and the cost of all required materials or supplies. Indirect costs added under a change order may not exceed an allowance of fifteen (15) percent of the total of combined Contractor and subcontractor direct costs added under the change order. Such allowance covers Contractor overhead and profit under the change order and includes the cost of insurance in addition to that required pursuant to Section 8.8, bond premiums, superintendent labor, clerical labor, home office expenses, worksite office expenses, and utility costs under the change order. Such costs may not be itemized as direct costs under a change order. Indirect costs deducted under a change order will be calculated in exactly the same way as indirect costs added under a change order, except indirect costs deducted under a change order may not exceed an allowance of seven and a half (7.5) percent of the total of combined Contractor and subcontractor direct costs deducted under the change order.
- 4.6 Liability Under Unapproved Change Orders. The Contractor shall be solely responsible for any and all losses, costs, or liabilities of any kind incurred by the Contractor, any subcontractor engaged in the performance of the Work, any party supplying material or equipment for the Work or any third party that are incurred pursuant to Contractor-proposed change orders prior to issuance of an approved change order executed in accordance with this Section 4. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work or resulting losses, costs, or liabilities pursuant to a Contractor proposed change order before issuance of an approved change order executed in accordance with this Section 4.
- 4.7 Changes Subject to Contract Documents. Any changes in the Work and/or the Contract Documents pursuant to change orders and any other amendments issued in accordance with the Contract Documents, including

this Section 4, will in all respects be subject to all provisions of the Contract Documents, including, but not limited to, the Technical Specifications and the Project Plans, except as modified by such change orders or amendments.

4.8 Change Order Disputes.

4.8.1 Disputed City Directed Change Orders. If the Contractor disputes a City directed change order following a reasonable effort by the City and the Contractor to resolve the dispute including, at a minimum, a meeting between appropriate representatives of the Contractor and the City, the Contractor must commence performing the Work consistent with the disputed change order within five (5) working days of the last meeting between representatives of the Contractor and the City to resolve the dispute, or within the time specified in the disputed City directed change order, whichever is later. In performing Work consistent with a disputed City-directed change order pursuant to this provision the Contractor will have all of the Contractor's rights concerning claims pursuant to the Contract Documents and applicable law.

4.8.2 Disputed Contractor Proposed Change Orders. If the City disputes a Contractor proposed change order, the City and the Contractor will use reasonable efforts to resolve the dispute including, at a minimum, holding a meeting between appropriate representatives of the Contractor and the City. Regardless of and throughout any such efforts to resolve the dispute the Contractor must continue performing the Work irrespective of and unmodified by the disputed change order. In continuing to perform the Work, the Contractor will retain all of the Contractor's rights under contract or law pertaining to resolution of disputes and protests between contracting parties. Disputes between the City and the Contractor concerning any Contractor-proposed change order or other amendment do not excuse the Contractor's obligation to perform the Work in accordance with the Contract Documents excluding such Contractor-proposed change order or other amendment by the Time for Completion or waive any other Project milestone or other requirement of the Contract Documents.

4.9 Change in Time for Completion. The Time for Completion may only be changed through a Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence. Contractor shall not be entitled time extension for impacts that consume Float, but do not impact the critical path. Time extensions will not be granted unless substantiated by the Critical Path Method (CPM) Schedule, and then not until the CPM float becomes zero. If contractor fails to submit documentation requesting and justifying a change in Time for Completion consistent with the Contract Documents, the Contractor shall be deemed to have agreed that there is no

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extension of time and that Contractor has irrevocably waived its rights to any change in the Time for Completion. Contractor initiated change orders shall address any impacts on the Time for Completion when first submitted to the City. Contractor shall submit any request for change in the Time for Completion and all supporting information and documentation required by the Contract Documents within seven (7) working days of receipt of a City-directed Change Order.

5. TRENCHING AND UTILITIES

- 5.1 Contractor to Locate Underground Facilities. During construction, Contractor shall comply with Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part: "Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two working days, but no more than 14 calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation."

Contractor shall contact Underground Service Alert (USA), and schedule the Work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities. Contractor is charged with knowledge of all subsurface conditions reflected in USA records. Prior to commencing excavation or trenching work, Contractor shall provide the City with copies of all USA records secured by Contractor. Contractor shall advise the City of any conflict between information in the Contract Documents, Drawings, independent investigations, and that provided by USA records. Contractor's excavation shall be subject to and comply with the Contract Documents.

Contractor shall also investigate the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, manholes, new asphalt, meters and junction boxes, on or adjacent to the Site, even if not shown or indicated in existing conditions data, Contract Documents, or USA records, or discovered during Contractor's pre- or post-bid investigation. Contractor shall immediately secure all such available information and notify the City and the utility City, in writing, of its discovery.

- 5.2 Excavation More Than Four Feet Deep. In accordance with California Public Contract Code Section 7104, if the Work involves excavation more than four feet deep the Contractor must promptly notify the City in writing before

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disturbing: any material that the Contractor believes may be 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 provisions of existing law; any subsurface or latent physical conditions at the Work site differing from those indicated; or any unknown physical conditions at the Work site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents. The City will promptly investigate any such conditions for which notice is given. If the City finds that the conditions do materially differ, or involve hazardous waste, and would cause a decrease or increase in the cost or time of performance of the Work, the City will issue a change order pursuant to Section 4 of these General Provisions. If a dispute arises between the City and the Contractor concerning whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the cost or time of performance, the Contractor will not be excused from any completion date provided in the Contract Documents, but shall proceed with all Work to be performed. The Contractor will retain all rights under contract or law pertaining to resolution of disputes and protests between contracting parties.

5.3 Excavation of Five Feet or More. In accordance with California Labor Code Section 6705, contractors performing contracts exceeding \$25,000 in cost and involving excavation five or more feet deep must submit for the City's acceptance, prior to excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during excavation. If the plan varies from the shoring system standards, it must be prepared by a registered civil or structural engineer.

5.4 Utility Relocation Costs.

5.4.1 In accordance with California Government Code Section 4215, the City assumes the responsibility for the timely removal, relocation or protection of existing main or trunkline utility facilities located on the Work site if such utilities are not identified by the City in the Technical Specifications and/or Project Plans. The City will compensate the Contractor for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating existing main or trunkline utility facilities located at the Work site and not identified with reasonable accuracy in the Technical Specifications and/or Project Plans. The City will also compensate the Contractor for the cost of equipment on the Project necessarily idled during such work. The Contractor will not be assessed liquidated damages for Work completion delays caused by the City's failure to provide for removal or relocation of such main or trunkline utility facilities.

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- 5.4.2 Nothing in this provision or the Contract Documents will be deemed to require the City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Work site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the Work site; provided, however, that nothing in this provision or the Contract Documents shall relieve the City from identifying main or trunklines in the Technical Specifications and/or Project Plans.
 - 5.4.3 Nothing in this provision or the Contract Documents will preclude the City from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.
 - 5.4.4 Nothing in this provision or the Contract Documents will be construed to relieve the utility from any obligation as required either by law or by contract to pay the cost of removal or relocation of existing utility facilities.
 - 5.4.5 If the Contractor while performing the Work discovers utility facilities not identified by the City in the Technical Specifications and/or Project Plans, the Contractor must immediately notify the City and utility in writing.
 - 5.4.6 Either the City or the utility, whichever owns existing main or trunkline utility facilities located on the Work site, shall have sole discretion to effect repairs or relocation work or to permit the Contractor to perform such repairs or relocation work at a reasonable price.
- 5.5 Concealed or Unknown Conditions.
- 5.5.1 If either of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall promptly give a written Notice of Differing Site Conditions to the City before conditions are disturbed, except in an emergency, and in no event later than seven (7) calendar days after first observance of:
 - 5.5.1.1 Subsurface or Latent physical conditions which differ materially from those indicated in the Contract Documents;
or
 - 5.5.1.2 Unknown physical conditions of an unusual nature or which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
 - 5.5.2 In response to Contractor's Notice of Differing Site Conditions under this Section, the City will investigate the identified conditions, and if they differ materially and cause increase or decrease in Contractor's

cost of, or time required for, performance of any part of the Work, the City will negotiate the appropriate change order following the procedures set forth in the Contract Documents. If the City determines that physical conditions at the Project are not latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, the City will so notify Contractor in writing, stating reasons (with Contractor retaining all rights under the Contract Documents).

- 5.5.3 Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed latent or materially different Project conditions (whether above or below grade) if Contractor knew or should have known of the existence of such conditions at the time Contractor submitted its Bid, failed to give proper notice, or relied upon information, conclusions, opinions or deductions of the kind that the Contract Documents preclude reliance upon.
- 5.5.4 Regarding Underground Facilities, Contractor shall be allowed an increase in the Contract Sum or an extension of the Time for Completion, or both, to the extent that they are attributable to the existence of any Underground Facility that is owned and was built by the City only where the Underground Facility:
 - 5.5.4.1 Was not shown or indicated in the Contract Documents or in the information supplied for bidding purposes or in information on file at USA; and;
 - 5.5.4.2 Contractor did not know of it; and
 - 5.5.4.3 Contractor could not reasonably have been expected to be aware of it or to have anticipated it from the information available. (For example, if surface conditions such as pavement repairs, valve covers, or other markings, indicate the presence of an Underground Facility, then an increase in the Contract Sum or an extension of the Time for Completion will not be due, even if the Underground Facility was not indicated in the Contract Documents, in the information supplied to Contractor for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor.)
- 5.6 Contractor shall bear the risk that Underground Facilities not owned or built by the City may differ in nature or locations shown in information made available by the City for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor. Underground Facilities are inherent in construction involving digging of trenches or other excavations on City's Project, and Contractor is to apply its skill and industry to verify the information available.

5.7 Contractor's compensation for claimed latent or materially different Project conditions shall be limited to the actual, reasonable, incremental increase in cost of that portion of the Work, resulting from the claimed Latent or materially different Site conditions. Such calculation shall take into account the estimated value of that portion of the Work and the actual value of that portion of the Work, using for guidance Contractor's or its subcontractor's bid amount and actual amounts incurred for that portion of the Work and the reasonable expectation (if any) of differing or difficult site conditions in the Work area based on the available records and locale of the Work. For example, if Contractor excavates in an area unexpected, then such costs would be recoverable entirely; while if Contractor extends an existing excavation, then such costs would be recoverable if the resulting excavation costs in that work area exceeded the reasonable expectations therefor.

6. PROJECT FACILITIES

6.1 Work Site Offices. Any Work site office facilities used by the Contractor and/or its privities must conform to all applicable codes, ordinances and regulations. The cost of such Work site office facilities shall be paid from and included in the Contract Price.

6.2 City Rights of Access and Ownership. The City and its authorized representatives will at all reasonable times while such office facilities are located at the Work site (including, at a minimum, all times during which the Work is performed), have access to any such Work site office facilities used by the Contractor and/or its privities. With respect to the right of access of the City and its authorized representatives, neither the Contractor nor its privities shall have a reasonable expectation of privacy pursuant to the Fourth Amendment to the United States Constitution or other applicable law concerning such Work site office facilities used by the Contractor and/or its privities. Without exception, any and all Project related materials located at such Work site facilities will be deemed at all times to be City property subject to inspection and copying by the City and its authorized representatives at all reasonable times while such facilities are located at the Work site (including, at a minimum, all times during which the Work is performed). Any interference by the Contractor or its privities with the City's rights of access and/or Ownership pursuant to this Section 6 will constitute a material breach of the Agreement subject to any and all remedies available pursuant to the Contract Documents and at law and equity.

7. PROSECUTION AND PROGRESS OF THE WORK

7.1 Liquidated Damages. Time is of the essence in the Agreement. The City and the Contractor agree that it will be difficult and/or impossible to determine the actual damage which the City will sustain in the event of the Contractor's failure to fully perform the Work or to fully perform all of the Contractor's obligations that have accrued pursuant to the Agreement by the Time for

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Completion. Accordingly, the City and the Contractor agree in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the City liquidated damages in the sum of \$500 per day for each and every calendar day completion of the Work and/or performance of all of the Contractor's obligations that have accrued pursuant to the Agreement is delayed beyond the Time for Completion. The City and the Contractor further agree in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time the Agreement was made, and that the City may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor under the Agreement.

- 7.2 No Damage for Avoidable Delays. All delays in the Work that might have been avoided by the exercise of care, prudence, foresight and diligence of the Contractor or any privities of the Contractor will be deemed avoidable delays. Delays in the Work that may be unavoidable but that do not necessarily affect other portions of the Work or prevent completion of all Work within the Time for Completion, including, but not limited to, reasonable delays in Engineer approval of shop drawings, placement of construction survey stakes, measurements and inspection, and such interruption as may occur in prosecution of the Work due to reasonable interference of other contractors of the City, will be deemed avoidable delays. The Contractor will not be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the contract price for avoidable delays.
- 7.3 Unavoidable Delays. All delays in the Work that result from causes beyond the control of the Contractor and that the Contractor could not have avoided through exercise of care, prudence, foresight, and diligence will be deemed unavoidable delays. Orders issued by the City changing the amount of Work to be done, the quantity of materials to be furnished, or the manner in which the work is to be prosecuted, and unforeseen delays in the prosecution of the Work due to causes beyond the Contractor's control, such as strikes, lockouts, labor disturbances, fires, epidemics, earthquakes, acts of God, neglect by utility owners or other contractors that are not privities of the Contractor will be deemed unavoidable delays to the extent they actually delay the Contractor's completion of the Work. The Contractor will be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the Contract Price for unavoidable delays to the extent such delays actually delay the Contractor's completion of the Work and/or result in the Contractor incurring additional costs in excess of the Contract Price.
- 7.4 No Damage for Contractor Caused Delay. Contractor shall not be entitled to additional compensation for extended field or home office overhead, field supervision, costs of capital, interest, escalation charges, acceleration costs or other impacts for any delays to the extent such delays are caused by the

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failure of the Contractor or any subcontractor or other entity engaged in performance of the Work to perform the Work in accordance with the Contract Documents.

7.5 No Damage for Other Delay. Contractor will not be entitled to damages for delay to the Work caused by the following, which the City and Contractor agree will be deemed for purposes of California Public Contract Code Section 7102 either not caused by the City, and/or within the contemplation of the City and the Contractor, and/or reasonable under the circumstances:

7.5.1 Exercise of the City's right to sequence the Work in a manner that would avoid disruption to the City and other contractors based on: the failure of the Contractor or any subcontractor or other entity engaged in the performance of the Work to perform the Work in accordance with the Contract Documents, enforcement by the City or any other governmental agency of competent jurisdiction of any government act or regulation, or enforcement by the City of any provisions of the Agreement.

7.5.2 Requests for clarification or information concerning the Contract Documents or proposed change orders or modifications to the Contract Documents, including extensive and/or numerous such requests for clarification or information or proposed change orders or modifications, provided such clarifications or information or proposed change orders or modifications are processed by the City or its representatives in a reasonable time in accordance with the Contract Documents.

7.6 Delays Caused by the City and/or Its Privities. Delay caused by the City and/or other Contractors of the City will be deemed unavoidable delays. Either the City or the Contractor may propose a change in the Time for Completion for delays that are purported to be caused by the City and/or its privities and that are not reasonable under the circumstances involved and/or that are not within the contemplation of the City and the Contractor. Such proposed changes in the Time for Completion will constitute change order proposals subject to Section 4. In accordance with Section 4, the City and the Contractor may agree upon pricing for the cost impacts, if any, resulting from such delays. If such pricing is in anticipation of cost impacts that may, but have not yet occurred, the City will be obligated to pay the Contractor for such anticipated impacts in accordance with the Agreement and any applicable, approved change orders only to the extent the Contractor actually incurs the anticipated cost impacts. Notwithstanding anything to the contrary in Section 4, the City and the Contractor may agree to a daily rate or cap or lump sum that will apply to the cost impacts, if any, resulting from delay purportedly caused by the City and/or its privities subject to this provision. However, if such daily rate or cap or lump sum is in anticipation of cost impacts that have not yet occurred, the City will be obligated to pay such daily rate or cap or lump sum only to the extent the Contractor actually incurs such cost impacts.

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7.7 Weather Delays. Extensions of the Time for Completion will not be allowed for normal, adverse weather conditions that are consistent with historical weather data of the National Oceanographic and Atmospheric Administration of the U.S. Department of Commerce for the record station that is nearest or most applicable to the Work site. The Contractor should understand that normal adverse weather conditions are to be expected and plan the Work accordingly, such as by incorporating into the Project schedule, normal adverse weather delays as reflected in historical data of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce for the weather station most applicable to the Work site. Extensions of the Time for Completion for delays due to adverse weather will be allowed only if the number of adverse weather days far exceeds the historical data. No extensions of the Time for Completion will be granted for normal, adverse weather conditions or for adverse weather conditions that merely result in delays that do not or would not, themselves, result in failure to complete the Work by the Time for Completion.

7.8 Delay Claims. Within five (5) days of the beginning of any delay, Contractor shall notify the City in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. Whenever the Contractor claims a delay for which the Time for Completion may be extended, the Contractor must request an extension of time within five (5) days of submitting its notice of delay. The request must be in writing in the form of a change order and describe in detail the cause for the delay, and, if possible, the foreseeable extent of the delay. The City will determine all claims and adjustments in the Time for Completion. No claim for an adjustment in the Time for Completion will be valid and such claim will be waived if not submitted in accordance with the requirements of this Section and Section 4.9. In cases of substantial compliance with the notice timing requirements of this Section (but not to exceed twenty-one (21) days from the beginning of the delay event), City may in its sole discretion recognize a claim for delay accompanied with the proper documentation and justification, provided the Contractor also shows good faith and a manifest lack of prejudice to the City from the late notice.

7.9 Contractor Coordination of the Work.

7.9.1 The City reserves the right to do other work in connection with or in the vicinity of the Project by contract or otherwise, and Contractor shall at all times conduct the Work so as to impose no hardship on the City, others engaged in the Work or other contractors working at the Work site. The Contractor will adjust, correct and coordinate the Work with the work of others so that no delays result in the Work or other work at or near the Work site.

7.9.2 If any part of the Work depends for proper execution or results upon the work of the City or any other contractor, the Contractor will, before

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proceeding with such Work, promptly report to the City any apparent discrepancies or defects in such other Work. Failure of the Contractor to promptly report any apparent discrepancy or defect will be deemed an acceptance of the City's or other contractor's Work as fit and proper.

- 7.9.3 The Contractor will anticipate the relations of the various trades to the progress of the Work and will ensure that required anchorage or blocking is furnished and set at proper times. Anchorage and blocking necessary for each trade shall be part of the Work except where stated otherwise.
- 7.9.4 The Contractor will provide proper facilities at all times for access of the City, the Construction Manager, Architect or Engineer, and other authorized City representatives to conveniently examine and inspect the Work.

8. CONTRACTOR RESPONSIBILITIES

- 8.1. Eligibility. By executing the Agreement, the Contractor certifies that the Contractor is not ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), contractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform the Work. To the fullest extent permitted by law, the Contractor shall hold harmless and indemnify the City from and against any and all damages, costs, and liability arising from or as a consequence of any violation of Public Contract Code Section 6109.
- 8.2 Non Discrimination. During the performance of this Contract, Contractor will not discriminate against any employee or subcontractor of the Contractor or applicant for employment because of race, religion, creed, color, national origin, gender, sexual orientation, or age. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, national origin, gender, sexual orientation, or age.

Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its

subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractors.

- 8.3 Supervision of the Work. The Contractor will be solely responsible for the performance of the Work, including portions of the Work to be performed by subcontractors. The Contractor is charged with ensuring that all orders or instructions from the City, Construction Manager or Architect are disseminated to and followed by all subcontractors engaged in performance of the Work. The Contractor will supervise the Work using the Contractor's best skill and attention. At any time during the progress of the Work, the City, the Construction Manager, or the Architect may require the Contractor and/or subcontractors engaged in performance of the Work to attend a project meeting and the Contractor will attend, and ensure the attendance of any subcontractors whose attendance is required by the City and/or advisable in light of the matters to be addressed at the meeting.
- 8.4 Contractor's Superintendent. The Contractor will keep on the Work, throughout its progress, a competent superintendent and any necessary assistants, all satisfactory to the City. The superintendent may not be changed without the consent of the City. The superintendent will represent the Contractor and all directions given by the City to the superintendent will bind the Contractor in accordance with the Agreement. Superintendent time included in Contractor's completed bid schedule and/or in approved change orders, if any, must be included in Contractor's approved overhead rate and may not be charged as a direct cost.
- 8.5 Competent Employees. The Contractor must at all times enforce strict discipline and good order among the Contractor's employees and may not employ on the Project any unfit person or anyone not skilled in the Work assigned, or anyone incompetent or unfit for the duties of that person. When the City determines that a Contractor employee does not satisfy the requirements of this provision, upon notice from the City, the Contractor must ensure that employee performs no further Work and is no longer present at the Work site. Any such Contractor employee may not again be employed on the Project without City approval.
- 8.6 Items Necessary for Proper Completion of the Work. Except as otherwise noted in the Contract Documents, the Contractor will provide and pay for all labor, materials, equipment, permits, fees, licenses, facilities and services necessary for the proper execution and timely completion of the Work in accordance with the Contract Documents.
- 8.7 Construction Reports. The Contractor must submit daily construction reports detailing the daily progress of the Work to the Construction Manager on a weekly basis.
- 8.8 Subcontracting. The Contractor must perform with his or her own organization, a value of work amounting to not less than fifty percent (50%) of

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the Contract amount, except that the bid amount for subcontracted “Specialty Items” so designated in the Special Provisions may be eliminated from the Contract amount and not considered as sub-contracted for the purposes of calculating the value of work to be performed by the Contractor. For the purposes of determining the value of work to be performed by the Contractor pursuant to this provision, materials, equipment, incidentals, etc., shall be considered to have been purchased by the Contractor or Subcontractor that is to install them. Where a portion of an item is subcontracted, the value of work subcontracted will be based on the estimated cost of such portion of the subcontracted item, as determined from information submitted by the Contractor, subject to approval by the Engineer.

8.8.1 By executing the Contract, the Contractor certifies that no subcontractor included on the list of proposed subcontractors submitted with the Contractor’s bid is ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), subcontractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform as a subcontractor on the Work. In accordance with California Public Contract Code Section 6109(b), any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. The Contractor will ensure that no debarred subcontractor receives any public money for performing the Work, and any public money that may have been paid to a debarred subcontractor for the Work is returned to the City. The Contractor will be responsible for payment of wages to workers of a debarred subcontractor who has been allowed to perform the Work.

8.8.2 The Agreement and the performance of the Work are subject to the requirements of the Subletting and Subcontracting Fair Practices Act codified at California Public Contract Code Section 4100 et seq. If the Contractor fails to specify a subcontractor or specifies more than one subcontractor for the same portion of the Work in excess of one-half of one percent of the Contractor’s total bid, the Contractor agrees that the Contractor is fully qualified to perform that portion of the Work with the Contractor’s own forces, and that the Contractor will perform that portion of the Work with the Contractor’s own forces. If after award of the Agreement the Contractor subcontracts, except as provided for in California Public Contract Code Sections 4107 or 4109, any such portion of the Work, the Contractor will be subject to the penalties set forth in California Public Contract Code Sections 4110 and 4111, including cancellation of the Agreement, assessment of a penalty of up to 10 percent of the amount of the subcontract, and disciplinary action by the Contractors State License Board.

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- 8.8.3. No contractual relationship exists between the City and any subcontractor engaged in performance of the Work.
- 8.8.4 Incorporation of Contract Documents. The Contractor must incorporate the Contract Documents in each contract with a subcontractor engaged in the performance of the Work including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. The Contractor shall be solely responsible for any delay or additional costs incurred as a result of its failure to provide adequate or accurate project information to a subcontractor that results in improper submittals and/or work, or time or other impacts is the sole responsibility of the Contractor. The Contractor will have all of the obligations and the City will have all of the remedies that are specified in Section 11.
- 8.8.5 Subcontractor agrees to be bound to General Contractor and City in the same manner and to the same extent as General Contractor is bound to City under the Contract Documents. Subcontractor further agrees to include the same requirements and provisions of this agreement, including the indemnity and insurance requirements, with any Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractor's work. A copy of the City's Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The Contractor shall require all subcontractors to provide a valid certificate of insurance with the required endorsements included in the agreement prior to commencement of any work and General Contractor will provide proof of compliance to the City.
- 8.8.6 Coordination of Subcontract Work: The Contractor is responsible for scheduling the Work of subcontractors so as to avoid delay or injury to either Work or materials.
- 8.9 Insurance.
- 8.9.1 All required insurance shall be provided in the form of "occurrence"-type policies underwritten by admitted insurers in the State of California with a rating of A or better from the current year Best Rating Guide. All policies must be issued at the expense of the Contractor and must be maintained at the Contractor's expense throughout the performance of the Work.
- 8.9.2 The Contractor and any subcontractors engaged in performance of the Work must secure payment of workers compensation in accordance with California Labor Code Section 3700 and other applicable law. The Contractor must verify that all Subcontractors comply with this requirement.

8.9.3 Within ten (10) working days following notice of award the Contractor must submit to the City along with executed copies of all other documents specified in the Contract Check List certificates of insurance and endorsements evidencing that the Contractor has in effect and will maintain throughout the performance of the Work the following kinds and amounts of insurance:

8.9.3.1 Worker's Compensation Insurance. Workers Compensation and Employers Liability insurance as required by any applicable law, regulation or statute, including the provisions of Division IV of the Labor Code of the State of California, and any act or acts amending it. Worker's Compensation insurance must be for Statutory Limits and must cover the full liability of the Contractor. The Contractor's Employer's Liability Insurance must be in an amount no less than \$1,000,000.00 per occurrence. The insurance must be endorsed to waive all rights of subrogation against City and its officials, officers, employees, and volunteers for loss arising from or related to the work performed under this agreement.

8.9.3.2 Commercial General Liability and Automobile Liability Insurance. Coverage for liability because of Bodily Injury and Property Damage including, but not limited to the following coverage:

- Completed Operations and Products Liability
- Bodily Injury
- Personal Injury
- Broad Form Property Damage Liability
- Contractual Liability insuring the obligations assumed by the Contractor under the Contract Documents
- Automobile Liability, including owned, non-owned and hired automobiles
- Coverage for the XCU hazards of Explosion, Collapse and Underground Hazards

8.9.3.3 Commercial General Liability Self-Insured Retentions:

- All self-insured retentions (SIR) must be disclosed to City for approval and shall not reduce the limits of liability.
- Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

- The City reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

8.9.3.4 Commercial Umbrella Policy. The limits of insurance required in these Contract Documents may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own Insurance or self-insurance shall be called upon to protect it as a named insured.

8.9.3.5 Builders Risk. The Contractor must, at the Contractor's own expense, maintain a builder's risk fire insurance policy, special form including extended coverage and vandalism, and malicious mischief endorsements. The policy must name the City and the Contractor as insureds. Such insurance must be carried in the amount of 100% of the Contract Price. In the event of a partial or total destruction by fire of any or all of the Work at any time prior to the completion and acceptance thereof, the Contractor shall promptly reconstruct all Work so destroyed or injured at the Contractor's own cost and expense and at no cost to the City.

8.9.4 The Additional Insured coverage under the Contractor's policy shall 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 CG 20 01 04 13.

8.9.5 The limits of the insurance required above will be at least:

Comprehensive General Liability

Bodily Injury Liability	\$2,000,000	each occurrence
	\$4,000,000	each aggregate
Property Damage Liability	\$2,000,000	each occurrence
	\$4,000,000	each aggregate

Comprehensive Automobile Liability

Bodily Injury Liability	\$2,000,000	each person
	\$2,000,000	each occurrence
Property Damage Liability	\$2,000,000	each occurrence

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Builders Risk

issued for the value of the Contract Price

- 8.9.6 For each insurance policy required under the Agreement except for the required workers compensation insurance policy, the Contractor must provide endorsements that add the City, its officials, officers, employees, agents and volunteers as an additional insured (“Additional Insured”). Such endorsements must: provide that the insurance required to be furnished by the Contractor will be primary as regards the City, and that the City’s insurance will be excess of and not contribute to the insurance required to be furnished by the Contractor; that the City will receive 30 day written notice of any reduction or cancellation of such insurance required to be furnished by the Contractor; and include a severability of interest clause acceptable to the City. Said endorsement shall be at least as broad as Insurance Services Office form number CG2010 (Ed. 11/85).
- 8.9.7 It shall be a requirement under these Contract Documents that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
- 8.9.8 Contractor shall maintain insurance as required by these Contract Documents to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

8.10 Indemnities.

- 8.10.1 The Contractor will take all responsibility for the Work, and will bear all losses and damages directly or indirectly resulting to the Contractor, any subcontractors engaged in performance of the Work, the City, its officials, officers, employees, agents, volunteers and consultants, and to third parties on account of the performance or character of the Work, unforeseen difficulties, accidents, or occurrences of other causes arising out of the Contractor’s execution of the Work or of any subcontractor engaged in performance of the Work. To the fullest extent permitted by law the Contractor will indemnify, defend and hold harmless the City, its officials, officers, employees, agents, volunteers and consultants from and against any or all loss, liability, expense, claims, costs

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(including costs of defense and consultants' costs), suits, and damages of every kind, nature and description (including, but not limited to, penalties resulting from exposure to hazards in violation of the California Labor Code and bodily injury or death) directly or indirectly arising from the Contractor's performance of the Work, failure to perform the Work, or condition of the Work that is caused in whole or in part by any act or omission of Contractor, its subcontractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, resulting from any cause whatsoever, save for liability for any loss, damage, or expense arising out of the City's sole negligence or willful misconduct.

- 8.10.2 The Contractor will indemnify, defend and hold harmless the City, the City's officials, officers, employees, volunteers, agents and the Construction Manager and Architect for all liability on account of any patent rights, copyrights, trade names or other intellectual property rights that may apply to the Contractor's performance of the Work. The Contractor will pay all royalties or other charges as a result of intellectual property rights that may apply to methods, types of construction, processes, materials, or equipment used in the performance of the Work, and will furnish written assurance satisfactory to the City that any such charges have been paid.
- 8.10.3 The Contractor assumes all liability for any accident or accidents resulting to any person or property as a result of inadequate protective devices for the prevention of accidents in connection with the performance of the Work. The Contractor will indemnify, defend, and hold harmless the City and its officials, officers, employees, agents, volunteers and consultants from such liability.
- 8.10.4 Approval of the Contractor's certificates of insurance and/or endorsements does not relieve the Contractor of liability under this Section 8.9. The Contractor will defend, with legal counsel reasonably acceptable to the City, any action or actions filed in connection with any Claims and will pay all related costs and expenses, including attorney's fees incurred. The Contractor will promptly pay any judgment rendered against the City, its officials, officers, employees, agents, volunteers or consultants for any Claims. In the event the City, its officials, officers, employees, agents, volunteers or consultants is made a party to any action or proceeding filed or prosecuted against Contractor for any Claims, Contractor agrees to pay the City, its officials, officers, employees, agents, volunteers and consultants any and all costs and expenses incurred in such action or proceeding, including but not limited to, reasonable attorneys' fees.

- 8.10.5 Subject to the requirements of Section 5 of the General Provisions, the Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims related to damage to surface or underground facilities caused by the Contractor or any of the Contractor's privities or agents.
- 8.10.6 The Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims, including any fines or other penalties, related to failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the Stormwater Pollution Prevention Plan ("SWPPP") in accordance with provision 12 of the Special Provisions. The City may withhold from amounts due or that may become due to the Contractor under this Contract amounts that equal or are estimated to equal the amount of claims, including fines, resulting from failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the SWPPP in accordance with provision 12 of the Special Provisions.
- 8.10.7 In accordance with California Civil Code Section 2782(a), nothing in the Contract will be construed to indemnify the City for its sole negligence, willful misconduct, or for defects in design furnished by the City. By execution of the Contract Documents the Contractor acknowledges and agrees that the Contractor has read and understands the insurance and indemnity requirements of the Contract Documents, which are material elements of consideration.
- 8.10.8 The defense and indemnification obligations of these Contract Documents are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in these Contract Documents.
- 8.10.9 Contractor/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of these Contract Documents for the full period of time allowed by law.
- 8.10.10 If Contractor fails to perform any of the foregoing defense and indemnity obligations, the City may defend itself and back-charge the Contractor for the City's costs and fees (including attorneys' and consultants' fees), and damages and withhold such sums from progress payments or other Contract monies which may become due.

- 8.11 Licenses/Permits. The Contractor must, without additional expense to the City, obtain all licenses, permits and other approvals required for the performance of the Work.
- 8.12 California Labor Code Requirements.
- 8.12.1 In accordance with California Labor Code Section 1771.1, this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). The Contractor and subcontractors engaged in performance of the Work must comply with Labor Code Section 1771.1.
- 8.12.2 In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under the Agreement.
- 8.12.3 In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the Work is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- 8.12.4 The Contractor and its subcontractors will forfeit as a penalty to the City \$25 for each worker employed in the performance of the Work for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 et seq.
- 8.12.5 In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Work is to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the Public Works Department and shall be made available on request. The Contractor and subcontractors engaged in the performance of the Work shall pay no less than these rates to all persons engaged in performance of the Work.
- 8.12.6 In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the Work must comply with Labor Code Section 1775 which establishes a

penalty of up to \$200 per day for each worker engaged in the performance of the Work that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the Work is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefor unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

- 8.12.6.1 The contract executed between the Contractor and the subcontractor for the performance of part of the Work must include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - 8.12.6.2 The Contractor must monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 - 8.12.6.3 Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor must diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the Work.
 - 8.12.6.4 Prior to making final payment to the subcontractor, the Contractor must obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to employees engaged in the performance of the Work and any amounts due pursuant to California Labor Code Section 1813.
- 8.12.7 In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the Work, 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 performance of the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating that the information contained in the

payroll record is true and correct and that the employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project. The payroll records required pursuant to California Labor Code Section 1776 must be certified and must be available for inspection by the City and its authorized representatives, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations and must otherwise be available for inspection in accordance with California Labor Code Section 1776.

- 8.12.8 In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the Work, will be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- 8.12.9 In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the Work to employ on the Work any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor must pay the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by that person. The minimum rate thus furnished will be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.
- 8.13 Laws and Ordinances. The Contractor and all subcontractors engaged in the performance of the Work must conform to the following specific rules and regulations as well as all other laws, ordinances, rules and regulations that apply to the Work. Nothing in the Technical Specifications or Project Plans is to be construed to permit Work not conforming to these codes:
- National Electrical Safety Code, U. S. Department of Commerce
 - National Board of Fire Underwriters' Regulations
 - California Building Standards Code as adopted by the City
 - California Plumbing Code as amended by applicable local ordinances for plumbing, sewage disposal and health requirements.
 - California Mechanical Code as amended by applicable local ordinances for all construction work.
 - California Administrative Code Titles 15, 19 and 24 (with California amendments), and Americans with Disabilities Act (ADA) accessibility guidelines, whichever is more stringent.

- Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America
- Industrial Accident Commission's Safety Orders, State of California
- Regulations of the State Fire Marshall (Title 19, California Code of Regulation) and Applicable Local Fire Safety Codes
- Labor Code of the State of California - Division 2, Part 7, Public Works and Public Agencies
- Federal, state, and local air pollution control laws and regulations applicable to the Contractor and/or Work

8.14 Guaranty. The Contractor guarantees all of the Work for one year from the date the City accepts the Work. Upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship the Contractor must make good any defects arising or discovered in any part of the Work by diligently commencing the necessary repairs within seven (7) days from the date of notice from the City. If the Contractor fails to make good any defects in the Work in accordance with this provision, in addition to any other available remedy under the contract or at law or equity, the City may make good or have made good such defects in the Work and deduct the cost from amounts that may be due or become due the Contractor, and/or call on the Contractor's maintenance bond for the cost of making good such defects and for the City's reasonable legal costs, if any, of recovering against the bond. The Contractor shall remain responsible for repairing any Work found to be defective regardless of when such defect is discovered by the City.

Where defective or rejected Work and any damage caused thereby has been corrected, removed, or replaced by the Contractor pursuant to this section, the guarantee period with respect to that Work shall be extended for an additional period of one year after such correction, removal, or replacement has been satisfactorily completed.

8.15 Safety.

8.15.1 In accordance with generally accepted construction practices and applicable law, the Contractor will be solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours. For purposes of California Labor Code Section 6400 and related provisions of law, the Contractor and the Contractor's privities and any other entities engaged in the performance of the Work will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities engaged in the performance of the Work. Neither the City nor its officials, officers, employees, agents, volunteers or consultants will be "employers" pursuant to California Labor Code

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Section 6400 and related provisions of law with respect to the Contractor, the Contractor's privities or other entities engaged in the performance of the Work. The Contractor agrees that neither the City, the Construction Manager, the Architect, nor the Engineer will be responsible for having hazards corrected and/or removed at the Work site. The Contractor agrees that the City will not be responsible for taking steps to protect the Contractor's employees from such hazards, or for instructing the Contractor's employees to recognize such hazards or to avoid the associated dangers. The Contractor agrees with respect to the Work and the Work site, the Contractor will be responsible for not creating hazards and for having hazards corrected and/or removed, for taking appropriate, feasible steps to protect the Contractor's employees from such hazards and that the Contractor has instructed and/or will instruct its employees to recognize such hazards and how to avoid the associated dangers.

- 8.15.2 Review and inspection by the City, the Construction Manager, the Architect or Engineer, and/or other representatives of the City of the Contractor's performance of the Work will not constitute review of the adequacy of the Contractor's safety measures in, on, or near the Work site. Such reviews and inspections do not relieve the Contractor of any of the Contractor's obligations under the Contract Documents and applicable law to ensure that the Work site is maintained and the Work is performed in a safe manner.
 - 8.15.3 The Contractor will be solely responsible for the implementation and maintenance of safety programs to ensure that the Work site is maintained and the Work is performed in a safe manner in accordance with the Contract Documents and applicable law.
 - 8.15.4 Within ten (10) working days following notice of award the Contractor must submit to the City a copy of the Contractor's Safety Plan.
 - 8.15.5 The Contractor must furnish and place proper guards and systems for the prevention of accidents, including, but not limited to, those systems required pursuant to Title 8, Section 1670 et seq. of the California Code of Regulations concerning safety belts and nets. The Contractor must provide and maintain any other necessary systems or devices required to secure safety of life or property at the Work site in accordance with accepted standards of the industry and applicable law. The Contractor must maintain during all night hours sufficient lights to prevent accident or damage to life or property.
- 8.16 Assignment of Unfair Business Practice Claims. In accordance with California Public Contract Code Section 7103.5, the Contractor and any subcontractors offer and agree to assign to the City all rights, title, and interest in and to all causes of action the Contractor or any subcontractors may have under Section

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4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this contract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.

- 8.17 Contractor shall be responsible for properly notifying residents and property owners impacted by this project in accordance with City standards. Specific notification procedures vary with the type of work and shall be coordinated with the City before work begins. The City will furnish a list of impacted property owners.
- 8.18 Contractor shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

9. MEASUREMENT AND PAYMENT

- 9.1 F.O.B. All shipments must be F.O.B. destination to the Work site and/or other sites indicated in the Contract Documents. The Contract Price is all-inclusive (including sales tax). There shall be no additional compensation paid for containers, packing, unpacking, drayage or insurance.
- 9.2 Payment
 - 9.2.1 On or about the first day of each calendar month the Contractor will submit to the Construction Manager a verified application for payment and schedule of values supported by a statement showing all materials actually installed during the preceding month and the cost of labor actually expended in the performance of the Work. **Billing must be received on a monthly basis, at a minimum.** Unless otherwise provided in the Contract Documents, no allowances or payments will be made for material or equipment not placed at the Work site.
 - 9.2.2 To be eligible for payment the Contractor's applications for payment must include certified payroll reports prepared in accordance with California Labor Code Section 1776 and the Agreement for each employee of the Contractor and any subcontractors engaged in the performance of the Work during the preceding months, applications for payment will not be processed without certified payroll reports.
 - 9.2.3 In accordance with California Public Contract Code Section 20104.50, the City will review applications for payment as soon as practicable after receipt. Any application or part of an application that is determined to be improper will be returned to the Contractor as soon as practicable, but no later than seven (7) days after receipt by the City,

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along with a written description of the reasons why the application is improper. The Contractor's failure to submit a schedule in the time specified in Section 3.8, or its submission of a schedule to which the City has taken any uncorrected exception, shall serve as a basis for returning an application for payment in its entirety.

- 9.2.4 Unless the Contractor has elected to post securities in lieu of retention in accordance with California Public Contract Code Section 22300 and the Agreement, and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make progress payments to the Contractor in accordance with applicable law in the amount of ninety-five (95) percent of the value of the labor actually performed and the material incorporated in the Work as specified in Contractor's verified application for payment upon approval by the City's authorized representative(s). Payment of progress payments will not be construed as acceptance of the Work performed. If the Contractor has elected to post securities in lieu of retention in accordance with Public Contract Code Section 22300 and the Agreement and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make payments to the Contractor or the Contractor's escrow agent in accordance with such escrow agreement.
- 9.2.5 The City will pay the Contractor's final invoice in accordance with applicable law and this Section 9 following acceptance of the Work provided that:
 - 9.2.5.1 The Contractor has furnished evidence satisfactory to the City that all claims for labor and material have been paid, or the time for filing valid stop notices has passed and no stop notices have been filed, or all stop notices filed have been released by valid release or release bond acceptable to the City.
 - 9.2.5.2 No claim has been presented to the City by any person based upon any acts or omissions of the Contractor or any subcontractor engaged in the performance of the Work.
 - 9.2.5.3 No other claim or dispute exists under the Agreement or applicable law concerning payment of the Contractor's final invoice and/or release of the Agreement retention.
 - 9.2.5.4 The Contractor has filed with the City the Maintenance Bond provided in the Contract Documents with duly notarized signatures of an authorized representative of the Contractor and an attorney-in-fact of an admitted surety insurer acceptable to the City and such Maintenance Bond binds the

Contractor as Principal and the Surety in accordance with its terms in the amount of 10% of the final Contract Price.

9.2.6 In accordance with California Public Contract Code Section 20104.50, if the City fails to make a progress payment within thirty (30) days of receipt of an undisputed, properly submitted application for payment, the City will pay the Contractor interest equivalent to the legal rate set forth in subdivision (a) of California Code of Civil Procedure Section 685.010. The number of days available to the City to make a payment without incurring an interest obligation pursuant to this provision and California Public Contract Code Section 20104.50 will be reduced by the number of days, if any, by which the City has delayed return of an application for payment beyond the seven day return requirement set forth in Section 9.2.5.

9.3 Non-Allowable Direct Charges. The following costs are not allowable direct charges under the Agreement. The following costs may only be paid under the Agreement, if at all, as part of any allowance for contractor overhead and/or profit established under the Agreement.

9.3.1 Labor costs in excess of applicable prevailing wages pursuant to the Agreement and applicable law, liability and workers compensation insurance, social security, retirement and unemployment insurance and other employee compensation and benefits pursuant to bona fide compensation plans in effect at the time specified for the opening of Project bids for contractor and subcontractor employees engaged in the performance of the Work or in excess of the labor costs specified in Section 4.5 of this Contract in the case of cost impacts involving items for which the Contract Documents do not specify prices and for which no lump sum amount has been approved by the City. However, in no event will allowable direct labor charges under the agreement include employee bonuses, employee vehicles or vehicle allowances, employee telephones or telephone allowances, or employee housing or housing allowances, whether or not such benefits are part of a bona fide compensation plan in effect at the time specified for the opening of Project bids.

9.3.2 Superintendent labor and clerical labor.

9.3.3 Bond premiums.

9.3.4 Insurance in excess of that required under Section 8.8.

9.3.5 Utility costs.

9.3.6 Work Site office expenses.

9.3.7 Home office expenses.

9.3.8 Permit or license costs.

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9.4 Retention. The City or its agent may, in accordance with the Contract Documents and applicable law, withhold any payment of monies due or that may become due the Contractor because of:

- 9.4.1 Defective work not remedied or uncompleted work.
- 9.4.2 Claims filed or reasonable evidence indicating probable filing of claims.
- 9.4.3 Failure to properly pay subcontractors or to pay for material or labor.
- 9.4.4 Reasonable doubt that the Work can be completed for the balance then unpaid.
- 9.4.5 Damage to another contractor.
- 9.4.6 Damage to the City.
- 9.4.7 Damage to a third party.
- 9.4.8 Delay in the progress of the Work, which, in the City's judgment, is due to the failure of the Contractor to properly expedite the Work.
- 9.4.9 Liquidated damages or other charges that apply to the Contractor under the Agreement.
- 9.4.10 Any other lawful basis for withholding payment under the contract.

9.5 Securities in Lieu of Retention.

- 9.5.1 In accordance with Public Contract Code Section 22300, except where federal regulations or policies do not permit substitution of securities, the Contractor may substitute securities for any moneys withheld by the City to ensure performance of the Work. At the Contractor's request and expense, securities equivalent to the amount withheld will be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, who will then pay those moneys to the Contractor under the terms of an Escrow for Security Deposit agreement. The Escrow for Security Deposit agreement is provided in the Contract Documents. Upon satisfactory completion of the Work, the securities will be returned to the Contractor.
- 9.5.2 Alternatively, at the Contractor's request and expense, the City will pay retentions earned directly to the escrow agent. At the Contractor's expense, the Contractor may direct investment of the payments into securities. Upon satisfactory completion of the Work, the Contractor will receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City pursuant to this provision and the terms of the Escrow for Security Deposit agreement. The Contractor will, within 20 days of receipt of

payment, pay to each subcontractor the respective amount of interest earned, less costs of retention withheld from each Subcontractor, on monies withheld to ensure the Contractor's performance of the Work.

9.5.3 Securities eligible for investment in accordance with this provision include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City.

9.5.4 The Contractor will be the beneficial owner of any securities substituted for moneys withheld and will receive any interest thereon.

10. PROJECT ACCEPTANCE AND CLOSEOUT

10.1 Occupancy. The City reserves the right to occupy or use any part or parts or the entirety of the Work before the Work is fully performed. Subject to applicable law, exercising this right will in no way constitute acceptance of any part of the Work so occupied or used or acceptance of the entire Work, nor will such occupancy or use in any way affect the times when payments will become due the Contractor, nor will such occupancy or use in any way prejudice the City's rights under the Agreement, any Agreement bonds, or at law or equity. Occupancy or use shall not waive the City's rights to assess liquidated damages in accordance with Section 7 after the date of such occupancy or use.

10.2 Work Completion and Final Inspection. When the Contractor considers the Work is completed, the Contractor will submit written certification to the Construction Manager specifying that: the Contract Documents have been reviewed; the Work has been inspected for compliance with the Contract Documents; the Work has been completed in accordance with the Contract Documents; and that equipment and systems have been tested in the presence of the City's representative and are operational. The City and/or the City's authorized representatives will make an inspection to verify that the Work is complete and will notify the Contractor in writing of any incomplete or deficient Work. The Contractor will take immediate steps to remedy the stated deficiencies and give notice of correction to the Construction Manager. Upon receiving a notice of correction, the City or the City's authorized representatives will re-inspect the Work. The Contractor must correct all punch list items within 15 working days after the issuance of the punch list. Before acceptance of the Work the Contractor must submit: one set of the Project Record Drawings (As-Builts), and any equipment operating and maintenance instructions and data, warranties.

10.3 Work Acceptance.

10.3.1 All finished Work will be subject to inspection and acceptance or rejection by the City, the Construction Manager, and the Architect

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or Engineer and other government agencies having jurisdiction over the Work. Final acceptance of the Work will be at the discretion of the City.

- 10.3.2 The City will accept the Work in writing only when the Work has been completed to the City's reasonable satisfaction. Progress payments will in no way be construed as acceptance of any part of the Work.
- 10.3.3 In evaluating the Work, no allowance will be made for deviations from the Technical Specifications, Project Plans or other Contract Documents unless already approved in writing in accordance with the requirements of Section 4, above.
- 10.3.4 The fact that the Work and materials have been inspected from time to time and that progress payments have been made does not relieve the Contractor of the responsibility of replacing and making good any defective or omitted work or materials in accordance with the requirements of the Contract Documents.
- 10.3.5 None of the provisions of this section, including acceptance of the Project, final payment, or use or occupancy of the Project Site shall constitute acceptance of Work not done in accordance with the Contract Documents nor relieve Contractor of liability relating to the express guarantees or responsibility for faulty materials or workmanship. Nothing in this section or the Contract Documents shall be construed to limit, relieve, or release Contractor's, subcontractors', and materials suppliers' liability to the City for damages sustained as a result of latent defects in materials, equipment, or the Work caused by the Contractor, its agents, suppliers, employees, or Subcontractors.

11. REMEDIES AND DISPUTES

- 11.1 Failure to Correct Work. Within ten (10) working days of receiving written notice from the City describing Work that is defective or that is otherwise not in accordance with the requirements of the Agreement and/or applicable law and directing that such Work be corrected, the Contractor and/or the Contractor's sureties must give the City written notice of the intent of the Contractor and/or the Contractor's sureties to correct such Work and commence correction of such Work in accordance with the City's notice and the Agreement. If the Contractor and/or the Contractor's sureties do not give the City written notice of intent to correct such Work and commence correction of such Work within ten (10) working days of receipt of the City's notice, then the City may correct such work and/or have such work corrected for the account and at the expense of the Contractor and/or its sureties, and the Contractor and/or its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other remedies that the City may have under the Agreement

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and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor. Contractor shall not be entitled to an extension of the Time of Completion because of a delay in the performance of the Work attributable to the City's exercise of its rights under this section.

11.2 Termination for Cause

11.2.1 In accordance with California Public Contract Code Section 7105, in addition to all other available remedies that the City may have under the Agreement, and at law or equity, the City may terminate the Contractor's control of the Work for any material breach of the Contract, including, but not limited to the following:

11.2.1.1 If the Contractor or any of its subcontractors engaged in the performance of the Work fails to timely perform the Work and/or any of the Contractor's material obligations under the Contract Documents, including but not limited to submission of an acceptable schedule, that have accrued except for due to reasons beyond the control of the Contractor pursuant to the Contract Documents.

11.2.1.2 If the Contractor is adjudged bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of its creditors.

11.2.1.3 If the Contractor or any of the subcontractors engaged in the performance of the Work persistently or repeatedly refuses or fails to supply enough properly skilled workmen or proper materials for the timely completion of the Work.

11.2.1.4 If the Contractor fails to make prompt payment to subcontractors engaged in the performance of the Work or for material or labor used in the performance of the Work in accordance with the Contract Documents and applicable law.

11.2.1.5 If the Contractor or any subcontractors engaged in the performance of the Work persistently disregards laws or ordinances applicable to the performance of the Work, or the instructions of the City, the Construction Manager, the Architect, or other authorized representatives of the City.

11.2.2 If the City intends to terminate the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will immediately serve written notice to the Contractor and its sureties in accordance with the Contract Documents. Notice of the City's intent to terminate the Contractor's control of the Work will be given by registered or certified mail and specify the grounds for

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termination, the required cure and the time by which the cure must be effected. Upon receipt of notice of the City's intent to terminate the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the Contractor will have ten (10) days from receipt of the notice or a longer time specified in the notice to cure its default. If the Contractor does not affect the required cure by the time specified in the notice, the City will issue a written notice of termination to the Contractor and its sureties by registered or certified mail. The notice of termination will specify: that upon receipt of the notice the Contractor's right to perform or complete the Work, including on behalf of the Contractor's sureties, is terminated; that the Contractor's sureties will have the right to take over and complete the Work and perform all of the Contractor's remaining obligations that have accrued under the Agreement; and that if the Contractor's sureties do not both give the City written notice of their intention to take over and perform the Agreement and commence completion of the Work and performance of all of the Contractor's remaining obligations that have accrued under the Agreement within ten (10) days after receipt of notice of termination that the City may declare the Contractor's sureties in default and take over the completion of the Work or have the Work completed for the account and at the expense of the Contractor and its sureties, and the Contractor and its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other available remedies that the City may have under the Contract Documents and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor.

- 11.2.3 Upon termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, the Contractor will, if so directed by the City, immediately remove from the Work site any and all materials and personal property belonging to the Contractor which have not been incorporated in the Work and the Contractor and its sureties will be liable upon their bond for all damages caused the City by reason of the Contractor's failure to complete the Work.
- 11.2.4 Upon termination of the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the City reserves the right to refuse tender of the Contractor by any surety to complete the Work.
- 11.2.5 If the City completes or has completed any portion of, or the whole of the Work, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will neither be liable for nor account to the Contractor

or the Contractor's sureties in any way for the time within which, or the manner in which such Work is performed, or for any changes made in such Work or for the money expended in satisfying claims and/or suits and/or other obligations in connection with completing the Work. If, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the unpaid balance of the Contract Price exceeds the expense of completing the Work, including compensation for additional legal, managerial and administrative services and all other amounts due for the completion of the Work and/or satisfaction of claims of the City and/or others arising out of the Agreement and any other charges that apply to the Contractor under the Agreement, the difference will be paid to the Contractor. If such expenses of completing the Work exceed the unpaid balance of the Contract Price, the Contractor or its sureties will pay the difference to the City.

- 11.2.6 If the Agreement or Contractor's control of the Work is terminated for any reason, Contractor waives all consequential damages resulting therefrom, including, but not limited to, the loss of any anticipated profit by the Contractor for the Work, the loss of profit on any potential or future jobs, and the loss of bonding capacity.
- 11.2.7 In accordance with California Government Code Section 4410, in the event a national emergency occurs, and public work being performed by contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the City and the Contractor may, by written agreement, terminate the Agreement. In accordance with California Government Code Section 4411, such an agreement will include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party will pay to the other or any other person, under the facts and circumstances in the case. Compensation to the Contractor will be determined on the basis of the reasonable value of the work done, including preparatory work. As an exception to the foregoing, in the case of any fully completed separate item or portion of the Work for which there is a separate contract price, the contract price shall control. The parties may in any other case adopt the contract price as the reasonable value of the work or any portion of the work done.
- 11.2.8 In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall

have no greater rights than it would have following a termination for convenience. Any contractor claim arising out of a termination for cause shall be made in accordance with this section.

11.3 Termination for Convenience.

- 11.3.1 The City may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that termination is in the City's best interest. Termination shall be effected by the City delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.
- 11.3.2 Contractor shall comply strictly with the City's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- 11.3.3 Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by: (i) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule; and (ii) offset by payments made and other contract credits. In connection with any such calculation, however, the City shall retain all rights under the Contract Documents including, without limitation, claims, indemnities, or setoffs.
- 11.3.4 Under no circumstances may Contractor recover legal costs of any nature, nor may Contractor recover costs incurred after the date of the termination.

11.4 Disputes.

The procedure set forth in California Public Contracts Code section 9204 (as summarized in Exhibit A attached hereto) shall apply to all "claims" by the Contractor on the City, as that term is defined in Section 9204. With respect to "claims" or any portion of a claim not resolved by way of the procedure set forth in Section 9204, the following procedure shall thereafter apply as follows:

- 11.4.1 In accordance with California Public Contract Code Section 20104.2, the following procedures apply to claims of \$375,000 or less between the Contractor and the City:
 - 11.4.1.1 The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede

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notice requirements otherwise provided by contract for the filing of claims.

- 11.4.1.2 For claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.2.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.2.2 The City's written response to the claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.
- 11.4.1.3 For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.3.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.3.2 The City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- 11.4.1.4 If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15

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days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

11.4.1.5 Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

11.4.1.6 This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

11.4.2 In accordance with California Public Contract Code Section 20104.4, the following procedures apply to civil actions to resolve claims of \$375,000 or less between the City and the Contractor:

11.4.2.1 Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

11.4.2.2 If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code.

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The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

11.4.2.2.1 Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

11.4.2.2.2 In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

11.4.2.3 The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

11.4.3 In accordance with California Public Contract Code Section 20104.6:

11.4.3.1 The City shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

11.4.3.2 In any suit filed under Public Contract Code Section 20104.4 concerning this contract, the City shall pay interest at the legal rate on any arbitration award or judgment. Such interest shall accrue from date the suit was filed.

11.5 Non-Waiver.

11.5.1 Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or

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waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.

- 11.5.2 Neither acceptance of the whole or any part of Work by City nor any verbal statements on behalf of City or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to City herein nor any right to damages provided in the Contract Documents.

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CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 3

SPECIAL PROVISIONS

12. SPECIAL PROVISIONS

12.1 Description of Work.

The Work in general consists of replacing windows and exterior molding, repair damage caused by moisture near doors, windows and molding, update storage and A/V areas, and retrofit the restrooms to make them more accessible and visible for public use. The project includes material procurement and installation, mechanical, electrical, plumbing, paint, permitting and other such items of work as are required to complete the project in accordance with this Contract, the Project Plans and Technical Specifications.

The estimate of the quantities of work to be done is approximate only, being as a basis for the comparison of bids, and the City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or any portion of the work as directed by the Construction Manager.

Incidental items of construction necessary to complete the whole Work in a satisfactory and acceptable manner as shown on the Project Plans and as provided for in the Technical Specifications and not specifically referred to in this section, will be understood to be furnished by the Contractor.

12.2 Construction Limitations.

The Contractor will be expected to conduct his or her operations in a manner that creates a minimum of damage to the natural vegetation and landscape. Ingress and egress must be via the existing driveways. Care must be exercised to avoid hazards that may cause injury to persons, animals or property either during working hours or after work hours, which will include dust control, backfilling trenches immediately following pipe laying and temporary fencing as required. Excavation made under this Contract must be backfilled before leaving the Work for the night.

The Contractor will be responsible for obtaining permission from the property owners for any construction outside of the Work site or easements as shown

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on the plans. Equipment will be restricted to the immediate area of construction, pipe trenches will be backfilled as soon as possible.

Receptacles for construction residue, including oil, cleaning fluids, and litter must be covered. Such residues must be disposed of in a proper manner.

Construction activity within the existing right-of-way must be scheduled to minimize traffic inconvenience and safety hazards to motorists, pedestrians and cyclists.

12.3 Storm Water Pollution Prevention.

All proposed development associated with this project shall be compliant with the Fort Bragg Municipal Code (FBMC) sections 17.64 [Stormwater Runoff Pollution Control] Standards for development and section 12.14 [Drainage Facility improvements]. [COASTAL ZONE Projects]

The contractor shall implement stormwater management practices throughout the construction phase to minimize erosion and sedimentation, comply with all local, state, and federal regulations, and protect water quality.

1. General Requirements. The contractor must comply with all applicable water pollution control laws, regulations, and ordinances. The contractor shall implement Best Management Practices (BMPs) to minimize water pollution during construction activities.
2. Temporary Erosion and Sediment Control. Install BMPs appropriate to the site, such as silt fences, straw bales, stabilized construction entrances, and/or sediment traps around the work area to prevent soil erosion and sediment runoff. Grading operations shall be conducted in a manner that reduces the potential for erosion.
3. Inlet Protection. Install inlet protection devices (such as filter fabric or gravel bags) at storm drain inlets to filter sediment from stormwater runoff before entering the drainage system.
4. Site Management. Designate a concrete washout area to prevent contaminated runoff from entering water bodies. Maintain all equipment to prevent leaks and spills, and have spill containment measures in place on-site.
5. Material Handling and Storage. Store chemicals, fuels, lubricants, and any potential pollutants in covered areas to prevent exposure to rainwater. Ensure that any storage containers are in good condition and meet environmental standards.

6. Maintenance. Inspection and maintenance of all stormwater controls shall occur weekly, both before and after rainfall events (greater than 0.5 inches). Remove accumulated sediment and debris from erosion and sediment control measures to ensure continued functionality.

7. Monitoring and Reporting. The contractor shall conduct routine inspections of erosion and sediment control measures. Any spills or leaks must be reported immediately to the City Construction Project Manager and managed according to established protocols.

Portions of the Work that may be subject to the BMPs include, but are not limited to clearing, grading, stockpiling and excavation.

Any fines, damages, Work delays or other impacts that result from failure of the Contractor or privities or agents of the Contractor to fully comply with the requirements of the General Permit or to fully implement the SWPPP will be solely the responsibility of the Contractor.

12.4 Maintaining Traffic and Pedestrian Operations.

The Contractor must conduct his or her operations so as to cause the least possible obstruction and inconvenience to public traffic. Unless otherwise approved by the Construction Manager, all traffic must be permitted to pass through the Work.

Due to the need to accommodate and minimize inconvenience to the public, unless expressly specified or approved in writing by the Construction Manager, no road closures will be permitted. Public vehicular and pedestrian traffic must be allowed to travel through the Work area with an absolute minimum of interruption or impedance unless otherwise provided for in the Special Provisions or approved in writing by the Construction Manager. The Contractor must make provisions for the safe passage of pedestrians around the area of Work at all times.

Residents affected by construction must be provided passage and access through the Work area to the maximum extent possible. Where existing driveways occur on the street, the Contractor must make provisions for the trench crossings at these points, either by means of backfill or by temporary bridges acceptable to the Construction Manager, so that the length of shut-down of any driveway is kept to a minimum. In addition, all driveways must be accessible at the end of each workday, and no driveway or property

access may be closed for more than four (4) hours during the workday. Access to driveways, houses, and buildings along the road or street must be as convenient as possible and well maintained, and all temporary crossings must be maintained in good condition. To minimize the need for and complexity of detours, not more than one crossing or street intersection or road may be closed at any one time without the written approval of the Construction Manager.

The Contractor must provide multiple, advance written notices of closures to all affected property owners in a form approved by the Construction Manager.

Except as otherwise approved by the Construction Manager, the stockpiling or storing of material in City streets or rights of way shall be prohibited. Where this is unavoidable, all such materials must be piled or stored in a manner that will not obstruct sidewalks, driveways, or pedestrian crossings. Gutters and drainage channels must be kept clear and unobstructed at all times. All such materials shall be stored and handled in a manner that protects City streets, sidewalks, or other facilities from damage.

Where approved in advance by the Construction Manager, the Contractor must construct and maintain detours for the use of public traffic at his or her own expense. Failure or refusal of the Contractor to construct and maintain detours so approved at the proper time will be a material breach of the Contract subject to any and all remedies available pursuant to the Contract Documents and at law and equity. Such remedies include, but are not limited to, termination pursuant to Section 11.

Throughout performance of the Work, the Contractor must construct and adequately maintain suitable and safe crossings over trenches and such detours as are necessary to care for the public and private traffic at all times including Saturdays, Sundays and holidays.

The Contractor will be responsible for keeping all emergency services, including the Fort Bragg police and fire departments informed of obstructions to, or detours around any public or private roads caused by reasons of his or her operations.

The Contractor must comply with the State of California, Department of Transportation Manual of warning signs, lights, and devices for use and performance of work within the job site.

The fact that rain or other causes, either within or beyond the control of the Contractor, may force suspension or delay of the Work, shall in no way

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relieve the Contractor of his or her responsibility of maintaining traffic through the Project and providing local access as specified in this section. The Contractor must, at all times, keep on the job such materials, force and equipment as may be necessary to keep roads, streets and driveways within the Project open to traffic and in good repair and shall expedite the passage of such traffic, using such force and equipment as may be necessary.

Full compensation for conforming to the requirements of this section will be deemed included in the prices paid or the various Contract items of Work, and no additional allowances will be made therefor.

12.5 Public Safety.

The Contractor must at all times conduct the Work in accordance with Construction Safety Orders of the Division of Industrial Safety, State of California, to ensure the least possible obstruction to traffic and inconvenience to the general public, and adequate protection of persons and property in the vicinity of the Work.

No pedestrian or vehicle access way may be closed to the public without first obtaining permission of the Construction Manager.

Should the Contractor fail to provide public safety as specified or if, in the opinion of the Construction Manager, the warning devices furnished by the Contractor are not adequate, the City may place any warning lights or barricades or take any necessary action to protect or warn the public of any dangerous condition connected with the Contractor's operations, and the Contractor will be liable to the City for, and the City may deduct from amounts due or that may become due to the Contractor under the Contract, all costs incurred including, but not limited to, administrative costs.

Nothing in this section will be construed to impose tort liability on the City or Construction Manager.

Contractor acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the

part of Contractor, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

12.6 Protection of Existing Facilities and Property.

The Contractor must notify Underground Service Alert (USA) for marking the locations of existing underground facilities.

Subject to Section 5 of the General Provisions, the Contractor must take all necessary measures to avoid injury to existing surface and underground utility facilities in and near the Work site. Subject to Section 5 of the General Provisions, no error or omission of utility markouts will be construed to relieve the Contractor from his responsibility to protect all underground pipes, conduits, cables or other structures affected by the Work.

The existing underground facilities in the area of Work may include telephone, television and electrical cables, gas mains, water mains, sewer pipe and drainage pipe. The various utility companies must be notified before trenching begins and at such other times as required to protect their facilities. Subject to Section 5 of the General Provisions, all underground facilities must be located and exposed ahead of trenching to prevent damage to the facilities, and to determine the depth and character of all facilities that cross or infringe on the trench prism. The Contractor must immediately notify the Construction Manager of any facilities found. If damage should occur to the existing facilities, the utility company and the City must be notified immediately and, subject to Section 5 of the General Provisions, repairs acceptable to the utility company must be made at the Contractor's expense.

The Project Plans show the underground utilities on the site of the construction insofar as they are known to the City. The drawings may not show facilities apparent from visual inspection of the site or service laterals or appurtenances, the existence of which can be inferred from the presence of other visible facilities such as buildings, meters, junction boxes, etc. on or adjacent to the construction site.

If in the performance of the Work an existing utility is encountered that is not shown on the Project Plans and is not apparent or inferable from visual inspection of the Project site, the Project Inspector must be notified immediately. The Construction Manager will determine, subject to Section 5 of the General Provisions, whether the Project Plans or Technical Specifications should be modified, or whether the existing utility should be relocated or whether the Contractor must work around the existing utility. Subject to Section 5 of the General Provisions, the Contractor must replace,

City of Fort Bragg
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at his or her own expense, in as good condition as they were prior to the start of construction, all existing improvements and surroundings damaged by his or her operation. Reconstruction of all existing improvements must conform to CITY OF FORT BRAGG Public Works Standard Specifications and Details under the direction of and subject to the acceptance by the Construction Manager.

Subject to Section 5 of the General Provisions, should the Contractor fail to take adequate measures to avoid injury or damage to the facilities described above, the City may take any actions necessary to protect such facilities from the Contractor's operations. Subject to Section 5 of the General Provisions, the City may withhold the cost of injury to existing surface and underground utility facilities in and near the Work site from amounts due or that may become due the Contractor.

12.7 Preconstruction Conference.

A pre-construction conference will be scheduled, at which time the Contractor must present his or her proposed work schedule in accordance with Section 3.8 of the General Provisions, information concerning offsite yards, Subcontractors, location of disposal and stock pile areas, and traffic control plans. All such schedules will be subject to the approval of the Construction Manager and the applicable agencies.

City will schedule and administer intermittent progress meetings throughout duration of work. City will determine the location and time for the meetings.

12.8 Owner Notification.

The Contractor must notify all property owners and businesses affected by the Work at least 48 hours before Work is to begin. The notice must be in writing in the form of a door hanger, and must indicate the Contractor's name and phone number, type of work, day(s) and time when Work will occur. Notices must be reviewed in advance and approved by the Construction Manager.

12.9 Emergency Service Providers Notifications.

The Contractor must furnish the name and phone number of a representative that can be contacted in the event of an emergency. Said information must be reported to the City Police Department dispatcher, and updated as required to provide 24-hour phone access.

12.10 Clean up.

Attention is directed to Section 4-1.02 of the Caltrans Standard Specifications, which section is made a part of this Contract.

Before final inspection of the Work, the Contractor must clean the construction site and all ground occupied by him in connection with the Work, of all rubbish, excess material, falsework, temporary structures and equipment. All parts of the Work shall be left in a neat and presentable condition.

Nothing herein shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Construction Manager.

12.11 Payment.

Payment for all work and work requirements specified in these Special Provisions shall be considered as included in the Contract Price and no additional allowances shall be made therefore.

12.12 Construction Staking.

Attention is directed to Section 3.9 of the General Provisions for information on Construction Staking.

12.13 Materials Testing Allowance.

Attention is directed to Section 3.10 of the General Provisions for information on Materials Testing Allowance.

12.14 Obstructions.

Attention is directed to Section 15, "Existing Highway Facilities," of the Caltrans Standard Specifications, which section is made a part of this Contract.

Attention is directed to the existence of overhead and underground power, telephone, and television cable poles, underground sewer mains and laterals, underground gas mains, and underground water mains and laterals within the area in which construction is to be performed.

Prior to starting the Work, the Contractor must (a minimum of 2 working days in advance) call Underground Service Alert (USA), toll free, at 811, and provide USA with all necessary data relative to the proposed work. USA will

City of Fort Bragg
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accept calls and process information to participating agencies who have underground facilities in the area between the hours of 7:30 a.m. and 5:00 p.m. daily, except Saturdays, Sundays, and holidays. Between the hours of 5:00 p.m. and 7:30 a.m. calls will be recorded and then processed after 7:30 a.m. For emergency situations, after hours and on Saturdays, Sundays and holidays, the Contractor shall contact the organization owning the affected facility. Upon notification, agencies having facilities in the area of the proposed excavation will mark their locations in the field using USA standard colors and codes to identify the facility.

The Contractor will be required to work around public and private utility facilities and other improvements that are to remain in place within the construction area, and he will be held liable to the owners of such facilities for interference with service resulting from his operations.

12.15 Hours of Work.

Unless otherwise specified herein, all construction activity, except for emergency situations, will be confined to Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m., to minimize nuisances to local residents. Mufflers and/or baffles will be required on all construction equipment to control and minimize noise. The Contractor must comply with all applicable noise regulations in the City's Zoning Ordinance.

Saturdays, Sundays, holidays and overtime shall not be regarded as working days. Work shall not be allowed on non-working days without the expressed approval of the Construction Manager. The Contractor shall make a request for approval in writing with the stipulation (implied or expressed) that the Contractor shall pay for all overtime labor charges at the applicable hourly rate of the City or contract employee performing duties of inspector and/or resident engineer. All overtime labor charges shall be deducted from the final payment along with any liquidated damages.

Work necessary for the proper care and protection of work already performed or in case of emergency may be allowed without permission of the Construction Manager.

12.16 Dust Control.

The Contractor must furnish all labor, equipment, and means required and carry out effective measures wherever and as often as necessary to prevent its operation from producing dust in amounts damaging to property, cultivated vegetation, or domestic animals, or causing a nuisance. The Contractor will be responsible for any damage resulting from any dust

originating from the performance of the Work. The use of water resulting in mud on streets, sidewalks, or driveways, will not be permitted as a substitute for sweeping or other methods of dust control. The Contractor may not discharge smoke, dust, or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

Dust control must conform to the provisions in Sections 10-5, "Dust Control" and Section 18, "Dust Palliatives" of the Caltrans Standard Specifications, which section is made a part of this Contract.

12.17 Water for Construction and Dust Control.

Unless otherwise provided, the Contractor will be responsible for applying to the City's Utility Department to establish utility accounts (at no charge) for all water necessary to perform the Work. The Contractor must comply with all City requirements for construction water, including provision of deposits and provision of backflow prevention devices. In accordance with State law, backflow prevention devices for construction water connections must be re-tested when relocated. The Contractor will be responsible for the cost of any re-testing.

The Contractor is prohibited from operating gate valves, fire hydrants, pumps or any other components of the City water system. The Contractor must contact the City's utilities staff, a minimum of twenty-four (24) hours in advance, to operate these or any other components on the City water system.

12.18 Protection and Restoration of Vegetation.

Trees, lawns, shrubbery and vegetation that are not to be removed must be protected from damage or injury. Existing trees, shrubs, and other plants, that are not to be removed and are injured or damaged by reason of the Contractor's operations, must be replaced by the Contractor in accordance with the requirements in Section 20-3.01C, "Replacement," of the Caltrans Standard Specifications. Section 20-3.01C of the Caltrans Standard Specifications is made a part of this Contract.

When it is necessary to excavate adjacent to existing trees, shrubs, or hedges, the Contractor must use all possible care to avoid injury to the trees, shrubs, or hedges and their roots. No roots or limbs two inches (2") or larger in diameter may be cut without the express approval of the Construction Manager.

All roots two inches (2") in diameter and larger left in place must be wrapped with burlap to prevent scarring or excessive drying. When it is necessary to cut limbs and branches of trees to provide clearance for equipment used in construction, the Contractor must repair the damaged areas by properly painting with an emulsified asphalt type seal. All cuts through 1/2" or larger roots and limbs must be hand trimmed and cleanly cut before being repaired.

12.19 Surplus Material.

All material removed or excavated during the course of construction will be surplus. All surplus material will be the property of the Contractor and be disposed of outside the right-of-way, unless the City elects to salvage certain objects that are determined to be of historical interest. The City reserves the right of ownership of all objects that it elects to salvage, and the Contractor must protect such objects from subsequent damage until delivered unto the care of the owner.

12.20 Cultural Resources.

In accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470), the following procedures are implemented to ensure historic preservation and fair compensation to the Contractor for delays attendant to the cultural resources investigation. The Contractor hereby agrees to comply with these procedures.

12.21 Historical Finds.

In the event potential historical, architectural, archeological, or cultural resources (hereinafter called cultural resources) are discovered during subsurface excavations at the site of construction, the following procedures will apply:

1. The Contractor must immediately notify the Construction Manager and stop any Work that may jeopardize the find pending an investigation of its significance;
2. The Construction Manager will select a qualified archeologist (such as through the Northwest Information Center at Sonoma State University or other official contact) and wait for an archaeologist to complete an evaluation of significance before continuing Work in that area.
3. The Construction Manager will supply the Contractor with a "Stop Work Order" directing the Contractor to cease all portions of the Work that the Construction Manager determines may impact the find. The "Stop Work Order" will be effective until a qualified archaeologist assesses

the value of the potential cultural resources. The "Stop Work Order" will contain the following:

- a. A clear description of the Work to be suspended;
 - b. Any instructions regarding issuance of further orders by the Contractor for materials services;
 - c. Guidance as to action to be taken regarding Subcontractors;
 - d. Any direction to the Contractor to minimize costs; and
 - e. Estimated duration of the temporary suspension.
4. If the archaeologist determines the potential find is a bona fide cultural resource, the Construction Manager may extend the duration of the "Stop Work Order" in writing, and if so the "Stop Work Order" will remain in effect and Work subject to the "Stop Work Order" may not resume until authorized by the Construction Manager.

12.22 Cultural Resources Defined.

Possible indicators that a cultural resource has been found include, but are not limited to the following:

1. Prehistoric-era archaeological site indicators: obsidian tools, tool manufacture waste flakes, grinding and other implements, dwelling sites, animal or human bones, fossils, and/or locally darkened soil containing dietary debris such as bone fragments and shellfish remains;
2. Historic-era site indicators: ceramic, glass, and/or metal.

12.23 Construction Manager's Discretion.

Once possible cultural resources are found at the Work site, the Construction Manager may use discretion to continue the Work, regardless of the cultural resource find, if the Construction Manager determines that there are overriding considerations such as the instability of the excavation site, the existence of adverse weather or other conditions that would preclude leaving the site exposed, or if the site would be unsafe to workers who would retrieve cultural resource items from therein.

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONSTRUCTION PERFORMANCE BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

THIS CONSTRUCTION PERFORMANCE BOND (Bond), dated _____, is in the amount of _____ (Penal Sum), which is 100% of the Contract Sum and is entered into by and between the parties listed below to ensure the faithful performance of the Contract identified below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 14 attached to this page. Any singular reference to _____ (Contractor), _____ (Surety), City of Fort Bragg (City), or other party shall be considered plural where applicable.

CONTRACTOR:

SURETY:

Name of Contractor

Name of Surety

Address

Principal Place of Business

City/State/Zip

City/State/Zip

CONSTRUCTION CONTRACT:

Agreement for the _____ (Project) located at _____ (Address), California, dated _____, in the amount of _____.

CONTRACTOR AS PRINCIPAL

SURETY

Company: (Corp. Seal) _____

Company: (Corp. Seal) _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

City of Fort Bragg
Project No. PWP-0122
Construction Performance Bond

BOND TERMS AND CONDITIONS

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the City and the State of California for the complete and proper performance of the Construction Contract, which is incorporated herein by reference.
2. If Contractor completely and properly performs all of its obligations under the Construction Contract, Surety and Contractor shall have no obligation under this Bond.
3. If there is no City Default, Surety's obligation under this Bond shall arise after:
 - 3.1 City provides Surety with written notice that City has declared a Contractor Default under the Construction Contract pursuant to the terms of the Construction Contract; and
 - 3.2 City has agreed to pay the Balance of the Contract Sum:
 - 3.2.1 To Surety in accordance with the terms of this Bond and the Construction Contract; or
 - 3.2.2 To a Contractor selected to perform the Construction Contract in accordance with the terms of this Bond and the Construction Contract.
4. When City has satisfied the conditions of Paragraph 3 above, Surety shall promptly (within 40 Days) and at Surety's expense elect to take one of the following actions:
 - 4.1 Arrange for Contractor, with consent of City, to perform and complete the Construction Contract (but City may withhold consent, in which case the Surety must elect an option described in Paragraphs 4.2, 4.3 or 4.4 below); or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors or Construction entities; provided, that Surety may not select Contractor as its agent or independent contractor or Contractor without City's consent; or
 - 4.3 Undertake to perform and complete the Construction Contract by obtaining bids from qualified contractors or Construction entities acceptable to City for a contract for performance and completion of the Construction Contract and, upon determination by City of the lowest responsive and responsible Bidder, arrange for a contract to be prepared for execution by City and the contractor or Contractor selected with City's concurrence, to be secured with performance and payment bonds executed by a qualified surety

City of Fort Bragg
Project No. PWP-0122
Construction Performance Bond

equivalent to the bonds issued on the Construction Contract; and, if Surety's obligations defined in Paragraph 6 below, exceed the Balance of the Contract Sum, then Surety shall pay to City the amount of such excess; or

- 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor or Contractor, and with reasonable promptness under the circumstances and, after investigation and consultation with City, determine in good faith its monetary obligation to City under Paragraph 6 below, for the performance and completion of the Construction Contract and, as soon as practicable after the amount is determined, tender payment therefor to City with full explanation of the payment's calculation. If City accepts Surety's tender under this Paragraph 4.4, City may still hold Surety liable for future damages then unknown or unliquidated resulting from the Contractor Default, as agreed by City and Surety at the time of tender. If City disputes the amount of Surety's tender under this Paragraph 4.4, City may exercise all remedies available to it at law to enforce Surety's liability under Paragraphs 6 and 7 below.
5. At all times City shall be entitled to enforce any remedy available to City at law or under the Construction Contract including, without limitation, and by way of example only, rights to perform work, protect Work, mitigate damages, advance critical Work to mitigate schedule delay, and coordinate Work with other consultants or contractors.
6. If Surety elects to act under Paragraphs 4.1, 4.2 or 4.3 above, within the time period provided in Paragraph 4, above, and complies with its obligations under this Bond, Surety's obligations under this Bond are commensurate with Contractor's Construction Contract obligations. Surety's obligations include, but are not limited to:
 - 6.1 Contractor's obligations to complete the Construction Contract and correct Defective Work;
 - 6.2 Contractor's obligations to pay liquidated damages; and
 - 6.3 To the extent otherwise required of Contractor under the Construction Contract, Contractor's obligations to pay additional legal, design professional, and other costs not included within liquidated damages resulting from Contractor Default (but excluding attorney's fees incurred to enforce this Bond).

7. If Surety does not elect to act under Paragraphs 4.1, 4.2, 4.3, or 4.4, above, within the time period provided in Paragraph 4, above, or comply with its obligations under this Bond, then Surety shall be deemed to be in default on this Bond ten Days after receipt of an additional written notice from City to Surety demanding that Surety perform its obligations under this Bond. Such Surety default shall be independent of the Contractor Default. To the extent Surety's independent default causes City to suffer damages including, but not limited to, delay damages, which are different from, or in addition to (but not duplicative of) damages which City is entitled to receive under the Construction Contract, Surety shall also be liable for such damages. In the event any Surety obligation following its independent default is inconsistent or conflicts with California Civil Code Section 2809, or any other law which either prohibits, restricts, limits or modifies in any way any obligation of a surety which is larger in amount or in any other respect more burdensome than that of the principal, Surety hereby waives the provisions of such laws to that extent.
8. If Surety elects to act under Paragraphs 4.1, 4.2, 4.3 or 4.4 above, within the time period provided in Paragraph 4, above, and complies with all obligations under this Bond, Surety's monetary obligation under this Bond is limited to the Penal Sum.
9. No right of action shall accrue on this Bond to any person or entity other than City or its successors or assigns.
10. Surety hereby waives notice of any change, alteration or addition to the Construction Contract or to related subcontracts, design agreements, purchase orders and other obligations, including changes of time, and of any City action in accordance with Paragraph 5 above. Surety consents to all terms of the Construction Contract, including provisions on changes to the Contract. No extension of time, change, alteration, Modification, deletion, or addition to the Contract Documents, or of the Work (including services) required thereunder, or any City action in accordance with Paragraph 5 above shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond, unless such action is an City Default.
11. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between City and Contractor regarding the Construction Contract, or in the Superior Court of the County of Mendocino, California, or in a court of competent jurisdiction in the location in which the Work is located. Communications from City to Surety under Paragraph 3.1 above shall be deemed to include the necessary agreements under Paragraph 3.2 above unless expressly stated otherwise.
12. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to City shall be mailed or delivered as provided in the Construction Contract. Actual receipt of notice by

City of Fort Bragg
Project No. PWP-0122
Construction Performance Bond

Surety, City or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.

13. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.

14. Definitions

14.1 Balance of the Contract Sum: The total amount payable by City to Contractor pursuant to the terms of the Construction Contract after all proper adjustments have been made under the Construction Contract, for example, deductions for progress payments made, and increases/decreases for approved Modifications to the Construction Contract.

14.2 Construction Contract: The agreement between City and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.

14.3 Contractor Default: Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract, limited to "default" or any other condition allowing a termination for cause as provided in the Construction Contract.

14.4 City Default: Material failure of City, which has neither been remedied nor waived, to pay Contractor progress payments due under the Construction Contract or to perform other material terms of the Construction Contract, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Construction Contract.

END OF DOCUMENT

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City of Fort Bragg
Project No. PWP-0122
Construction Performance Bond

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

KNOW ALL PERSONS BY THESE PRESENTS:

1.01 WHEREAS, the City of Fort Bragg, 416 N. Franklin Street, Fort Bragg, California 95437 (City) has awarded a Contract to _____ as Principal, dated the _____ day of _____, _____ (the Contract), titled THE _____ PROJECT in the amount of \$_____, which Contract is by this reference made a part hereof, for the work of the following Contract:

1.02 WHEREAS, Principal is required to furnish a bond in connection with the Contract to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;

1.03 NOW, THEREFORE, we, the undersigned Principal and _____, as Surety, are held and firmly bound unto City in the sum of 100% OF THE CONTRACT PRICE (\$ _____), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1.04 THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its executors, administrators, successors, or assigns approved by City, or its subcontractors shall fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the State of California Unemployment Insurance Code with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond,

City of Fort Bragg
Project No. PWP-00122
Construction Labor & Material Payment Bond

plus reasonable attorneys' fees, otherwise the above obligation shall become and be null and void.

- 1.05 This bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100, as to give a right of action to such persons or their assigns in any suit brought upon this bond. The intent of this bond is to comply with the California Mechanic's Lien Law.
- 1.06 Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder.
- 1.07 Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing City's rights against the other.
- 1.08 Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____day of _____, _____.

CONTRACTOR AS PRINCIPAL

SURETY

Company: (Corp. Seal)

Company: (Corp. Seal)

Signature

Signature

Name

Name

Title

Title

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

END OF DOCUMENT

City of Fort Bragg
Project No. PWP-00122
Construction Labor & Material Payment Bond

FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

MAINTENANCE BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS the City Council of the CITY OF FORT BRAGG has awarded to _____, (designated as the "PRINCIPAL") a contract for the _____ Project, Project No. _____, which contract and all of the contract documents as defined therein (designated as the "Contract") are hereby made a part hereof; and

WHEREAS, the PRINCIPAL is required under the terms of the Contract to furnish a bond for the correction of any defects due to defective materials or workmanship in the work performed under the Contract.

NOW, THEREFORE, we the PRINCIPAL and the undersigned _____, as surety (designated as "SURETY"), an admitted surety insurer authorized to do business in the State of California, are held and firmly bound unto the CITY OF FORT BRAGG, (designated as the "OBLIGEE"), in the penal sum of _____ Dollars (\$_____), lawful money of the United States, being a sum not less than ten percent (10%) of the final Contract price, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if, during a maintenance period of one (1) year from the date of acceptance by the OBLIGEE of the contracted work, the PRINCIPAL upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship, shall diligently take the necessary steps to correct said defects within seven (7) days from the date of said notice, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

If any action shall be brought by the OBLIGEE upon this bond, a reasonable attorney's fee, to be fixed by the Court, shall be and become a part of OBLIGEE's judgment in any such action.

No right of action shall accrue on this bond to, or for the use of, any person or corporation other than the OBLIGEE named herein or the heirs, executors, administrator or successor of the OBLIGEE.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their seals this _____ day of _____, _____ the name and corporate seals

City of Fort Bragg
Project No. PWP-00122
Construction Labor & Material Payment Bond

of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

PRINCIPAL

By: _____

(Acknowledgement)

Title: _____

(Corporate Seal)

SURETY

By: _____

(Attorney-in-fact)

(Acknowledgement)

Title: _____

(NOTE TO SURETY COMPANY: A certified copy of unrevoked resolution of authority for the attorney-in-fact must be submitted with and attached to the executed bid bond.)

END OF DOCUMENT

EXHIBIT A

CLAIMS PROCEDURE

SUMMARY OF PUBLIC CONTRACT CODE § 9204

The following procedure will apply to any claims by the Contractor on the City:

A “claim” is a separate demand on the City by a contractor on a public works project and sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- A time extension, including relief from penalties for delay
- Payment by the City of money damages under the terms of the contract
- Payment of an amount that is disputed by the City

Initial Review

The claim must be supported by appropriate documentation. The City has 45 days within which to review the claim and provide the contractor with a written statement identifying the disputed and undisputed portions of the claim. If the City does not issue a written statement, the claim is deemed rejected in its entirety. The City will pay any undisputed portion of the claim within 60 days of issuing the statement.

Meet & Confer

If the contractor disputes the City’s written response, or if the City does not issue one, the contractor may request in writing an informal conference to meet and confer for possible settlement of the claim. The City will schedule the meet and confer conference within 30 days of this request and provide a written statement identifying the remaining disputed and undisputed portions of the claim within 10 business days of the meet and confer. The City will pay the undisputed portion within 60 days of issuing this statement.

Mediation

With respect to any disputed portion remaining after the meet and confer, the City and contractor will submit the matter to nonbinding mediation, agree to a mediator within 10 business days after issuing the written statement, and share mediation costs equally. If mediation is unsuccessful, then the terms of the public works agreement and applicable law will govern resolution of the dispute.

Miscellaneous Provisions

Amounts not paid by the City in a timely manner bear interest at 7% per annum. Subcontractors may submit claims via this procedure through the general contractor. The City and contractor may waive the requirement to mediate, but cannot otherwise waive these claim procedures.