

GENERAL CONDITIONS (CONSTRUCTION)

Note: All Articles, Subarticles, or portions of the Contract noted by an asterisk (*) shall be included in all Subcontracts of any tier.

GC-01 GLOSSARY OF TERMS

A. Abbreviations and Symbols

The following abbreviations are used in these documents:

ADR	Alternative Disputes Resolution
Cal-OSHA	California Occupational Safety and Health Administration
CALTRANS	California Department of Transportation
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CM	Construction Manager or Construction Management Consultant
CN	Change Notice
CO	Change Order
CPM	Critical Path Method
CPUC	California Public Utilities Commission
CRB	Claims Review Board
CSI	Construction Specifications Institute
CSP	Cost and Schedule Proposal
DOT	United States Department of Transportation
DRB	Disputes Review Board
EEO	Equal Employment Opportunity
FAR	Federal Acquisition Regulations
FTA	Federal Transit Administration
LACFCD	Los Angeles County Flood Control District
LACOFD	Los Angeles County Fire Department
LADOT	Los Angeles City Department of Transportation
LADPW	Department of Public Works, City of Los Angeles
LAFD	Los Angeles City Fire Department
LDs	Liquidated Damages
NOIC	Notice of Intent to Claim
NTE	Not-to-Exceed
NTP	Notice To Proceed
OSHA	United States Department of Labor, Occupational Safety and Health Administration, and Occupational Safety and Health Act
PCC	Public Contracts Code
PUC	Public Utilities Code,
RFC	Request for Change
RFI	Request for Information
SCAQMD	South Coast Air Quality Management District
SSPWC	Standard Specifications for Public Works Construction
U.S.C.	United States Code
VECP	Value Engineering Change Proposal

Additional abbreviations may be found in the Statement of Work, Special Provisions, and on the Contract Drawings.

B. Definitions

The following terms, when capitalized, shall have the following meanings (additional terms may defined in the Special Conditions):

Acceptance	Acceptance by Metro’s Authorized Representative of completion of the Work or any Element in accordance with the Contract by the issuance of a Certificate of Substantial Completion of the Work or any Element, as provided in the Contract.
Acceptance Test	Any one of the tests described in the Contract as an acceptance test.
Alternative Dispute Resolution (ADR)	Means for settling a Dispute, which may include arbitration, mediation or any other recognized procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation.
Amendment	A formal revision or addition to the Contract agreed to in writing and executed by the parties. Includes all changes, corrections and adjustments to the Contract Price, Contract Time and Contract Documents that are agreed to in writing and executed by the parties.
Authorized Auditor	Any Metro Authorized Representative, any Government Entity and/or any firm of auditors appointed by Metro or other Government Entity to perform any audit on behalf of Metro or Government Entity.
Authorized Representative	Person or firm authorized or empowered by Metro to act for, or on behalf of Metro. The Contracting Officer is Metro’s primary Authorized Representative, and is the only person authorized to delegate authority to any other Authorized Representative. The Contracting Officer’s delegation to other Authorized Representatives shall be in writing and limited to specifically defined authority and responsibilities. The authority, responsibilities and limitations of any Authorized Representative shall be described in the Contracting Officer’s notice to the Contractor designating the Authorized Representative. Any authority or responsibility not delegated by the Contracting Officer to another Authorized Representative shall remain solely with the Contracting Officer as Metro’s Authorized Representative.

Certificate of Final Acceptance	The formal written acknowledgment from Metro to the Contractor that the Work has been fully completed and has been Finally Accepted in accordance with the Contract.
Certificate of Substantial Completion	The formal written acknowledgment from Metro to the Contractor that the Work, or an Element thereof, has been Substantially Completed in accordance with the Contract.
Change Notice (CN)	A written document issued by Metro to the Contractor describing a proposed change to the Work and requesting the Contractor to submit a Contractor's Cost and Schedule Proposal.
Change Order (CO)	A written order by Metro's Contracting Officer directing Changed Work.
Changed Work (or Change)	Additions, deletions or other revisions to the Work within the general scope of the Contract. Changed Work must be directed by Metro by a Change Order or agreed to by the parties in an Amendment or other Modification. Includes Work that does not involve an adjustment in the Contract Price and/or Contract Time. Does not include Work performed or time spent by Contractor to correct any Deficiency.
Chief Executive Officer (CEO)	Chief Executive Officer of Metro.
Claim	A written demand by one of the contracting parties for: <ol style="list-style-type: none"> 1. A time extension, 2. An adjustment or interpretation of Contract terms; 3. Payment or money, or 4. Other legal, equitable or contractual relief.
Commencement Date	The date set forth in the Contract under the Article entitled PERIOD OF PERFORMANCE that is the commencement date of all performance under the Contract. All dates and schedules under the Contract, including Contract Time, shall be measured from the Commencement Date.
Construction Equipment	Contractor-furnished equipment required and used by the Contractor to perform the Work, but not affixed to or incorporated into the Work.
Construction Manager (CM)	Metro or the Construction Management Consultant retained and designated by Metro to supervise Work. The CM shall be the Authorized Representative of Metro to the extent expressly set forth in the Contract or in any written designation by the Contracting Officer.

Construction Staging Area	Property used by the Contractor during the performance of the Work for the purpose of storing Goods and Construction Equipment, and coordinating the Work.
Contract	This written agreement executed by Metro and the Contractor which sets forth the rights and obligations of the parties in connection with the Work, and which includes the Contract Documents and all incorporated attachments and exhibits.
Contract Administrator	Metro's Authorized Representative with authority, as provided in this Contract or in any delegation from the Contracting Officer, to administer all non-technical contractual matters related to this Contract.
Contract Drawings	The plans depicting the Work showing its locations, character, dimensions, and details.
Contract Documents	The documents included in the Contract and made a part hereof, including without limitation Attachments and Exhibits incorporated herein either by attachment or by reference.
Contract Price	The total compensation approved by Metro to be paid to the Contractor in accordance with the terms of the Contract and all Modifications.
Contract Time	The number of calendar days, or portion thereof, allowed for completion of the Work and Final Acceptance by Metro, including all authorized time extensions. The date specified in the NTP as the Commencement Date shall be the date on which the Contract Time begins and the Scheduled Completion Date shall be the date the Contract Time ends.
Contracting Officer	<p>The CEO of Metro or CEO's Authorized Representative who is designated in writing by the CEO as Contracting Officer for this Contract and authorized and empowered on behalf of Metro to:</p> <ol style="list-style-type: none"> 1. Execute this Contract, and all Modifications, directives, and other agreements and documents related to this Contract; and. 2. Delegate in writing specific authority and responsibilities under this Contract to other Authorized Representatives.

Contractor	The individual, firm, partnership, corporation, joint venture, or combination thereof, which may also be referred to by the term "it", that has entered into the Contract with Metro. Includes Contractor's successors, assigns, employees, officers, Contractor's Representatives, and agents. In context may also include Subcontractors, Suppliers and any other persons for whom the Contractor may be legally or contractually responsible.
Contractor's Representative	The Contractor's executive representative authorized and empowered to act on behalf of the Contractor, to receive and fulfill instructions from Metro, and who shall direct the activities of the Contractor.
Critical Path	The line on a Critical Path Schedule through the various project tasks at the intersection of the points of their logical relationship (junction points or nodes) that controls the time of completion of the Work.
Critical Path Schedule	A schedule which includes the planned sequence of activities showing the interrelationships and dependencies of the elements that comprise the Work, including a breakdown of all of the elements of the Work in to individual tasks, number of days required to perform each task and their logical relationship. The Critical Path Schedule includes the entire Contract Time from the Commencement Date to the Scheduled Completion Date.
Cure Notice	Written notice from Metro to the Contractor to cure a default, issued pursuant to the Article entitled TERMINATION FOR DEFAULT.
Days	Unless otherwise stated, "days" shall mean calendar days.
Deficiency	<ol style="list-style-type: none"> 1. Defect(s) in any of the Work related to its construction, materials, workmanship or functionality, 2. Failure to meet or any deviation from any Contractual standard, 3. Error(s), omission(s), or deviation(s) from the Specifications; or 4. Other problem(s) which result in the Work or any portion thereof not performing in accordance with the Specifications.
Dispute	A disagreement between the parties as to the merits, amount or remedy arising out of an issue in controversy, including a Claim or asserted default.
Effective Date	The date the Contract becomes effective and enforceable. Note: This is not the commencement date of Work; see Commencement Date.

Element	A discrete part or portion of the Work to be performed or Furnished by the Contractor, identified in the Contract or by Metro as a separate element, unit or item (or similar description) thereof.
Emergency	Any sudden generally unforeseen occurrence (such as a Force Majeure event or man-made disaster) that has the potential to: adversely affect the safety of life, the Work, or adjacent property; interrupt contracts essential to the provision of daily transit service; or cause catastrophic failure of revenue-producing equipment or facilities.
Environmental Impairment Losses	Any and all loss, liability, expense or damage (including, without limitation, all attorneys' fees and costs and all other professional or contractors' fees and costs), incurred by Metro under an Environmental Law as a result of the activities conducted by the Contractor under the Contract.
Environmental Laws	All Laws applicable to Metro or to the Work, now or hereafter in effect relating to (1) The environment; (2) To emissions, discharges, releases or threatened releases of Hazardous Substances into the environment, including into the air, surface water or ground water or onto land; (3) The manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances; or (4) The protection of public health, public welfare or the natural environment (including protection of non-human forms of life, land, surface water, groundwater and air) including without limitation: (a) the Laws listed in the definition of Hazardous Substances (which are hereby incorporated into this definition); (b) the following laws – the National Environmental Policy Act, 42 U.S.C. §4321 et. Seq.; the California Environmental Quality Act., Cal. Pub. Res. Code §21000 et. seq.; the Occupational Safety and Health Act, 29 U.S.C. §651 et. seq.; the California Occupational Safety and Health Act of 1973, Cal Lab. Code §6300 et. seq.; Cal. Gov. Code §11017; the Endangered Species Act, 16 U.S.C. §1531 et. seq.; the Migratory Bird Treaty Act, 16 U.S.C. §703 et. seq.; Cal. Fish and Game Code §1600 et. seq.; and (c) all federal, state and local regulations, guidelines and interpretations arising out of the above referenced Laws, including, without limitation, applicable regulations in the Code of Federal Regulations and the California Code of Regulations and Executive Order 11378.
Equipment	Any and all machinery, vehicles, systems, assemblies, sub-assemblies, products, material fittings, devices, appliances, fixtures, apparatus, supplies and parts

used by the Contractor or provided by the Contractor to Metro pursuant to this Contract. Does not include Construction Equipment as defined herein.

Final Acceptance

Acceptance by Metro of all Work under the Contract by the issuance of a Certificate of Final Acceptance certifying that the Work has been fully completed in accordance with the Contract.

Force Majeure

Any of the following events (provided such events are beyond the control of the Contractor and are not due to an act or omission of the Contractor), which materially and adversely affect the Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of reasonable efforts by the Contractor:

- (a) Any earthquake exceeding 3.5 on the Richter scale epicentered within 25 miles of the specific location of damage on the Worksite, any earthquake exceeding 5.0 on the Richter scale epicentered within 50 miles from the specific location of damage on the Worksite, and any earthquake exceeding 6.5 on the Richter scale epicentered within 75 miles from the specific location of damage on the Worksite, based on the final determination regarding the location and magnitude of the earthquake published by the National Earthquake Information Center in Golden, Colorado;
- (b) Any epidemic, quarantine restrictions, blockade, rebellion, war, riot, civil disorder, act of a public enemy, or act of sabotage, or any malicious or other acts intended to cause loss or damage;
- (c) The discovery at, near or on the Worksite of any archaeological, paleontological or cultural resources or Hazardous Substances; provided that the existence of such resources or substances were not disclosed in the Contract Documents, were not otherwise known to the Contractor prior to the bid opening date and would not have become known to the Contractor by undertaking reasonable investigation prior to the bid opening date, and excluding any risks of Delays arising from such discovery allocated to the Contractor under this Contract;
- (d) The discovery at, near or on the Worksite of any species listed as threatened or endangered under any Federal or California endangered species act, except to the extent that the environmental documents related to the Project provide for mitigation measures to be undertaken with respect thereto regardless of whether the species is listed as threatened or endangered as of the bid opening

date, and also subject to any risk allocation provisions which may be contained in this Contract;

- (e) The suspension, termination, interruption, denial or failure to obtain, non-renewal or amendment by a Government Entity, of any permit or approval required to be obtained and maintained in force by Metro;
- (f) Any change in a Law or change in the judicial or administrative interpretation of, or adoption of any new Law which is materially inconsistent with Laws in effect on the bid opening date (subject to the exclusions set forth below);
- (g) Any lawsuit seeking to restrain, enjoin, challenge or delay the Work or the granting or renewal of any Governmental Approval of the Work, except to the extent that the risk of such lawsuit has been assumed by the Contractor in this Contract;
- (h) Any physical destruction or damage caused by fire, lightning, explosion, drought, rain, flood, hurricane, storm or action of the elements or other acts of God;
- (i) Strike, labor dispute, freight embargos, work slowdown, work stoppage, secondary boycott, walk-out or other similar occurrence; or
- (j) Except as otherwise provided in the Contract, any other event not in the reasonable control of the Contractor.

Goods	Equipment, material and other products incorporated into or required to perform the Work, or otherwise furnished by the Contractor in accordance with the Contract. Except for Goods specifically identified to be furnished by Metro, Goods shall be furnished by the Contractor.
Governmental Approval	Approval, authorization, certification, consent, exemption, filing, lease, license, permit, registration or ruling, issued or required by any Government Entity having subject matter jurisdiction by Law or consent of Metro, in order to perform the Work.
Government Entity	Any federal, state, or local government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than Metro.
Hazardous Substances	(a) Any substance, product, waste or other material of any nature whatsoever which is or becomes defined, listed, regulated, or addressed in or pursuant to any of the following Laws (which shall include any regulations either in the Code of Federal Regulations or the California Code of

Regulations or other regulations implemented under the authority of such Laws):

- The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et. seq. (“CERCLA”);
- The Hazardous Materials Transportation Act, 49 U.S.C. §1801, et. seq.;
- The Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq. (“RCRA”);
- The Toxic Substances Control Act, 15 U.S.C. §2601 et. seq.;
- The Clean Water Act, 33 U.S.C. §1251 et. seq.;
- The Clean Air Act, 42 U.S.C. §7401 et. seq.;
- The California Hazardous Waste Control Act, Health and Safety Code §25100 et. seq.;
- The California Underground Storage of Hazardous Substances Act, Health and Safety Code §25280, et. seq.;
- The California Hazardous Substance Account Act, Health and Safety Code §25300 et. seq.; (with particular reference to the definition contained in Health and Safety Code §25316);
- The California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code §25249.5 et. seq.;
- The California Hazardous Waste Management Act, Health and Safety Code §25170.1 et. seq.;
- The California Health and Safety Code §25501 et. seq. (Hazardous Materials Response Plans and Inventory);
- The California Hazardous Substances Information and Training Act, Labor Code §6360 et. seq.;
- The California Porter-Cologne Water Quality Control Act, Water Code §13000 et. seq.; or
- Any other federal, state or local Law, regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect;

(b) Substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above Laws or under any statutory or common law theory based on negligence, trespass, intentional tort nuisance or strict liability or under any reported decisions of a state or federal

court;

- (c) Notwithstanding Health and Safety Code §25317, petroleum, petroleum by-products, waste oil, crude oil and natural gas; and
- (d) Other substances, product, waste or material defined, or to be treated or handled, as a Hazardous Substance pursuant to provisions of the Contract.

Law	Any federal, state or local statute, law, regulation, ordinance, rule, standard, judgment, order, executive order, decree, directive, guideline, policy requirement, other government restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any court or Government Entity, which is applicable to the Contract or the or the Work, as amended whether now or hereafter in effect. A law when cited herein shall be as amended unless provided to the contrary.
Limits of Worksite	Boundary within which the onsite elements of the Work will be performed, except utility and drainage Work in local streets and on private property.
Materially Differ	When the circumstances differ from that which a knowledgeable Contractor, in the subject field, would reasonably expect to find when relying upon information provided and/or specified, subject to the Contractor's responsibility to inquire as to any known or perceived discrepancies within the plans, specifications, and/or Contract Documents.
Milestone	An established point, event or occurrence in the process of the Work that is included in or that is associated with the Schedule as defined in the Contract.
Modification	Any addition, deletion, adjustment or change to the Contract, including any addition, deletion, adjustment or change arising out of the unilateral exercise of any right under the Contract. A Modification may be unilateral or bilateral and includes Amendments, Change Orders, adjustments in quantities, extensions of time, administrative changes and adjustments, and all other actions and events that result in the modification, correction or adjustment of the Contract Price or Time, any Contract term or process, or any other obligation of either party.
Metro or MTA	The Los Angeles County Metropolitan Transportation Authority (Metro), its predecessors, successors, or any successor in interest, or its Contracting Officer or other Authorized Representative.

Metro Operations	Metro's operation and maintenance of existing Metro facilities and equipment, or the Department within Metro that operates and maintains existing Metro facilities and equipment, as the context requires.
Notice of Completion	A document recorded with the Los Angeles County Recorder by Metro signifying final completion of all Work.
Notice of Termination	Written notice from Metro to the Contractor and its Surety terminating the Contract, or an Element or a portion thereof, as provided in this Contract.
Notice to Proceed (NTP)	Written authorization from Metro to the Contractor specifying the date on which Work under the Contract is to be initiated (the Commencement Date) and providing other information as set forth in this Contract.
Parties	Metro, the Contractor and any other person(s), or business entities or Government Entities that are parties to the Contract.
Period of Performance	The total time period as set forth in the Schedule allowed for Contractor to complete all or any defined Element of the Work under the Contract. May be all or a defined portion of the Contract Time which shall be established in the Notice to Proceed or elsewhere in the Contract.
Product Data	Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate Goods, Equipment or systems for an Element or portion of the Work.
Punch List	The list of Work which remains to be completed after achievement of Substantial Completion and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety, usability or operability of the Work or completed Element of the Work.
Reference Documents	Documents, other than the Contract Documents that are identified as such in the Contract. Reference Documents are not a part of the Contract and are to be used for reference only.
Reference Standards	Authoritative principles, rules, and models used to determine or establish the acceptability of the Work or Elements thereof, Goods, work procedures, or workmanship. These standards are in other documents and are incorporated into the Contract only by reference.
Request for Change (RFC)	A written document submitted by the Contractor to Metro detailing any proposed change to the Contract.

Request for Information (RFI)	A written request to Metro from the Contractor requesting clarification of or information on a portion of the Work or the Contract.
Request for Substitution	A written request by Contractor to use Components, Equipment, material or service(s) in lieu of that specified in the Contract, including without limitation the Specifications.
Required Subcontract Provisions	Subcontract provisions that must Flow down to all Subcontracts as required in the Article entitled SUBCONTRACTORS AND SUPPLIERS.
Resident Engineer	Metro's Authorized Representative charged to the extent delegated by the Contracting Officer with managing, administering, organizing, coordinating and inspecting the Work in order to achieve completion of the Contract in conformance with the Contract Documents.
Schedule	A time phased, resource loaded, project execution plan that identifies all activities necessary to complete the Work in a logical time phased manner in a Critical Path Schedule format. The Schedule shall include the Critical Path Schedule, the Impacted Schedule, the As Built Schedule, and all updates thereof. The Schedule shall provide the start and completion date of each activity and its Milestones, and shall include the Milestones for the Period of Performance of any defined Elements of the Work and for the entire Contract Time, including any activities that may follow the defined Period of Performance. The Schedule shall include all mandatory Milestones for the completion of all Work.
Schedule of Values	The breakdown of the Contract Price into units relating to specific components of the Work, including but not limited to the Schedule of Quantities and Prices.
Scheduled Completion Date	The date all Work is to be completed, and the date that Contract Time ends.
Shop Drawings	Original drawings, plans, diagrams, schedules and other data pursuant to the Work specifically prepared and submitted to Metro by the Contractor or any of its Subcontractors or Suppliers of any tier, and which show in detail: <ol style="list-style-type: none"> 1. The proposed fabrication and assembly of a specific portion of the Work; and 2. The installation (form, fit and attachment details) of a specific portion of the Work. <p>Shop Drawings shall include Product Data, literature, and performance and test data as appropriate.</p>

Special Provisions	Contract Document containing requirements of the Contract that modify or supplement these General Conditions.
Specialty Item	A designated item of Work or Goods that requires highly specialized knowledge, craftsmanship, or Construction Equipment not ordinarily available in contracting organizations qualified to bid on the Contract.
Specifications	Individually each, and collectively all, of the specifications in this Contract, including without limitation all things described, stated or referenced in the Contract Documents entitled Specifications, Technical Specifications, Statement of Work, Scope of Work, Contract Drawings, and all other descriptions of the Work contained in any other Contract Document, or document incorporated by reference in any of the above described documents.
Standard Drawings	Drawings included as part of or referenced in the Contract, that have been developed to attain uniformity in Goods, geometries, arrangements, details, and procedures and, in some instances, to express prior acceptance thereof by affected Government Entities, utilities, railroads, pipeline companies or other affected entities.
Standard Work Day	Eight (8) working hours, allowing a maximum of one non-working hour for lunch and breaks unless otherwise agreed to by the Contractor and Metro.
Standard Work Week	Five (5) Standard Work Days (Monday through Friday).
State	State of California.
Subcontract	Any contract, including contracts of any tier, to furnish Work, Goods or Equipment between the Contractor and/or any Subcontractor or Supplier.
Subcontractor	Any individual, firm, partnership, corporation, joint venture, or combination thereof, other than employees of the Contractor that enters into a legal agreement with the Contractor or any Subcontractor to furnish Work, Construction Equipment or Goods. Unless otherwise specified, Subcontractor includes a Subcontractor of any tier.
Substantial Completion	Work or Element thereof sufficiently complete, in accordance with the Contract, to be used by Metro for the purpose for which it was intended.
Supplier	Any individual, firm, partnership, corporation, joint venture, or combination thereof, other than employees of the Contractor or Subcontractor that enters into a contract with the Contractor or any Subcontractor to furnish Goods.

Temporary Construction Easement	Real property not belonging to Metro or Contractor on which Work can take place during the construction period, subject to any limitations described in the Contract.
Third Party	A Government Entity, utility company, railroad or other entity that contracts with Metro by means of a Cooperative Agreement, Utility Services Agreement or other similar agreement regarding the construction, reconstruction, rearrangement and/or improvement of facilities owned or controlled by the Third Party, to facilitate the Work of the Contractor.
Transit System	The entire bus and fixed-guideway rail transportation system, including Right-of-Way, pavement, tracks, structures, revenue producing equipment, appurtenances, and all other related property of Metro.
Unit	A single item or group of items constituting a single unit which is identified as a Unit or Unit Priced item in the SCHEDULE OF QUANTITIES AND PRICES.
Unit Price	The price of a single Unit.
Warranty	A representation, promise or affirmation given by the Contractor to Metro regarding the nature, description, usefulness, suitability, lifecycle, condition, construction, materials, workmanship or any other aspect of the Work, or any portion thereof, whether contained in any provision in the Contract entitled warranty, in the Specifications, the Statement of Work, or in any other provision of the Contract, including documents incorporated by reference or provided by any Subcontractor, Supplier, manufacturer or any other entity.
Work	When capitalized, signifies the facility or project described in the Statement of Work and the sum total of productive and operative efforts used to generate the results specified, indicated or implied in the Contract to complete the fully functional facility or project, including all related activities to Furnish the Goods and Equipment to complete the fully functional facility or project, including all required documentation and Schedules, in accordance with the Contract. The term may also refer to Work in progress.
Worksite	Area within which the onsite portions of the Work will be performed. This area is enclosed by the Limits of the Worksite and immediately surrounding streets and easements (see Contract Drawings). It also includes offsite areas used in connection with the performance of the Work.
Working Drawings	Original drawings prepared by the Contractor and/or its Subcontractors or Suppliers, of any tier, illustrating

Work required for construction that will not become an integral part of the completed Work. This includes, but is not limited to, drawings for temporary structures such as decking, bulkheads, excavation supports, utility support, groundwater control, forming, and false work.

Additional definitions may be found in the Specifications and Special Provisions.

GC-02 INTERPRETATION *

A. Contract Documents

The individual documents comprising the Contract Documents are complementary, indicating all aspects of the Work. Anything mentioned in any Contract Document, including the Specifications and not shown on the Contract Drawings or any other Contract Document, or shown on a Contract Document or the Contract Drawings and not mentioned in the Specifications or another Contract Document, shall be of like effect as if shown or mentioned in all Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper initiation, execution and completion of the Work, and they shall be so interpreted.

B. References within the Contract

References to Articles (e.g. GC-2), Sections (e.g. GC-2-C), and Paragraphs (e.g. GC-2-C-1) are made by citing the title of the provision only, e.g., a reference to this particular Article would be phrased "in the Article entitled INTERPRETATION", which would necessarily include all Sections and Paragraphs in this Article. References to Sections and Paragraphs include Paragraphs and sub-Paragraphs within the same Section or Paragraph. References to other Contract Documents are made by citing the title of the Contract Document, e.g., "the Special Provisions".

C. Standard Specifications

Where Standard Specifications (e.g., CALTRANS, SSPWC "Greenbook") are a part of the Contract Documents, the following definitions shall apply:

1. All references therein to the "City", "County", "State", "Agency", or "Department", when referring to the public entity party to the contract shall mean Metro.
2. All references to the "Engineer" or similar term when referring to the provider of compliance judgment shall mean Metro or its Authorized Representative.
3. All references to the "plan(s)" or other similar term shall mean the Contract Drawing(s) or Specifications.
4. All other references, including without limitation, to measurement and payment in the Standard Specifications shall not apply. Measurement and payment shall be made as specified in the Contract Documents other than the Standard Specifications.

D. Reference Standards

Goods and workmanship specified by the number, symbol, or title of a Reference Standard shall comply with the latest edition or revision and amendments and supplements in effect on the date of the Invitation for Bids except where a different edition is specified. All governmental, utility, and railroad standards referenced in the Contract are incorporated herein as an integral part of the Contract unless specifically marked otherwise (e.g. see Section in this Article entitled Reference Specifications and Drawings). In case of a conflict between the various standards referenced herein, the more stringent shall govern unless otherwise indicated.

E. Reference Specifications and Drawings

Specifications and drawings indicated as reference specifications or drawings, or "For Information Only, Not For Construction" are not a part of the Contract and are provided to the Contractor for the purposes of information and coordination only and shall not be interpreted otherwise. These reference specifications and drawings are subject to revision and the information contained therein shall not be used directly or indirectly as the basis for any Claim.

F. Differences Between Contract Drawings

In case of differences between small and large-scale Contract Drawings, the large scale Contract Drawings shall govern. In the event of a discrepancy between a figure written on a Contract Drawing and the scaled dimensions, the written figure shall govern.

G. References to the Los Angeles County Transportation Commission or Southern California Rapid District

If the term Los Angeles County Transportation Commission, or LACTC, or COMMISSION, or Southern California Rapid Transit District, or SCRTD, or DISTRICT appears on any document, whether a Contract Document or reference document, it shall mean Metro.

H. Omissions, Misdescriptions and Interpretations

1. The Contractor shall:
 - a. Carefully and continuously study and compare all Contract Documents;
 - b. Verify all figures in the Contract Documents before laying out the Work; and
 - c. In instances where errors, inconsistencies, omissions and/or misdescriptions are discovered, submit a Request For Information (RFI) to obtain specific instructions in writing from Metro before proceeding with the Work.

2. If Contractor performs any Work that is the subject of an RFI prior to Metro's response, it shall be at the Contractor's risk.
3. The Contractor shall interpret the Contract as a whole and read all its parts together. The Contractor shall not take advantage of any apparent non-conformity that may be found in the Contract Documents.
4. Metro may make such additions to, or corrections and/or interpretations of any Contract Documents as are necessary to ensure that everything necessary to complete the Work in accordance with the intent of the Contract or that is customarily performed to complete the Work is performed by the Contractor in accordance with the intent of the Contract.
5. If the Contractor fails to advise Metro of errors, inconsistencies, omissions and/or misdescriptions the Contractor shall not be relieved from performing such Work at no additional expense and/or Delay, and such Work shall be performed as if fully and correctly set forth in the Contract.\

I. Information Supplied To The Contractor:

1. Furnished by Metro:

Metro made available to bidders (including the Contractor) during the solicitation of this Contract information described in the Bid Documents as "Information Available to Bidders". The Information Available to Bidders is not a part of this Contract but was made available to share then existing information, without warranty, with bidders (including the Contractor). Metro made reasonable efforts to ensure that all Information Available to Bidders was reliable, accurate and complete. However, because the information is not a part of the Contract and does not meet Contract Specification standards, Metro makes no representations with respect to its reliability, accuracy, or completeness and shall not be responsible or liable to Contractor for any loss, damage, injury, liability, cost, expense or cause of action whatsoever suffered by Contractor, except as provided in the following sub-Paragraph. If the Contractor intends to use such information, it shall use the information at its own risk and shall apply its professional judgment as to its reliability, accuracy and completeness for the purposes for which the Contractor intends to use it. Contractor may seek clarification or interpretation from Metro as necessary, and, provided that the request is for clarification or interpretation of information that Metro can determine is otherwise reliable, accurate or complete, Metro shall assume the same responsibility as with a response to an RFI. In the absence of a request for clarification or interpretation, Metro will rely on the Contractor to determine which information is sufficiently reliable, accurate and complete for Contractor to use for Contractor's intended purpose.

2. Furnished by Others:

Metro shall not be responsible or liable in any respect for any loss, damage, injury, liability, cost, expense or cause of action whatsoever suffered by the Contractor by reason of its use of any information

furnished by others, or for any actions of forbearance in reliance thereon. The Contractor further acknowledges and agrees that:

- a. If and to the extent the Contractor or anyone on the Contractor's behalf uses any of said information in any way, the Contractor, not Metro, shall be fully responsible for the use of said information; and
- b. Any use of said information is entirely at the Contractor's own risk and at its own discretion.

3. Contractor Representation:

The Contractor represents that it is capable of conducting and is obligated hereunder to conduct any and all studies, analyses and investigations as it deems advisable to verify or supplement any information furnished by Metro and others as provided in this Section.

J. Headings

The various topical headings contained in the Contract are intended for convenience only and shall not affect the meaning or interpretation of the Contract or any of its provisions.

K. Word Construction

Where appropriate:

1. The singular includes the plural and vice versa;
2. References to any Law includes all statutory or regulatory provisions consolidating, amending or replacing the Law referred to;
3. The word "including", "includes" and "include" shall be deemed to be followed by the words "without limitation";
4. Unless otherwise indicated references to Articles, Sections, Paragraphs, Exhibits, Attachments, Appendices or Schedules are to this Contract;
5. Words such as "herein", "hereof" and "hereunder" shall refer to the entire document in which they are contained and not to any particular provision unless the reference is to the specific provision;
6. Words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings;
7. References to persons or entities include their respective permitted successors and assigns and, in the case of Government Entities, entities succeeding to their respective functions and capacities;
8. Words of any gender shall include each other gender where appropriate;

9. Unless otherwise specified, the Contract shall be read as a whole, and lists contained in the Contract Documents defining the Work shall not be deemed all-inclusive: And
10. All “notices”, “requests”, “directives” and other communications are required to be in writing, and all references to “notices”, “requests”, “directives” and other communications, by whatever term used, shall be deemed to be followed by the words “in writing” or preceded by the word “written”.

GC-03 AUTHORITY OF THE CONTRACTING OFFICER AND AUTHORIZED REPRESENTATIVES

1. Metro’s Contracting Officer has the authority and responsibility to exercise all powers, rights, and/or privileges that have been lawfully delegated to the Contracting Officer by Metro in all matters relating to or affecting the Work and this Contract. Except as expressly specified in this Contract, the Contracting Officer may delegate, in writing, specifically described authority and responsibility within the scope of its authority and responsibility to Authorized Representatives. The form of written delegation shall be specifically described in the SPECIAL PROVISIONS of this Contract.
2. The authority and responsibility of each Authorized Representative shall be as set forth herein or in the written delegation. The Authorized Representatives, and the authority and responsibilities of the Authorized Representatives may from time to time be changed by notice to the Contractor. Nothing in this Contract shall be construed to bind Metro for acts of any Metro employee or any other person, or for the acts of the Contracting Officer or any other Authorized Representative, including its Construction Manager, that exceed the authority delegated to them herein or in any other written delegation.
3. All Notices to Metro under this Contract shall be to Metro’s Authorized Representative for the subject matter of the Notice, with a copy to the Contracting Officer. No Notice shall be effective unless it was delivered to the designated Authorized Representative and to the Contracting Officer as provided in this Contract.

GC-04 INDEPENDENT CONTRACTOR

A. General

Contractor shall timely perform the Work required under this Contract. Contractor shall be responsible for all acts, materials and Equipment required to complete the Work in accordance with this Contract. Contractor shall be solely responsible for the performance of the Work in accordance with its own means, methods, sequences, and procedures, and for coordination of all portions of the Work in compliance with the Contract. The Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Work, it being understood that Metro will be relying upon such professional quality, accuracy, completeness, and coordination in utilizing the Work.

B. Contractor's Representations, Warranties and Covenants

The Contractor represents, warrants and covenants for the benefit of Metro that:

1. If it is a corporation, it is duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation and has full power and authority to own and operate its business and properties and perform the Work within the State of California.
2. It and all of its Subcontractors are, and will be and will remain, fully experienced and properly qualified to perform the Work, and are, and throughout the term of this Contract shall remain, properly licensed, equipped, organized and financed to perform the Work hereunder and shall perform it in accordance with the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience and knowledge in performing Work of a similar nature.
3. It and all of its Subcontractors and Suppliers are independent contractors and nothing in this Contract shall be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between Contractor and Metro. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
4. It shall maintain complete control of its employees and its Subcontractors and Suppliers of all tiers, and shall not assign or transfer Work from itself or any listed Subcontractor or Supplier to itself or any other Subcontractor or Supplier without the written consent of Metro.
5. It has evaluated the feasibility of performing the Contract within the Contract Time and for the Contract Price, and has reasonable grounds for believing and does believe that such performance, including achievement of Substantial Completion of the Work within the Contract Time, for the Contract Price is feasible and practicable.
6. It has in accordance with prudent and generally accepted engineering practices, reviewed the information and documents, including reports provided by Metro and has inspected, and evaluated the Worksite and surrounding locations to the extent the Contractor deems necessary or advisable for performing the Work under the Contract. These inspections and evaluations include but are not limited to:
 - a. Conditions bearing upon transportation, disposal, handling, and storage of materials;
 - b. The availability of labor, water, electric power, and roads;
 - c. Uncertainties of weather, or physical conditions at the site;
 - d. The conformation and conditions of the ground;

- e. The character of Equipment and facilities needed preliminary to and during Work performance; and
 - f. Conditions bearing upon security and protection of material, Goods, Equipment and Work in progress.
7. There are no existing or threatened legal proceedings against Contractor that would have an adverse affect on its ability to perform its obligations under the Contract or its financial condition or operations.
 8. Based upon its review of the Contract Documents, the Contractor will be able to obtain and keep in effect throughout the Contract Time all Governmental Approvals the Contractor is obligated to obtain in accordance with the Contract.
 9. Contractor has estimated the difficulty and cost of successfully performing the Work and based upon that estimate has concluded that it can successfully perform the Work without additional expense to Metro

C. Inspections

1. The Contractor acknowledges and agrees that it has been afforded the opportunity to review information and documents and to conduct inspections and tests of the Worksite and surrounding locations.
2. The Contractor acknowledges that it has satisfied itself as to the character quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Worksite, including review of Contract Documents
3. As a result of such review, inspection, examination and other activities the Contractor is familiar with and accepts the physical requirements of the Work.
4. The Contractor further acknowledges and agrees that changes in conditions at the Worksite may occur after the Bid Date, and that the Contractor shall be entitled to Change Orders in connection therewith only as specifically permitted under the Article entitled CHANGES.
5. Before commencing any Work on a particular aspect of the Work, the Contractor shall verify all governing dimensions at the Worksite, and shall examine all adjoining work and activities which may have an impact on such Work. The Contractor shall be responsible for ensuring that the Specifications and Contract Drawings accurately depict all governing and adjoining dimensions.

D. Compensation and Benefits

Contractor shall be solely liable and responsible for providing all compensation and benefits to, or on behalf of, all persons performing Work pursuant to this Contract. Metro shall have no liability or responsibility for the

payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor. Contractor understands and agrees that all persons performing Work pursuant to this Contract are, for purposes of workers' compensation liability, the sole employees of Contractor and not employees of Metro. Contractor shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any Work performed by or on behalf of Contractor pursuant to this Contract.

E. Quality Assurance and Quality Control Plans

The Contractor shall comply with all requirements of its accepted Quality Assurance and Quality Control Plans.

F. Contractor's Design and Engineering

All Contractor's design and engineering Work shall be performed by or under the supervision of persons licensed to practice architecture, engineering, surveying or other profession (as applicable) in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the Work in accordance with the Contract and who shall assume professional responsibility for the accuracy and completeness of the Work prepared or checked by them.

G. Scheduling of Work

The Contractor shall at all times schedule and direct its Work to provide an orderly progression of the Work to achieve completion within the Contract Time and in accordance with the accepted Contract Critical Path Schedule and Contract Schedule of Values, including furnishing such employees, materials, facilities and equipment and working such hours, including extra shifts, overtime operations, Sundays and holidays as may be necessary.

H. Performance During Dispute

At all times during the term hereof, including during any Dispute, the Contractor shall perform as directed by Metro, and shall comply with all provisions of the Contract.

I. Contractor's Responsibility

Contractor shall be solely responsible for its failure to ascertain the facts and take the actions described, represented, warranted and acknowledged in this Article, and no provision of this Contract shall be construed to relieve Contractor from responsibility for such failure.

CONTRACTOR'S REPRESENTATIVE, ORGANIZATION AND PERSONNEL**A. Organization**

Before starting any Work, the Contractor shall submit for Metro review and acceptance, an organization chart showing the proposed organization established by the Contractor for the performance of the Work, including:

1. Lines of authority, responsibility, and communication;
2. Office organizations, if any; and
3. Names, titles, and functions of all Contractor's Representatives and other key personnel.

B. Contractor's Representative

Contractor shall have a Contractor's Representative with full authority to represent and act for the Contractor. Prior to Metro's issuance of a Notice to Proceed the Contractor shall submit for Metro's review and acceptance the name, qualifications and experience of its proposed Contractor's Representative. The Contractor's Representative shall act for the Contractor in all matters concerning the Work, and, subject to all requirements of this Contract, shall have the ability to so organize the Work and the Work of the Subcontractors to complete the Work in accordance with the Contract and the Critical Path Schedule. When directed by Metro, the Contractor's Representative shall be available at the Worksite at all times during performance of the Work, at no increase in Contract Price.

C. Change in Contractor's Representative and Key Personnel

The Contractor shall secure the prior written approval of the Contracting Officer for any change or reassignment of a Contractor's Representative or other key personnel, submitting written documentation of the new individuals' qualifications. The Contractor shall not reassign key personnel to other projects until a satisfactory replacement has been approved by Metro.

D. Removal of Contractor Personnel

The Contracting Officer may require the Contractor to remove any person assigned by the Contractor, or any Subcontractor or Supplier, to perform Work or furnish Goods under the Contract, if the Contracting Officer considers such removal in its best interest and in the interest of completion of the Work. The Contracting Officer's decision to require Contractor to remove any person shall be final and binding on the Contractor. Upon such direction Contractor shall remove the person and resolve all employment or contractual issues at no cost or expense to, and shall fully indemnify Metro. Any person removed for any reason shall not be re-employed on any other Metro project.

SUBCONTRACTORS AND SUPPLIERS**A. Contractor Participation**

The Contractor shall perform at least the minimum percentage of Work specified in the Special Provisions with its own organization. Where a percentage of the Work is to be subcontracted, the dollar value shall be based on the estimated cost of such Work, determined from information submitted by the Contractor and subject to written acceptance by the Contracting Officer. With the exception of Work performed under a Construction Equipment rental agreement and Goods purchased directly through Suppliers, Work, Goods, and Equipment furnished by other than the Contractor' shall be deemed subcontracted.

Upon Metro's request, the Contractor shall submit a copy of each executed Subcontract for any Subcontractor or Supplier of any tier, regardless of value of Work to Metro.

B. Performance of Work

All subcontracting by the Contractor shall be in strict accordance with this Contract. The Contractor shall be fully responsible to Metro for all acts and omissions of Subcontractors, Suppliers and their employees. Any provision of the Contract referring to the acts or omissions of the Contractor shall also refer to and include the acts and omissions of all Subcontractors and Suppliers. The Contractor shall coordinate the Work performed by Subcontractors and Suppliers. If any portion of the subcontracted Work is not performed in accordance with the Contract, or if a Subcontractor or Supplier commits or omits any act that would constitute a breach of the Contract, the Contractor shall cure the breach, and at the direction of the Contracting Officer, shall replace the Subcontractor or Supplier and not again employ the Subcontractor or Supplier on the Work.

The organization of the Contract into Contract Documents, Articles, Sections and Paragraphs, as well as the arrangement and titles of the Specifications and Contract Drawings, shall not control the Contractor in dividing the Work among Subcontractors nor in establishing the extent of Work to be performed by any trade.

C. Acceptance of Substitution of Subcontractor *

In compliance with §4100 et. seq. of the California Public Contract Code, the Contractor shall notify the Contracting Officer in writing of any proposal to substitute a Subcontractor in place of a Subcontractor listed in the Contractor's bid. If compensation for the Subcontractor's Work is greater than or equal to one-half of one percent (0.5%) of the Contract Price, or if the Subcontractor is a DBE or SBE, the Contractor shall secure the consent of the Contracting Officer prior to such substitution. The Contractor shall submit information in the same form and content as the in bid form entitled LIST OF PROPOSED SUBCONTRACTORS contained in the Contractor's original bid. Contractor shall also comply with all applicable requirements of the Contract Document entitled Contract Compliance Manual.

D. Debarred Subcontractor *

In accordance with Public Contracts Code §6109(a), Contractor shall not perform Work with any Subcontractor who is ineligible to perform work on a public works project pursuant to Labor Code §1777.1 or 1777.7.

In accordance with Public Contracts Code §6109(b) any contract on a public works project entered into between the Contractor and a debarred Subcontractor is void as a matter of law. A debarred Subcontractor may not receive any public money for performing work as a Subcontractor on a public works contract, and any public money that may have been paid to a debarred Subcontractor by the Contractor on the project shall be returned to the awarding body. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

Metro will strictly comply with the above Laws and will act on information related to any debarred Subcontractor in accordance therewith.

E. Pre-Qualification *

Prior to performing Work of \$100,000 or more under this Contract, Subcontractors shall pre-qualify under Metro's Pre-Qualification process.

F. Flow-down Requirements *

The Contractor shall incorporate into each Subcontract and require insertion into all lower tier Subcontracts all Required Subcontract Provisions as follows:

1. All Articles, Sections and Paragraphs of the Contract noted by an asterisk ("*").
2. All provisions required by Law or otherwise required in this Contract.
3. The following provisions:

Contractor and Subcontractor acknowledge and agree:

- a. All Work being performed and Goods being Furnished by the Subcontractor under this Subcontract shall comply with the Contractor's Contract with Metro.
- b. The Subcontractor shall have the same duties and obligations to the Contractor with respect to its performance of its own Work as the Contractor has to Metro under its Contract. Metro is the third-party beneficiary of the Subcontract and shall have the right to enforce all of the terms of the Subcontract for its own benefit.
- c. The Subcontractor shall make such Schedule commitments and submit such Schedules and scheduling information to Contractor as is necessary

for Contractor to comply with its Schedule commitments to Metro under the Contract.

- d. All guarantees and warranties, express or implied, shall inure to the benefit of both Metro and the Contractor during the performance of the Work; upon final completion of the Work, such guarantees and warranties shall inure to the benefit of Metro.
- e. Nothing contained in the Subcontract shall be deemed to create any privity of Contract between Metro and the Subcontractor, nor shall it create any duties, obligations, or liabilities on the part of Metro to the Subcontractor except those required by Law. In the event of any claim or dispute arising under the Subcontract or the Contract with Metro, the Subcontractor shall look only to the Contractor for any payment, redress, relief, or other satisfaction.
- f. This Article does not and shall not operate to relieve the Contractor of any duty or liability under the Contract, nor does it create any duty or liability on the part of Metro. The Contractor shall have sole responsibility for promptly settling any disputes between its Subcontractors and between the Subcontractors and any of their Subcontractors.

G. Insurance

No Subcontractor shall be permitted to perform Work at the Worksite until the Contractor, has supplied satisfactory evidence of required insurance to Metro, in compliance with the Contract.

GC-07 PERFORMANCE AND PAYMENT BONDS

A. General

The Performance and Payment Bonds required concurrently with the execution of this Contract shall remain in effect for the entire Contract Time at 100% of the Contract Price. The Payment Bond shall meet all of the requirements of Civil Code Section 3247 et seq.

B. Replacement of Surety

If Metro finds any Surety at any time is unsatisfactory it will provide written notice to the Contractor to replace the Surety. No further payments shall be due or nor will Metro make any payments under the Contract until a new Surety shall qualify and be accepted by Metro. The Contractor shall pay all costs of compliance with this Article.

C. Changes in Work

Changes in the Work or Contract Time made pursuant to the Contract shall in no way relieve the Contractor or Surety from its obligations. Surety shall waive Notice of such Changes.

GC-08 NOTICE TO PROCEED

A. Commencement Date

Except as specifically authorized in writing by the Contracting Officer, the Contractor shall not perform work under the Contract until the Commencement Date stated in the Notice to Proceed (NTP). Metro will issue the NTP, and the Commencement Date will be, no later than 30 days after Metro's receipt of the Contractor's bonds and required insurance certificate(s) and Contractor's completion of all other requirements that are conditions precedent to the issuance of an NTP.

B. Contract Time

The Contract Time shall commence upon the Commencement Date stated in the NTP, and the Contractor shall commence Work and shall diligently prosecute the Work to completion within the Contract Time.

GC-09 PROJECT SCHEDULE AND CONSTRUCTION STAGING

A. Preparation and Submittal

The Contractor shall prepare and submit to Metro a detailed Critical Path Schedule, along with a detailed plan of the Work, for acceptance by the Contracting Officer, and shall prepare and shall submit all updates to the Critical Path Schedule and the plan to include all changes to the Schedule and the Work. The Contractor shall indicate on the Critical Path Schedule the anticipated dates for completing the various stages of construction and shall keep Metro informed of any Delays. The Schedule shall include projected delivery dates for all required Contract deliverables and dates for all required Metro inspections and approvals.

B. Impacted Schedule

To the extent that there are pending Modifications which may affect the Schedule, Change Orders, known Delays or Claims of Delay for whatever cause that are not included in the current Critical Path Schedule, and whether they are Excusable, Inexcusable or Concurrent (as defined in the Article entitled EXTENSION OF TIME), Contractor shall also submit an adjusted Critical Path Schedule, as impacted by all such pending Modifications, Change Orders, known Delays and Claims of Delays representing its best estimate of actual performance ("Impacted Schedule").

C. Electronic Copy

Contractor shall submit to Metro, by electronic mail, electronic write protected, copies of the Critical Path and Impacted Schedules in a standard format on software common to both Metro and Contractor.

D. Subcontractor Schedules

The Critical Path Schedule shall include all activities to be performed by Subcontractors. Contractor shall submit to Metro all Subcontractor schedule commitments, with a certification from the Subcontractor that it has reviewed and accepted the schedule commitment. If the Subcontractor will perform all activities at the direction of the Contractor, without a Subcontractor Schedule commitment, Contractor may request a waiver from Metro of the Subcontractor Schedule commitment. Metro's approval shall be subject to such Contractor assurances and documentation as it deems necessary to ensure timely Subcontractor performance.

E. Use of Schedule

The Critical Path Schedule shall be the Contractor's working Schedule and shall be used to plan, organize and execute the Work; record and report actual performance and progress; and forecast remaining Work. The Schedule shall indicate the anticipated dates for completing the various Contract Milestones and shall include completion of all Work by the Scheduled Completion Date. Upon acceptance of the Critical Path Schedule by the Contracting Officer, it shall be deemed incorporated into and shall become a material part of the Contract.

F. Changes to Schedule

After the Contracting Officer's approval of the baseline Critical Path Schedule, Contractor's additions, deletions and other changes to the Schedule shall be subject to the approval of the Contracting Officer. All changes to all activities on the Critical Path Schedule, including without limitation changes arising out of Delays, and all new activities, shall be included in changes to the Critical Path Schedule. If any changes are pending, they shall be included in the Impacted Schedule.

G. Supplementary Information

The Contractor shall provide such supplementary written information with its submittals as Metro may require to adequately evaluate the Critical Path Schedule and the plan of the Work.

H. Coordination With Schedule of Values

The Contractor shall coordinate the Critical Path Schedule with the Schedule of Values required under Compensation and Payment Provision entitled PROGRESS PAYMENT AND RETENTION.

I. Float

All Float (as that term is used in the Critical Path Schedule) in the Critical Path Schedule and the Impacted Schedule, and all updates thereto, shall be for the benefit of Metro.

J. Coordination

If applicable, the Contractor shall schedule its operations to minimize interference with other Contractors and with Metro's operations.

GC-10 TEMPORARY FACILITIES

The Contractor shall provide and maintain such lights, protective devices, barricades and warning signs as are necessary for the safety of personnel and the public and as are otherwise required by Metro. The Contractor shall be responsible for the timely erection and removal of such safeguards, without specific instructions from Metro, or anyone else.

No signs, billboards or any types of advertising are permitted on, about or adjacent to the Worksite, or on any structure on the Worksite, except by written consent of Metro.

The Contractor shall determine the type of temporary office facilities required and the need for temporary utility services required and shall make all arrangements with utility companies and governmental agencies to secure such services. All costs incurred shall be at the sole expense of the Contractor. All temporary services shall be furnished, installed, connected and maintained by the Contractor in a manner, satisfactory to Metro and shall be removed by the Contractor in like manner at its expense prior to final acceptance except for such temporary facilities as may be specified to remain in place.

Contractor shall provide and maintain adequate sanitary convenience of an acceptable type for the use of persons employed on the Worksite, and properly secluded from public view. Contractor shall properly maintain these conveniences at all times and shall strictly enforce their use. Upon completion of the Work, Contractor shall remove them from the Worksite, leaving the Worksite clean and free from nuisance.

GC-11 GOVERNMENTAL APPROVALS

A. Licenses and Permits

1. Contractor Responsibility - Except for the permits listed in the Special Provision entitled METRO FURNISHED PERMITS, prior to beginning any related Work, the Contractor shall identify and obtain, at its own expense, all necessary licenses, permits and other Governmental Approvals required for the timely prosecution of the Work, and shall furnish Metro's Authorized Representative with fully executed copies.
2. Contractor's Representation - The Contractor acknowledges that prior to entering into the Contract it familiarized itself with the requirements of all applicable Laws, and the requirements for applicable licenses and permits, and other Governmental Approvals.
3. Compliance With Laws - The Contractor shall comply with all changes to applicable Laws, and to the conditions of any required licenses or permits, that occur at any time prior to Final Acceptance of the Work by

Metro, including changes prior to award, at its sole cost and expense, regardless of whether such compliance would require additional Work, Construction Equipment, and/or Goods not expressly described in the Contract.

B. Payment

Contractor shall obtain and pay for all permits and bonds required for all off-site work including all utility connections, traffic signal, street lighting relocation and installation and street improvement work. The Contractor shall be liable for any Delay by a Governmental Entity in the granting of such permits or bonds, except when such Delay is due solely to the fault or negligence of Metro.

C. Issuance to Metro

If any Governmental Approval required to be obtained by the Contractor must formally be issued in the name of Metro, the Contractor shall undertake all efforts to obtain such approvals subject to Metro's reasonable cooperation with the Contractor, including execution and delivery of appropriate applications and other documentation in a form approved by Metro. The Contractor shall assist Metro in obtaining the approvals and any amendments thereto, including providing information requested by Metro and participating in meetings regarding such approvals.

D. Maintenance of Governmental Approvals

Contractor shall undertake all actions necessary to maintain in full force and effect, all Governmental Approvals, including performance of all environmental mitigation measures required by the Contract and by Law, except to the extent that responsibility for performance of such measures is expressly assigned to any other Party to the Contract or any other person.

GC-12 EMERGENCIES *

The Contractor shall notify Metro immediately of any Emergency. In the absence of specific instructions from Metro as to the manner of dealing with the Emergency, the Contractor shall take appropriate action at its own discretion. As Emergency Work proceeds, Metro may issue specific instructions, which the Contractor shall follow. The amount of compensation to which the Contractor is entitled, if any, because of Emergency Work shall be determined in accordance with the Article entitled CHANGES.

GC-13 GOODS *

A. General

The Contractor shall furnish all Goods required to complete the Work, except those designated, if any, to be furnished by Metro. Goods incorporated into the Work shall be new, of good quality, and of the grade specified for the purpose intended and shall have the specified capacity, functionality and features. Metro may reject Goods not conforming to the requirements of the

Specifications. Unless otherwise specifically stated, reference to Goods or patented processes by trade name, make, or catalog number shall be regarded only as a means of establishing a standard of quality; such references shall not be construed as limiting competition. Subject to prior written consent of the Contracting Officer, which consent shall be in the sole and absolute discretion of Metro, the Contractor may, use any Goods that are equivalent to those named.

B. Preservation and Inspection

Contractor shall transport, handle, and store all Goods purchased under the Contract in a manner that facilitates inspection and ensures the preservation of their quality, appearance, and fitness for the Work, and shall be stored in a manner that facilitates inspection.

C. Risk of Loss

The Contractor shall bear the full risk of loss of any and all Goods until such Goods are Accepted by Metro pursuant to the terms of this Contract.

GC-14 METRO FURNISHED GOODS *

A. Furnished Goods

Metro may furnish Goods to the Contractor for installation in the Work or other use in carrying out Work under the Contract. Metro furnished Goods will be available as specified in the Appendix to the Special Provisions entitled METRO FURNISHED GOODS.

B. Contractor Responsibilities

Contractor shall store, protect, handle and transport Metro furnished Goods at its expense, including necessary loading and unloading. The Contractor shall pay all demurrage and storage charges incurred as a result of its failure to take delivery on the date the Goods are scheduled and available for delivery by Metro.

C. Contractor Liability

The Contractor shall be liable to Metro for the cost of replacing or repairing Metro furnished Goods that are lost or damaged from any cause whatsoever after receipt by the Contractor or after the Contractor has failed to take delivery on the scheduled delivery date. Metro may deduct the costs from any monies due or to become due the Contractor.

D. Scheduling

The Contractor shall include delivery of Metro furnished Goods in its Critical Path Schedule, which shall be subject to approval by Metro. The Contractor shall identify delivery dates in the Critical Path Schedule, as required in the Specifications or the Special Provisions. When appropriate, Contractor shall

schedule delivery dates for the return of any Metro furnished Goods in a like manner.

GC-15 COOPERATION, COORDINATION AND ACCESS *

A. Cooperation and Coordination with Other Contractors and/or Metro Operations

Metro reserves the right and may undertake or award other contracts for additional Work on or near the Worksite. The Contractor warrants that it has carefully reviewed the Contract Documents and all other pertinent information made available by Metro that relate to the nature and scheduling of other contracts that may be awarded and to constraints related to Metro operations, and in submitting its bid and executing this Contract has taken into account the need to coordinate its Work with that of other contractors and/or Metro Operations. It is the express obligation and duty of the Contractor under the Contract to coordinate its Work with the work of others. The following shall apply:

1. The Contractor shall not have exclusive access to or use of Work areas or the Worksite. Metro may require that Contractor use certain facilities and areas concurrently with others.
2. Metro will endeavor to advise the Contractor of the known others, including Metro Operations.
3. Contractor shall cooperate and communicate with any other contractor performing Work that may connect, complement, and/or interfere with the Contractor's Work and resolve any disputes or coordination problems with such contractor.

B. Site Access Requirements

Site access requirements are specified in the Article in the Special Provisions entitled SITE ACCESS REQUIREMENTS.

C. Reports to Metro

If any part of the Contractor's Work depends on the work of any other contractor or Metro for proper execution or results, prior to proceeding with its own Work, Contractor shall notify Metro of any discrepancies, or defects or failures to perform or complete said other work that would preclude or hinder the proper execution or achievement of the Contractor's Work.

D. Coordination Meetings

The Contractor shall attend such meetings and conferences, including a pre-construction meeting, arranged by Metro for the purpose of coordinating the Work.

GC-16 PROJECT SITE MAINTENANCE *

A. Cleaning

Throughout all phases of construction, and until Final Acceptance of the Work, the Contractor shall keep the Worksite clean and free from rubbish and debris. The Contractor shall also abate dust nuisance by cleaning, sweeping and sprinkling with water.

B. Haul Routes

The Contractor shall take care to prevent spillage on haul routes. Contractor shall remove any such spillage immediately and clean the area.

GC-17 WORKMANSHIP *

Contractor shall perform all Work in a skillful and workmanlike manner. All workers shall have sufficient skill and experience to perform the Work assigned to them. In accordance with the Article entitled INSPECTION, Metro may reject as defective all workmanship not conforming to the requirements of applicable Law, the Specifications or any other provision of this Contract.

GC-18 UNAUTHORIZED WORK *

Contractor shall not perform Work in addition to Work described in this Contract, including without limitation, the Specifications. Any additional Work must be authorized by Metro pursuant to the Article entitled CHANGES or by a Contract Amendment. Unauthorized Work will not be paid for, will not receive an extension of Contract Time, and may be ordered removed at the Contractor's sole expense. The failure of Metro to order the removal of unauthorized Work shall not constitute acceptance of such Work nor shall it relieve the Contractor from any liability on account thereof. If the Contractor does not comply with an order of Metro to remove unauthorized Work, Metro may remove the Work at the Contractor's sole expense.

GC-19 SURVEY AND VERIFICATIONS *

A. Performance and References

Contractor shall perform all surveying necessary for construction as required by the Specifications. The Contractor shall preserve all construction survey references and marks for the duration of their usefulness. If Contractor loses or disturbs any construction survey references and Metro needs to replace them, such replacement shall be at the sole expense of the Contractor.

B. Conformance With Plans and Variations

All Work upon completion shall conform to the lines and elevations shown in the Specifications. Contractor shall report any variation to Metro in writing and may request approval of a variation from the Contracting Officer. If the Contractor fails to make such report or does not obtain approval of variations by the Contracting Officer, the Contractor shall correct the Work, and shall

replace such Work to comply with Specification requirements at its own expense.

C. Verification of Governing Dimensions

Before commencing the Work, the Contractor shall verify all governing dimensions at the Worksite and shall examine all adjoining Work on which its Work is in any way dependent according to the Contract Documents. The Contractor shall notify Metro of any defective or non-conforming governing and adjoining dimensions that are observed before the Contractor begins that part of the Work.

GC-20 PERFORMANCE AND INSPECTIONS *

A. Inspection and Testing During Contractor Performance

1. Metro shall have access to the Work at all Worksites and at all times during the Contract Time, and upon reasonable notice may inspect the Worksite and inspect and test all Work, Construction Equipment and all other materials wherever located.
2. Such inspection and testing will be for the sole benefit of Metro and is in addition to tests the Contractor is required to perform as part of its Quality Control responsibility.
3. Except to the extent specified in writing by Metro, no inspection or testing shall be construed as constituting or implying acceptance, and Metro may reject or accept any Work, request Changes, or identify additional Work which must be done at any time prior to Final Acceptance of the Work.
4. Metro shall not be obligated to make any inspections and neither the inspection of the Work, nor the lack thereof, shall relieve the Contractor of its responsibility for providing the Goods, and completing the Work in accordance with the terms of the Contract.
5. Provided Metro has given the Contractor reasonable time in its notice to prepare for any inspection or test, Metro may charge the Contractor for any additional costs it incurs for the inspections or tests, when Work is not ready at the time indicated in the notice or when re-inspection or retest is necessitated by prior rejection.
6. Metro shall have access, at all reasonable times, to the Contractor's calculations, supporting materials, data, and information concerning the Work, including computer programs and printouts, which Metro determines are required to review the Work properly and expeditiously.

Metro will perform its inspections and tests in a manner that does not unreasonably Delay the Work.

B. Metro's Remedies for Deficient Work

If any Work provided by the Contractor is Deficient, Metro shall provide written notice to Contractor of such Deficiencies and thereafter may do any or all of the following:

1. Require the Contractor to promptly segregate and remove rejected Work from the Worksite at its own expense and without any extension of Contract Time.
2. Require the Contractor re-perform such Work and repair or replace the Work, Goods or other material or item at the Contractor's own expense;
3. Withhold payments otherwise due to Contractor hereunder.
4. Seek Liquidated Damages as provided in this Contract;
5. Have such Work performed and Goods provided by others at the sole expense of the Contractor.
6. Terminate the Contract in accordance with the Article entitled TERMINATION FOR DEFAULT herein and obtain the remedies provided for therein.

Corrected or re-performed Work and replaced or repaired Goods shall be subject to all of the requirements of the Contract, including without limitation all standards of performance set forth in this Contract.

C. Work Performed Without Inspection

Metro may reject any Work the Contractor performs without a Metro inspection, as specified in the Contract. If Contractor covers up any Work without Metro's prior acceptance or consent, it must uncover it for inspection and properly restore the Work at its expense. Metro may order re-examination of any Work; if so ordered, the Contractor must uncover the Work. If such Work is found to be in compliance with the Contract, Metro will pay all costs associated with the re-inspection, including uncovering, covering, and damage to the Work related to the re-inspection. If the Work is not in compliance with the Contract, the Contractor shall pay all such costs and correct all Deficiencies.

D. Work Performed Outside of Regular Work Day

When Work is to be performed during hours other than the Regular Work Day, the Contractor notify Metro in writing not less than twenty-four (24) hours in advance, unless such Work is to be performed on Saturdays, Sundays or legal holidays, in which case such notice will be not less than seventy-two (72) hours in advance.

E. Inspection by Government Entities and Others

The Contractor shall make the Work available to authorized representatives of Government Entities, effected railroads and utilities, and property owners for the purpose of observing the Work associated with their respective interests. Visits will be coordinated through Metro.

F. Inspection of Off Site Facilities

Metro and the other authorized agencies may inspect Contractor's production of Goods at off site facilities, including any manufacturer's plant. Adequate facilities shall be made available for the necessary inspections and free access to all parts of the Work shall be available at all reasonable times. The Contractor shall have appropriate provisions inserted into each Subcontract it enters into providing for facility and in-plant inspection by Metro of the manufacture or production of Goods.

GC-21 ACCEPTANCE OF ELEMENTS OF THE WORK *

A. General

Except to the extent specified herein, in the Article entitled FINAL INSPECTION AND ACCEPTANCE OF THE WORK or otherwise specified in the SPECIAL PROVISIONS of this Contract, no inspection, testing or Acceptance of Substantial Completion of any Element of the Work, or payment in whole or in part therefore, shall be construed as constituting or implying Final Acceptance of the Work or any Element. Metro may reject or Accept any Element as Substantially Completed, request Changes, or identify additional Work that must be done at any time prior to Final Acceptance of the Work.

B. Acceptance of an Element

When the Contractor determines that any Element, as authorized in the Contract, is ready for Acceptance as Substantially Complete, including all required submissions and requirements for delivery to Metro specified in the Contract, the Contractor shall request Acceptance of the Element by giving Metro a Notice of Substantial Completion of the Element, as provided in the Article entitled SUBSTANTIAL COMPLETION, specifying that the Element is completed and the date on which it was completed. The procedures for Acceptance of any Element shall be as provided in the Article entitled SUBSTANTIAL COMPLETION and may be further described in the SPECIAL PROVISIONS of this Contract.

GC-22 SUBSTANTIAL COMPLETION *

A. Notice

The Contractor shall provide Notice of Substantial Completion to the Contracting Officer when all of the following have occurred with respect to the Work or for an Element thereof:

1. The Contractor has completed the Work (except for Punch List items and final clean-up);
2. The Contractor has ensured that all Work has been performed and substantially completed in accordance with the requirements of the Contract;
3. All Deficiencies in the Work have been corrected (other than Punch List items);
4. Contractor has submitted a completed As Built Schedule (except for Punch List Items); and
5. The Contractor has ensured that the Work is ready for operation and may be operated without damage to the any other Work or property on or off the Site, and without injury to any Person.

B. Inspection

Within a reasonable time after the Contractor provides the Contracting Officer with Notice of Substantial Completion of the Work or an Element thereof:

1. The Contractor and Metro's Authorized Representative shall make an inspection of the Element that is the subject of the Notice to determine its status of completion: and
2. Metro will analyze the As Built Schedule to determine if it accurately reflects the cumulative effect of all Modifications approved by Metro based upon the Critical Path Schedule. Based upon that analysis, Metro will have the right to adjust the Contract Time, and Contract Price, to correct all errors, including prior estimates, in the Schedules.

C. Substantial Completion

Substantial Completion of the Work or Element thereof shall occur on the date:

1. The Contracting Officer determines that the Work or Element has been completed in accordance with all requirements of the Contract;
2. The Contractor has corrected all Deficiencies and deviations with respect to the Work;
3. The Contracting Officer has accepted the As Built Schedule and has notified the Contractor in writing of its acceptance of the correction of all Deficiencies;
4. Metro and the Contractor have agreed to a Punch List, if any, of items remaining to be completed or corrected prior to Final Acceptance; and
5. The Work, or Element thereof, is ready for use for the purpose intended.

Upon Substantial Completion, the Contracting Officer will issue a Certificate of Substantial Completion for the completed Work or Element.

D. Acceptance

1. The Contracting Officer may either:
 - a. Reject the Contractor's Notice of Substantial Completion because the Element does not meet the requirements for Substantial Completion, describing Deficiencies and/or deviations from the Contract requirements, or
 - b. Issue a Certificate of Substantial Completion and issue the agreed Punch List, if any, of Work items remaining.
2. If the Contracting Officer rejects the Contractor's Notice of Substantial Completion, the Contractor shall, at its own cost and expense, comply with all requirements for Substantial Completion and resubmit the Notice until the requirements have been met.

E. Completion of the Punch List:

1. All Work items on the Punch List shall be completed prior to Final Acceptance and final payment
2. After Substantial Completion, Metro shall allow the Contractor reasonable access to the Worksite to complete the items on the Punch List.

F. Responsibility for Maintenance, Loss and Damage

Upon the Contracting Officer's issuance of a Certificate of Substantial Completion, Metro (notwithstanding the Article entitled DAMAGE TO THE WORK AND RESPONSIBILITY FOR GOODS) shall be responsible for maintenance, and loss or damage to the Work or Element, except as follows:

1. The Contracting Officer's issuance of a Certificate of Substantial completion will not relieve the Contractor of its obligations to complete the Work or any Element, the non-completion of which was not disclosed to Metro (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise);
2. The Contractor's action, negligence or breach of this Contract or the warranty causes loss or damage to the Work or Element;
3. The Work or Element remains within the custody or control of the Contractor; or
4. Responsibility remains with the Contractor pursuant to the terms of the Certificate of Substantial Completion.

G. Responsibility to Complete the Work

Notwithstanding any other provision of this Contract that could be interpreted to the contrary (including in Contract Documents of higher precedence), it shall be the Contractor's continuing responsibility to complete and deliver every Element, and the integrated whole, of the Work in accordance with all of the requirements of the Contract. The issuance of a Certificate of Substantial Completion by the Contracting Officer for any Element, or for the whole of the Work, shall not be construed to relieve the Contractor of this responsibility, or any part thereof. If, after the issuance of a Certificate of Substantial Completion, Metro discovers any Deficiency, or item not completed or otherwise requiring correction or remedial action, whether or not the item appears on any Punch List or other list of clean up items, the Contractor shall correct the Deficiency, complete the item or otherwise remedy the condition to bring it in to full compliance with the Contract.

GC-23 FINAL INSPECTION AND ACCEPTANCE OF THE WORK *

A. Punch List and Other Obligations

Promptly after Substantial Completion of the Work or Element thereof, the Contractor shall perform all Punch List Work, if any, which was not completed for purposes of Substantial Completion, and shall satisfy all of its other obligations under the Contract.

B. Request for Final Acceptance

Within 10 days after the Contractor determines that all Work as required in the Contract is fully completed, and all required submissions and deliveries to Metro specified in the Contract have been made, it shall give the Contracting Officer a written Request for Final Acceptance specifying that the Work is completed, the date on which it was completed and stating:

1. The Contractor has determined that the entire Work is fully completed, including satisfactory completion of inspections, tests, and documentation, including without limitation the As Built Schedule, specified in the Contract;
2. All Punch List and clean-up items are completed.
3. The Contracting Officer has received and accepted the assignment of all Subcontractor's, manufacturer's and Supplier's Warranties, all as-built drawings and other deliverables required under the Contract;
4. All Equipment, special tools, spare parts or other Goods purchased by the Contractor as provided in the Contract have been delivered to and accepted by the Contracting Officer free and clear of Liens;
5. All of the Contractor's and Subcontractors' personnel, supplies, equipment, waste materials, rubbish and temporary facilities have been removed from the Worksite;

6. The Contractor has complied with all requirements associated with closeout of the Contract.
7. The Contractor has delivered to the Contracting Officer a Notice of Completion for the Work in recordable form and meeting all statutory requirements.

C. Metro Inspection and Acceptance

Metro will inspect the Work and within 60 day thereafter will either:

1. Reject the Request for Final Acceptance, specifying the Deficiencies or uncompleted portions of the Work; or
2. Issue an executed Certificate of Final Acceptance and record the Notice of Completion with the County Recorder.

If the Contracting Officer rejects the Request for Final Acceptance, specifying Deficiencies or uncompleted portions of the Work, the Contractor shall promptly remedy the Deficiencies or uncompleted portions of the Work. Thereafter, the Contractor shall again give the Contracting Officer a written Request for Final Acceptance of the Work, in accordance with the above process.

D. No Implied Acceptance

Any failure by Metro to inspect or reject the Work or to reject the Contractor's Request for Final Acceptance as set forth above shall not constitute or imply Acceptance by Metro of the Work for any purpose, or imply approval of the Contractor's Request for Final Acceptance.

E. Survival of Obligations

Without limiting any other provision of the Contract relating to continuing obligations that extend beyond Final Acceptance, the Contractor's responsibility for injury to persons and/or property arising from its duties and obligations under the Contract, including without limitation, the Articles entitled LIABILITY AND INDEMNIFICATION, GOODS, and WARRANTY OF WORK shall survive Final Acceptance.

F. Undisclosed Incomplete Work

The Contractor will not be relieved of its obligations to complete any Element of the Work, or any portion or item thereof, the non-completion of which was not disclosed to Metro (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise) prior to Final Acceptance of the Contract. The Contractor shall remain obligated after Final Acceptance of the Contract, under this Article and all other provisions of the Contract that expressly or by their nature extend beyond and survive Final Acceptance, to correct all such undisclosed items.

WARRANTY ***A. Warranty**

The Contractor warrants that the Work shall be free of Deficiencies, shall be fit for use for the intended function, and shall meet all of the requirements of the Contract. The Contractor further warrants that the Goods furnished shall be new and of a quality that meets all of the requirements of the Contract.

B. Commencement and Duration

Warranties shall commence upon the Contracting Officer's issuance of a Certificate of Final Acceptance ("Warranty Commencement Date") and shall remain in effect until one (1) year after the Warranty Commencement Date or such longer period as may be specified in the Contract ("Warranty Period"). Subcontractor's, manufacturer's or Supplier's Warranty Periods shall be for the longer of the above stated Warranty Period or the Warranty Period specified in the particular Warranty.

C. Warranty Claims

If Metro determines that any of the Work contains Deficiencies any time within the Warranty Period, Metro shall claim and the Contractor shall correct, repair or replace such Work at its sole expense.

Contractor shall respond to Metro's Warranty claim within one day and shall repair the Deficiency within ten days. If the Deficiency cannot be repaired within said ten days, Contractor, within that ten days shall submit a schedule for completion of repairs, which shall be subject to the approval of Contracting Officer, and shall diligently proceed to complete the repairs within the approved schedule. If any Deficiency affects operation of the Work, or any essential Element thereof, Metro may, in its sole discretion require Contractor to complete repairs in less than ten days.

D. Warranty on Corrected Deficiencies

The Contractor's Warranty shall continue, as to each corrected Deficiency, until the later of:

1. The remainder of the Warranty Period; or
2. One (1) year after Acceptance by Metro of any corrected Work.

E. Metro Right to Correct Deficiencies

If the Contractor fails to remedy Deficiencies or otherwise comply with this Warranty or any other Warranty in this Contract, or fails to propose a timely and adequate remedy, Metro, after notice to the Contractor, may perform or have performed by Third Parties the necessary remedy, and the costs thereof shall be borne by the Contractor.

F. Emergencies

In case of an Emergency or hazard to health or safety requiring immediate curative action, Metro shall notify the Contractor and Contractor shall immediately take such action as it deems necessary and shall notify the Contracting Officer of the action taken. If the Contractor does not undertake immediate curative action, Metro may without prior notice undertake such action as is necessary to correct the hazard or deal with the Emergency and the cost thereof shall be borne by the Contractor.

G. Abuse or Neglect by Metro

To the extent that a particular portion of the Work covered by the Warranty has been abused or neglected by Metro, and such abuse or neglect is the cause of a Deficiency or the failure arising out of the Deficiency, that Deficiency or failure, or portion thereof, shall be excluded from this warranty. Normal wear and tear during operations is excluded from this exception.

H. No Waiver

Nothing in this Contract shall be construed to constitute a waiver or disclaimer, or limit, negate, exclude or modify in any way any warranty in this Contract.

I. Acceptance of Non-Conforming Work

If the Contracting Officer accepts any nonconforming Work without requiring it to be fully corrected, the Contractor shall reimburse Metro a portion of the Contract Price in an amount equal to the greater of: (1) the difference in the value of the Work, plus the present value of additional operating costs, if any, caused by such nonconforming Work or (2) the Contractor's cost savings in not correcting the Work. In either case, Contractor shall, in addition, reimburse Metro's costs to make the determination, including but not limited to staff costs, experts, tests and other actions necessary to make a determination. Such reimbursements shall be payable to Metro within ten (10) days after the Contractor's receipt of Metro's demand for payment.

J. Subcontractor's Warranties

Without in any way limiting the Contractor's Warranties with respect to the Work, the Contractor shall obtain from all Subcontractors, manufacturers and Suppliers, and assign and deliver to Metro all Warranties, including extended Warranties provided by such Subcontractors, manufacturers and Suppliers and from all other persons extending Warranties. All such Warranties shall:

1. Survive Final Acceptance, and all Metro and Contractor inspections, tests and acceptances, and;
2. Shall run directly to and be enforceable by the Contractor and Metro.

K. Other Remedies

The Warranties herein are in addition to all rights and remedies available under the Contract or applicable Law, and shall not limit the Contractor's liability or responsibility imposed by the Contract or applicable Law with respect to the Work including liability for design defects, latent construction defects, strict liability, negligence or fraud.

L. Joint and Several Liability

The Contractor shall be jointly and severally liable to Metro under any such Warranties. To the extent that any Warranty from any person other than the Contractor would be voided in whole or part by reason of any act or omission of the Contractor, the Contractor shall be fully liable to the extent of said Warranty.

M. Actual Damages

The Contractor shall be liable for actual damages resulting from any breach of an express or implied Warranty or any Deficiency in the Work.

N. Spare Parts

Metro's spare parts shall not be used to repair warrantable failures and defects. The security, control, shipping, and disposition of the Contractor-owned parts shall be the responsibility of the Contractor. Damage to Metro's property caused by the Contractor shall be the sole responsibility of the Contractor and shall be corrected at the Contractor's expense.

O. Bond

To the extent that any Performance Bond remains applicable, Surety and the Contractor shall be jointly and severally liable to Metro under its Performance Bond for any breach of the Contractor's obligations hereunder.

P. Disputes

In the event of a dispute between Metro and the Contractor relating to this Article, the Contractor may file a claim in accordance with the Article entitled CLAIMS.

Q. All Contract Warranties Apply

This Warranty provision is not exclusive. Contract provisions containing Warranties, including without limitation documents incorporated by reference or relied upon in any Contract Document, shall apply in accordance with their terms.

SAFETY AND LOSS PREVENTION**A. Contractor Actions**

The Contractor shall at all times conduct its operations in such a manner as to avoid risk of bodily harm to persons or damage to property. The Contractor shall promptly take all reasonable precautions to safeguard against such risks and shall make regular safety inspections of its operations. The Contractor shall be solely responsible for the discovery, determination and correction of any unsafe conditions related to the Contractor's performance of the Work or Goods supplied by the Contractor.

B. Compliance with Laws

The Contractor shall comply with all applicable safety Laws, including any safety program established by Metro. The Contractor shall cooperate and coordinate with Metro and with other Metro Contractors on safety matters and shall promptly comply with any specific safety instructions or directions given to the Contractor by Metro. Notwithstanding, the Contractor shall remain responsible for the Worksite safety.

C. Safety Practices

The Contractor shall inform its personnel of Metro safety practices and the requirements of Metro's safety program. If any of the Contractor's personnel are required to visit any Worksites, the Contractor shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. This Article is to be construed in its broadest sense for the protection of persons and property by the Contractor and no action or omission by Metro, the Contracting Officer, any Authorized Representative or any other person shall relieve the Contractor of any of its obligations and duties hereunder.

D. Loss Prevention

In performing its obligations hereunder, Contractor shall at a minimum provide for protecting the lives and health of employees and other persons; preventing damage to property, goods; and avoiding work interruptions. For these purposes, the Contractor shall, at no additional cost:

1. Provide appropriate safety barricades, signs, and signal lights;
2. Comply with the safety policies of Metro and all applicable Laws;
3. Take additional measures Metro determines are reasonably necessary for this purpose. This determination, when delivered to the Contractor or the Contractor's agent, shall be deemed sufficient notice from Metro of noncompliance and Contractor shall immediately begin required corrective action. After receiving the determination, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, Metro may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment

for additional time or money on any stop order issued under these circumstances.

4. Maintain an accurate record of exposure data on all occurrence incident to Work performed under the Contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by Metro;
5. Inform its personnel of Metro safety practices and the requirements of Metro's safety program. If any of the Contractor's personnel are required to visit any Worksite, the Contractor shall furnish suitable safety equipment and enforce the use of such equipment by those personnel; and
6. Be responsible for its Subcontractor's compliance with this Article.

GC-26 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT AND VEGETATION *

A. Protection

The Contractor shall protect existing structures, equipment and vegetation (collectively "Existing Improvements") within and adjacent to the Worksite and shall exercise due caution to avoid damage to such Existing Improvements.

B. Repair and Replacement

Unless otherwise provided, the Contractor shall repair or replace all Existing Improvements damaged or removed by Contractor. Repairs and replacements shall be at least equal to Existing Improvements and shall match them in finish and dimension.

C. Costs

All costs for protecting, removing and restoring Existing Improvements shall be the sole expense of the Contractor. If the Contractor fails or refuses to make timely repairs, Metro may make the repairs. All costs incurred by Metro, as determined by Metro, for such repairs shall be repaid by Contractor by cash payment upon demand or, without limitation of any of Metro's rights and remedies provided by Law or under this Contract, Metro may deduct the cost from any amount due under this Contract.

GC-27 DAMAGE TO WORK AND RESPONSIBILITY FOR GOODS *

A. Responsibility for Work

Except as otherwise specified in this Article, the Contractor shall be solely responsible for Goods delivered and Work performed until the Contracting Officer issues a Certificate of Substantial Completion, or Certificate of Final Acceptance, if no Certificate of Substantial Completion is issued. Partial Substantial Completion of a portion of the Work shall only relieve the

Contractor of responsibility for the Goods delivered and Work performed that are covered by the partial Substantial Completion.

B. Risk of Loss

Except as otherwise specified in this Article or in the California Public Contract Code §7105, the Contractor shall bear the risk of injury, loss, or damage to any and all parts of the Work from whatever cause, whether arising from the execution or from the non-execution of the Work. The Contractor shall properly rebuild, repair, or restore the portions of the Work that have been damaged or destroyed from any causes prior to Acceptance as provided in the Section in this Article entitled Responsibility for Work, bearing the expense thereof.

C. Protection of Structures

The Contractor shall supply security and drainage and erect temporary structures as necessary to protect the Work from damage. The Contractor shall be responsible for Goods not delivered to the Worksite for which any Progress Payment has been made to the same extent as if the Goods were so delivered.

GC-28

TITLE *

A. Transfer

Title to portions of the Work for which Progress Payments or other payments are made shall pass to Metro at the time of payment. The title transferred as described above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances. The Contractor shall promptly execute, acknowledge, and deliver to Metro proper bills of sale or other written instruments of title in a form as required by Metro. If title has not been vested in Metro previously, title shall pass to Metro upon Final Acceptance.

B. Encumbrances After Transfer of Title

The Contractor shall not pledge or otherwise encumber Work to which title has been transferred to Metro in any manner that would result in any lien, security interest, charge, and/or claim upon or against said Work.

C. Acceptance

The transfer of title of Work to Metro shall not constitute or imply Metro's Acceptance of any Work. Notwithstanding the transfer of title, the Contractor shall continue to be liable and responsible to Metro for any damage to or loss of Work until the Work is Accepted by the Contracting Officer.

D. Delivery

To transfer title the Contractor shall promptly execute, acknowledge, and deliver to the Authorized Representative proper bills of sale or other written

instruments of title in a form as required by the Contracting Officer; said instruments shall convey to Metro title to Goods free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances. The Contractor at its own expense shall conspicuously mark such Goods as the property of Metro; shall not permit such Goods to become commingled with non-Metro-owned Goods; and shall take such other steps the Contracting Officer may require or regard as necessary to vest title to such Goods in Metro free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

GC-29 CONDITIONS AFFECTING THE WORK *

A. Contractor's Inspection

The Contractor represents that it has inspected the Worksite and surrounding area, and has taken steps reasonably necessary to ascertain the nature and location of the Work to be constructed, and that it has investigated and satisfied itself as to the general and local conditions that could in any way affect the Work or its cost.

B. Contractor's Representation

The Contractor further represents that it has satisfied itself as to the character, quality, and quantity of surface and subsurface substances or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Worksite and a review of all documentation relating to the Worksite and the Work, including without limitation documents describing any exploratory Work performed by Metro, Reference Documents, and the drawings and Specifications that are a part of the Contract. Any failure of the Contractor to take the actions described in this Article shall not relieve the Contractor from responsibility for properly estimating the difficulty and cost of successfully performing the Work or for proceeding to successfully perform the Work without additional expense to Metro.

C. Contractor's Responsibility

The Contractor is solely responsible for any conclusions or interpretations it makes based on its investigation of conditions affecting the Work, including its interpretation of the Specifications and any Reference Documents made available by Metro.

D. Disposal of Waste

Unless otherwise specified in the Contract, the Contractor shall make its own arrangements for disposing of waste and excess substances generated from Contractor's performance of the Work at a legal disposal site outside the Worksite, and shall pay all associated costs and obtain necessary permits, if any.

A. Notice of Discovery of Subsurface Conditions

Contractor shall, before any of the subsurface conditions are disturbed, provide immediate oral or electronic mail notice of the discovery of such conditions to Metro's Authorized Representative, followed by written notice to the Contracting Officer of the discovery within 24 hours thereafter, of any of the following subsurface conditions:

1. Substances that the Contractor believes may be Hazardous Substances, that are required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of Law ("Type 1 DSC");
2. Subsurface or latent physical conditions at the Worksite differing materially from those indicated in the Contract ("Type 2 DSC");
3. Unknown physical conditions at the Worksite of any unusual nature that differ materially from those ordinarily encountered in and generally recognized as inherent in Work of the character provided for in the Contract ("Type 3 DSC").

If the Contractor encounters substances during performance of the Work that it reasonably believes to be a Hazardous Substances, a Type 1 DSC, Contractor shall not disturb the condition and shall suspend Work in the immediate area of the suspected Hazardous Substances until Metro authorizes it to resume.

Metro reserves the right to use other labor forces to investigate and to perform work to determine the nature and extent of any suspected Type 1 DSC and to handle and/or remove the Hazardous Substances from the area.

If the Contractor encounters substances or conditions during performance of the Work that it reasonably believes to be a Type 2 DSC or Type 3 DSC, Contractor shall not disturb the condition or interfere with Metro's right or ability to investigate, but may continue Work in the area.

B. Metro's Responsibility and Determination

Metro will promptly investigate the conditions, and if it finds the conditions do materially differ, or do involve previously unknown Hazardous Substances, and cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, that condition shall constitute a Differing Site Condition and Metro shall make an adjustment in Contract Time and/or Contract Price in accordance with the Article entitled CHANGES or in accordance with any other provision of the Contract providing for compensation to the Contractor under the circumstances.

C. Claims

The Contractor shall not be entitled to any remedy for an asserted Differing Site Condition if it does not give Metro both: (1) timely notice of the asserted

Differing Site Condition, as required in this Article and in the Article entitled CLAIMS, and (2) an opportunity to investigate prior to the asserted Differing Site Condition being disturbed.

D. Proceed With Work

If a Dispute arises related to a claim of a Differing Site Condition, the Contractor shall proceed with all Work to be performed under the Contract and shall not be excused from any provision of the Contract, including without limitation, the Scheduled Completion Date.

GC-31 EXTENSION OF TIME

A. Critical Path Schedule

All Work shall be performed in accordance with the requirements of the Contract and the Critical Path Schedule approved by the Contracting Officer. The Critical Path Schedule shall indicate planned Milestone dates for completing all Contract tasks and the Scheduled Completion Date for completion of all Work, and Contractor shall provide Metro notice of any Delay in the Critical Path Schedule.

B. Inexcusable Delay

An Inexcusable Delay is any Delay, including Delay in starting the Work after the Commencement Date set forth in the NTP, that is not an Excusable Delay. An Inexcusable Delay shall not be a cause for granting additional Contract Time or compensation, and shall be cause for termination of the Contract under the Article entitled TERMINATION FOR DEFAULT

C. Excusable Delay

A Delay of the Work shall be an "Excusable Delay" to the extent that:

1. The Contractor provides notice to the Contracting Officer describing the act or event that the Contractor asserts was the cause of the Delay not more than 5 days after the day the act or event occurs;
2. The act or event consumes all available Float and causes a Delay to the Critical Path Schedule;
3. The Delay to the Critical Path Schedule cannot be reasonably mitigated;
4. The Delay arises out of an act or event that was unforeseeable by the Contractor,
5. The causes and effects of the act or event were beyond the control and without the fault or negligence of the Contractor and did not arise out of the Contractor's failure to perform or meet the requirements of the Contract;

6. The act or event causing the Delay is not excluded as an Excusable Delay under any other provision of the Contract; and
7. A specific remedy for the Delay is not provided by any other provision of the Contract.

The Contractor will have the burden of proving the Delay occurred, the Delay was an Excusable Delay, as defined above, the Delay could not be fully mitigated and the length of time of the Excusable Delay. The Contractor will not receive compensation for an Excusable Delay unless it is also a Compensable Delay, as provided in the Section in this Article entitled Compensable Delay. Upon adequate proof of an Excusable Delay, the Contractor will be granted an extension of time and will not be assessed with liquidated damages to the extent of the Excusable Delay to the Critical Path Schedule.

D. Force Majeure and Severe Weather

Subject to Contractor meeting the requirements of the Section herein entitled Excusable Delay, and the following requirements, Contractor will receive and extension of Contract Time for an Excusable Delay caused by a Force Majeure event or severe weather: 1) Contractor has taken reasonable precautions to prevent further Delays arising out of such Force Majeure event or severe weather; and 3) Contractor provides written notice to Metro describing the Force Majeure event or severe weather and the cause(s) of the Delay within five (5) days after the beginning of such Delay. Metro will grant an extension of time for severe weather Delays only to the extent the Work is actually delayed as determined by Metro. Metro shall determine the extension of time for severe weather, if any, in accordance with the Special Provision entitled WEATHER DELAYS CAUSED BY RAIN. Contractor's exclusive remedy for any Excusable Delay arising out of a Force Majeure event or severe weather shall be an extension of Contract Time as provided in this Article.

E. Compensable Delay

An Excusable Delay shall be a Compensable Delay if the performance of all or any part of the Work is delayed or interrupted:

1. By an act of an Authorized Representative of Metro in the administration of this Contract that is not expressly or impliedly authorized by this Contract, or
2. By a failure of Metro to act within the time specified in this Contract, or within a reasonable time if not specified.

A Claim for a Compensable Delay shall not be allowed:

1. For any costs incurred more than 5 days before the Contractor shall have notified the Contracting Officer of the act or Event causing the Delay; and

2. Unless the Claim is in an amount stated, and is submitted in accordance with the Article herein entitled CLAIMS.

The Contractor will have the burden of proving that the Delay is both an Excusable Delay and a Compensable Delay. If an Excusable Delay is found to be a Compensable Delay, Metro will, by Change Order, extend the Contract Time for the increase in the time of performance, and will adjust the Contract Price (excluding profit). If this Contract provides for a daily unit rate of compensation ("Delay Compensation") in accordance with the Article in the Form of Contract entitled COMPENSATION FOR DELAY, the Contract Price will be adjusted at the specified Delay Compensation rate. The Change Order will be Contractor's sole remedy arising out of the Compensable Delay.

F. Concurrent Delay

If Contractor is delayed by any act or event that would otherwise be a Compensable Delay, but the Delay is concurrently caused by any Excusable (but not Compensable) Delay or any Inexcusable Delay, Contractor's remedy shall be the same as for an Excusable Delay, and Metro will, by Change Order or other Modification, extend the Contract Time., Contractor will not be entitled to any change in the Contract Price or any other compensation. Delays will not be Concurrent to the extent that one Delay affects the Critical Path Schedule and the other Delay does not. In that event, the sole Delay will be the one that affects the Critical Path Schedule. The Change Order or other Modification extending Contract Time for a Concurrent Delay will be Contractor's sole remedy arising out of the Concurrent Delay.

G. Shortage of Goods

Except for a Delay in delivery by Metro of Metro-furnished Goods, a shortage of Goods shall not constitute a Compensable Delay. The Contractor may be entitled to an Excusable Delay if, in addition to meeting all other requirements for an Excusable Delay:

1. It supplies Metro with documented proof that it made every effort to obtain such Goods from every known source within reasonable distance of the Work; and
2. The inability to obtain such Goods when originally planned, did in fact cause a Delay in final completion of the Work that could not be fully mitigated by revising the sequence of its operations.

Only the physical shortage of Goods will be considered as a basis for an Excusable Delay. No consideration will be given to any claim that Goods could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of Metro that:

1. The Goods could have been obtained only at exorbitant prices or;
2. The prices were entirely inconsistent with current rates, taking into account the quantities involved and the usual practices employed in obtaining such quantities; and

3. The facts could not have been known or anticipated at the time the Contract was executed.

H. Multiple Causes of Delay

If a Delay arises out of more than one cause, to the extent that the Delay is Excusable or Compensable, subject to all the requirements of this Article, Contractor will be entitled to one extension of Contract Time for the cumulative change to the Critical Path Schedule.

I. Submittal of Information

The Contractor shall submit the following information to the Contracting Officer at the earliest possible date after Contractor provides notice to the Contracting Officer of the asserted Delay, as provided in this Article, and shall thereafter supplement information as it becomes available:

1. A detailed description of the events causing the Delay;
2. An analysis of the impact of the claimed act or event causing the Delay upon the then current Critical Path Schedule, identifying the affected activities, the actual impacts and the number of days delayed; and
3. Proposals and measures taken to mitigate the claimed Delay and the effects thereof.

J. No Metro Waiver

Metro's granting of an extension of time or the Acceptance of any part of the Work after the time specified shall not constitute a waiver of any of Metro's rights under the Contract other than those specifically provided for in the extension or Acceptance.

K. No Release of Surety

An extension of Contract Time granted shall not release the Contractor's Surety from its obligations.

GC-32 INCREASED OR DECREASED QUANTITIES

Increases or decreases in the quantity of a Unit, as identified in the SCHEDULE OF QUANTITIES AND PRICES, will be determined by comparing, at the time the Contracting Officer issues the Certificate of Final Completion, the actual or measured quantity of the Unit used to complete the Work with the estimated quantity of that Unit shown in the SCHEDULE OF QUANTITIES AND PRICES. If the actual or measured quantity of a Unit varies more than twenty-five percent (25%) above or below the estimated quantity of the Unit, an adjustment may be made upon demand of either party, as further described below. The adjustment shall be based upon any increase or decrease in costs due solely to the variation in quantity of the Unit as provided below. This Article shall not apply to variations in quantity due to a Modification to the Contract, which will be governed by the

Article entitled CHANGES or by the terms of the specific Modification. The Contractor's actual price of the Units, supported by documentation of Supplier invoiced cost, shall be used to calculate the adjustment of the Unit Price of the Unit (not including overhead and profit). The adjustment shall be measured as follows:

1. When the actual or measured quantity of a Unit required to complete the Work is more than a 25% increase from the estimated quantity of the Unit, as shown in the SCHEDULE OF QUANTITIES AND PRICES, an adjustment shall be made, upon demand of either party, to the price of those Units which are above 125% of the estimated quantity. The actual or measured quantity of Units up to 125% of the estimated quantity will be paid at the Unit Price shown in the SCHEDULE OF QUANTITIES AND PRICES. If neither party makes a demand for an adjustment in Unit Price for quantities above 125% of the estimated quantity, Metro will pay the Contractor the Unit Price shown in the SCHEDULE OF QUANTITIES AND PRICES for each such Unit.
2. When the actual or measured quantity of a Unit is less than seventy-five percent (75%) of the estimated quantity of the Unit, as shown in the SCHEDULE OF QUANTITIES AND PRICES, an adjustment shall be made, upon demand of either party, to the price of those Units. Metro will pay the lesser of:
 - i. The actual cost of the actual or measured quantity of the Units, including fixed costs; or
 - ii. The Unit Price of the Unit, as shown in the SCHEDULE OF QUANTITIES AND PRICES, multiplied by 75% of the estimated quantity of the Unit.

GC-33 CHANGES

A. General

1. The Contracting Officer may direct Changes within the general scope of the Contract without notice to sureties and may in its discretion direct immediate implementation of Changed Work by a CO, as provided herein. Upon receipt of a CO, the Contractor shall promptly proceed with the Work in accordance with the applicable conditions of the Contract. No direction, order, statement, or conduct of Metro, other than written direction by the Authorized Representative, shall constitute or be the basis for a Modification or otherwise entitle the Contractor to additional Compensation or Contract Time.
2. The Contractor shall promptly submit an RFC when it receives direction, instruction, interpretation, or determination from any person, other than an Authorized Representative, to perform Work that would constitute Changed Work. The Contractor shall not proceed with any such Work until directed in writing by the Authorized Representative as provided in this Article.

B. Request for Information (RFI)

The Contractor may submit an RFI on any portion of the Work. Except under extraordinary circumstances, Contractor shall submit RFIs a minimum of 15 days prior to the need date for the information. Metro will provide a timely response and if a Change or other Modification is required initiate a CN, CO or other Modification.

C. Request for Change (RFC)

1. The Contractor may submit an RFC to Metro's Authorized Representative describing the proposed Change. The Contractor shall describe the discovery of conditions or the occurrence of an event (discovery and occurrence shall collectively be referred to as "Occurrence" and conditions discovered or an event shall be referred to as an "Event") supporting the RFC, identifying the Specification that it proposes to change and stating the reasons for the Change, including relevant circumstances and impacts on the Schedule. If the Contractor is requesting a Modification to the Contract Price or Time, it shall submit the following with its RFC:
 - a) Describe, in detail, the facts underlying the RFC, the reasons why Contractor believes additional compensation or time will or may be due and the date of the Event;
 - b) Provide the name, title, and activity of each Metro Authorized Representative knowledgeable of the facts underlying the RFC;
 - c) Provide such other information as the Contracting Officer may deem necessary to evaluate the RFC;
 - d) If the Contractor estimates the cost to implement the requested Change will be less than \$100,000, the Contractor shall also submit the following with its RFC:
 - (i) A cost and schedule proposal in the level of detail specified by Metro,
 - (ii) Recommended Contract Modifications, including specific reference to the Sections and Paragraphs of the contract affected, or other basis of entitlement to the Change, and
 - e) For changes affecting Schedule, a fragment analysis showing how the Critical Path will be impacted by the Change.
2. The Contractor shall submit RFCs within 10 days after the Occurrence of the Event that is the basis of the RFC. If the Contractor delivers any RFC later than 10 days after the Occurrence of the Event (which shall be when Contractor first discovered or should have discovered the Occurrence of the Event in the exercise of reasonable prudence) described in the RFC, the Contractor shall not have, and will be deemed to have waived, any

Claim to any increase in Contract Price or Time arising out of the Event for the period prior to the date of delivery of the RFC.

3. If an RFC concerns any Event related to the Articles entitled DIFFERING SITE CONDITIONS, HISTORICAL, ARCHAEOLOGICAL, PALEONTOLOGICAL AND SCIENTIFIC DISCOVERIES, or CONDITIONS AFFECTING THE WORK, Contractor shall immediately provide notice of the Event to Metro's Authorized Representative and shall afford Metro the opportunity to inspect such Event before it is disturbed. If the Contractor does not provide Metro such a timely opportunity, it shall be deemed to have waived the right to Claim any increase in Contract Price or Time in connection therewith.
4. If the Contractor fails to provide a RFC within 60 days after any Occurrence of an Event, Contractor shall not have, and will be deemed to have waived, any Claim to any increase in Contract Price or Time arising out of the Event, unless Contractor can show, based on a preponderance of the evidence, that: (a) Metro was not materially prejudiced by the lack of notice, or (b) Metro's Authorized Representative had actual knowledge of the Event prior to the expiration of the 60-day period.
5. If Metro approves the RFC, it will issue a CN, CO or other Modification.
6. Notwithstanding anything that could be interpreted to the contrary in this Article, an RFC shall be at Contractor's risk. Contractor shall not be relieved from performing the Work during the time Metro considers the RFC and will not receive any adjustment in Contract Price or Time if Metro's Contracting Officer determines the subject matter of the RFC is not a Change or other Modification.

D. Contracting Officer's Directive (COD)

1. Directive – The Contracting Officer may issue a COD with respect to any Work or provision of this Contract. A COD may also include direction to the Contractor to comply with the direction, instruction, interpretation or determination (collectively "Direction") of any other person representing Metro related to this Contract. If the Direction was in excess of the authority of the Authorized Representative or any other person making the direction, the COD shall constitute ratification of the Direction effective on the date of the COD.
2. Determination Whether Directive is Changed Work – Each COD shall either contain a determination by the Contracting Officer that the Direction is or is not Changed Work, or a date by which the Contractor will make the determination.
3. Issuance of Change Order – If the Contracting Officer determines that the COD constitutes Changed Work, it will issue a Change Order as soon as practicable after that determination.
4. Compliance With COD – The Contractor shall immediately comply with the COD in accordance with its terms.

5. Maintenance of Records for Claims –

- a. In instances where the Contractor does not assert that a COD constitutes a Change or accepts in writing the determination of the Contracting Officer that a COD does not constitute a Change, upon Contractor's waiver of any Claim related to the COD, the Work will be deemed by the Parties not separate from existing Work and Contractor will not be required to maintain separate records.
- b. In all instances where the Contractor reserves the right to Claim the COD constitutes Changed Work, Contractor shall maintain, in accordance with the Section entitled Basis for Establishing Costs, separate records to distinguish the cost of Work performed under the COD from existing Work, and records of its impact, if any, on the Schedule.
- c. Within 1 day after performance of Work under the COD that the Contractor reserves the right to Claim is Changed Work, Contractor shall submit reports of the performance all such Work to Metro's Authorized Representative on forms provided by Metro. All such reports shall be certified by the Contractor's Representative and shall be deemed submitted upon the written acknowledgment of receipt of the report by Metro's Authorized Representative. Such acknowledgment of receipt shall not constitute acknowledgment that the Work was performed or that it was Changed Work.
- d. Contractor shall preserve all back-up records and reports and shall make them immediately available to Metro's Authorized Representatives upon request.
- e. All reports shall be subject to review and audit.

E. Change Notice (CN)

The Contracting Officer may issue a CN to the Contractor, describing a proposed Change to the Contract and requesting the Contractor to submit a Contractor's Cost and Schedule Proposal (in the form prescribed by Metro). A CN does not authorize the Contractor to commence performance of the proposed Changed Work. Any Change implemented by Metro will be incorporated into a CO or other Modification.

F. Change Orders (CO) and Amendments

1. Metro's Authorized Representative may unilaterally or by agreement with the Contractor issue a CO directing the Contractor to proceed with a Change in the Work. The CO shall contain a Not to Exceed (NTE) amount to be expended by the Contractor under the CO.
2. The Contractor shall not commence performance of the Work described in the CO until Metro's Authorized Representative executes the CO and transmits it to the Contractor.

3. Until such time as the parties agree to any Changes arising out of the CO and execute an Amendment, the Contractor shall maintain its records in accordance with the Section entitled Basis for Establishing Costs.
4. The Contractor shall maintain contemporary records as necessary to distinguish the cost of Changed Work performed under a CO from the cost of other Work until the parties execute an Amendment, or they resolve any Dispute through the Dispute Resolution Process (such resolution shall constitute a Modification). Payment for the Work shall be pursuant to the Section entitled Basis for Establishing Costs. The Contractor shall submit reports of Work on forms prescribed by Metro within one day after performance of the Work. All back-up records and reports shall be made immediately available to Metro upon request. All reports shall be certified by the signature of the Contractor's Representative and acknowledged by Metro's Authorized Representative. All submittals shall be subject to audit and determinations of the accuracy of the submitted information.
5. Metro shall not be liable for or pay any amount in excess of the CO NTE amount. The Contractor shall notify Metro when eighty percent (80%) of the NTE amount has been expended, and provide an estimate of the cost to complete the Changed Work. If Metro agrees that costs in excess of the NTE amount are justified, Metro will issue a revised CO increasing the NTE amount.
6. Any Amendment executed by both parties, arising out of a CO shall:
 - a. Expressly state that the Work described therein is Changed Work.
 - b. Include all Changes to the Critical Path Schedule, the Contract Price, and all costs of any nature arising out of the Changed Work and shall be accompanied by a Certificate of Current Cost or Pricing Data.
 - c. Contain a statement that the adjustment to the Contract Time and Contract Price, if any, includes all time and amounts to which the Contractor is entitled as a result of the Changes giving rise to the CO.
7. The execution of an Amendment by Metro and the Contractor shall be deemed to be an unconditional agreement to all Work, and all adjustments to Contract Price and Contract Time related to the Change. There will be no reservation of rights by either party on an Amendment.

G. Contractor's Cost and Schedule Proposal (CSP)

1. The Contractor shall submit a Contractor's Cost and Schedule Proposal (CSP) to Metro's Authorized Representative within the time limits below after receipt of a CN or CO from Metro:

Proposed Value	Owner Directed Changes	Contractor Requested Changes (RFC)
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< \$100,000	5 Working Days	With the RFC as required above
>/= \$100,000	15 Working Days	15 Working Days

2. In preparing the CSP, Contractor shall:
 - a. Use the forms provided or approved by Metro, and the components set forth in the Section entitled Basis for Establishing Costs, to identify all costs of the Change, including overhead and profit.
 - b. Identify the impacts of the Change on, and integrate the Change in to the Critical Path Schedule.
 - c. Follow Construction Specifications Institute's (CSI) Master Format classification system in describing the Changes.
 - d. Base the proposal on the Contractor's actual, expected construction productivity rates (and provide appropriate support for those productivity rates); not on published or trade association composite rates.
 - e. Identify any prices or other elements of the CSP that are conditional, such as time sensitive orders or events.
 - f. Certify the CSP upon Metro's request.
 - g. Include a Certificate of Current Cost or Pricing Data as described in the Article entitled AUDITS.
 - h. If the CSP totals one-hundred-thousand dollars (\$100,000) or more, include an Ethics Declaration on the form provided by Metro.
3. If the Contractor does not submit the CSP by the required date, Metro reserves the right to modify the CO utilizing Metro's fair cost estimate.
4. If any prices or other elements of the proposal are conditional, such as orders being made by a certain date or the occurrence of a particular event at a specified time, the Contractor shall identify these conditions in its proposal.

H. Basis for Establishing Costs

The amount payable for a Change is the sum of all eligible costs the Contractor necessarily incurs to perform the Work and a mark-up for overhead and profit. Any increase in the costs shall exclude:

1. Costs caused by the breach of contract or fault or negligence, or act or failure to act of the Contractor, or any Subcontractor, or any other Persons for whom the Contractor may be contractually or legally responsible; and

2. Costs which could reasonably be avoided by the Contractor, including resequencing, reallocating or redeploying its forces to other portions of the Work or to other activities unrelated to the Work, adjusted for any additional costs reasonably incurred in connection with such reallocation or redeployment.

Eligible costs shall include:

1. Labor Costs

- a. Labor cost shall be based, as a minimum, on the prevailing wage scale for each craft or type of Work used in the Changed Work, as well as payroll taxes and fringe benefits, as applicable. Payroll taxes shall be calculated on base wage only and not on fringe benefits. Fringe benefits shall be applied only to the straight-time component of cost and shall not apply to the premium-time component unless otherwise required by the California Labor Code.
- b. Labor reports shall include names, hours worked, and rates of pay for all classifications that are engaged in the actual direct performance of the Changed Work. Labor costs shall not include costs for management personnel above foreman, office personnel, timekeepers, and maintenance mechanics unless authorized by the Contracting Officer prior to the start of Changed Work.

2. Material Costs

Material costs shall be the cost of all Goods purchased by the Contractor and used in the Changed Work, including normal wastage allowance as per industry standards. The cost shall include freight, delivery, unloading, storage charges, taxes and all Supplier discounts. The prices shall be supported by valid invoices or binding written quotations from reputable Suppliers, or shall be prices from existing purchase orders, blanket purchase orders or other ordering agreements standard in the industry. The invoices or quotations shall be made available to Metro upon request. Metro reserves the right to review and accept Goods and sources of supply of Goods to be furnished by the Contractor or its Subcontractor(s), as well as the right to furnish the Goods to the Contractor if necessary to facilitate the progress of the Work.

3. Construction Equipment Costs

The rates described in this Paragraph include the Construction Equipment, plus the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals, subject to the following:

- a. Construction Equipment costs shall not include costs for items normally considered Contractor plant or fixed costs items (such as buildings, trailers, office equipment, utilities, rail, piping, electrical

distribution systems, processing plants, material handling facilities, work platforms, scaffolding, and concrete forms).

- b. Construction Equipment reports shall include size, type, identification number, rental rate (if applicable), and hours of operation.
- c. Construction Equipment and tools having a replacement value of \$200 or less, whether or not consumed or used, shall be considered small tools and no payment shall be made for them.
- d. Equipment ownership fixed costs shall be limited to the following for multiple shift operations:
 - (1) Overhead - at the hourly overhead rate listed in the Cost Reference Guide for Construction Equipment for the first shift each day and at 15% of that same hourly rate for the second shift each day. No additional overhead costs will be allowed for a third shift; and
 - (2) Depreciation - the hourly depreciation rate listed in the Cost Reference Guide for Construction Equipment for the first shift each day and at 50% of that same hourly rate for the second and third shifts each day.
- e. Metro shall pay Contractor for the use of Contractor-owned Construction Equipment at the total hourly cost rates listed for such Construction Equipment in the Cost Reference Guide for Construction Equipment (published by Dataquest of San Jose), which edition shall be the latest edition in effect at the time the Changed Work is performed. No adjustment to the total hourly cost rates listed in the Cost Reference Guide shall be made except as stated in this Paragraph for multiple shift operations and standby.
- f. If it is deemed necessary by the Contractor to use Contractor-owned specialized Construction Equipment not listed in the applicable edition of the Cost Reference Guide for Construction Equipment (as noted above), the Contractor shall submit all cost data to Metro's Authorized Representative for its use in establishing the rate.
- g. If the Contractor deems it necessary to use rental Construction Equipment due to the lack of availability of Contractor-owned Construction Equipment to perform the Changed Work, the Contractor shall submit the cost data, including written quotes, published price lists and paid invoices to Metro's Authorized Representative for use in verification of such rental cost. Metro will pay for Construction Equipment rented under lease-purchase or sale-leaseback arrangements, or rented from an organization under control of the Contractor or under common control with the Contractor, at the rates set forth in the Cost Reference Guide for Construction Equipment.
- h. Construction Equipment operators shall be paid for as stipulated in the Paragraph entitled Labor Costs.

- i. All Construction Equipment shall be in good working condition and suitable for the purpose for which it is to be used.
- j. Unless otherwise specified, manufacturer-approved modifications shall be used to classify Construction Equipment for the determination of applicable rental rates. Applicable rental rates for Construction Equipment that has no direct power unit shall be based on being powered by a unit of at least the minimum rating recommended by the manufacturer of that Construction Equipment.
- k. Metro will not pay compensation for Construction Equipment while it is inoperative due to breakdown, routine maintenance or other Contractor controlled or planned down time.
- l. Except as otherwise specified in this Article, time will be computed in half and full hours. In computing the time for use of Construction Equipment, less than 31 minutes shall be considered one-half hour.
- m. After Construction Equipment is idle for 16 hours in a 24 hour period it shall be deemed to be on standby, and Compensation for such Construction Equipment shall be limited to the sum of the hourly overhead and depreciation rates for 8 hours per 24 hour period.
- n. The time shall include the time required to move the Construction Equipment to the location of the Changed Work and return it to the original location (or to another location requiring no more time than that required to return it to its original location). Loading and transporting costs shall be allowed, in lieu of moving time, when the Construction Equipment is moved by means other than its own power. No payment for loading and transporting shall be made if the Construction Equipment is also used at the Worksite for other than the Changed Work.
- o. The Construction Equipment use period shall:
 - (1) Begin at the time the Construction Equipment is unloaded at the site of the Changed Work during standard work hours;
 - (2) Include each day that the Construction Equipment is at the Worksite of the Changed Work, excluding Saturdays and Sundays and other legal holidays unless such Work is performed on those days; and
 - (3) Terminate at the end of the day on which the Work is completed or Metro's Authorized Representative instructs the Contractor to discontinue the use of such Construction Equipment.
- p. Contractor shall substantiate the costs of all rented Construction Equipment by the Supplier's invoices or, if the work has not yet been started, by signed quotes or published rate sheets, submitted with the current reports; or, if not then available, submitted with subsequent

reports. If the Contractor does not submit Supplier's invoices within 30 days after completion of the Changed Work, or if in Metro's opinion the cost of such rented Construction Equipment is excessive, then the cost of such Equipment shall be determined utilizing the guides listed in Paragraph 3.d above.

- q. No additional compensation shall be allowed for Construction Equipment used to perform Changed Work if such Equipment is already on the Worksite and being used or will be used for other than the Changed Work.

4. Overhead and Profit

- a. If prior to commencement of performance of Changed Work the Parties agree on the amount of the direct costs of such Work, the Contractor shall be paid mark-ups on such direct costs for overhead and profit of:

- (1) 20% for direct labor costs;
- (2) 15% for material costs; and
- (3) 15% for Construction Equipment use costs.

- b. If the direct cost of the Work is based in whole or in part on the Contractor's actual incurred costs, the mark-ups for overhead and profit shall be subject to determination by the Contracting Officer based upon audited overhead rates and a reasonable profit, not to exceed the markups set forth in Sub-Paragraph a of this Paragraph.

- c. The mark-ups for overhead include and are full compensation for all indirect costs of any nature, including without limitation home and field office overhead, all taxes of any nature (except taxes covered herein under labor or material costs), Performance and Payment Bond premium adjustments, small tools, incidental job burdens, incidental engineering and all other indirect costs of the Changed Work.

- d. Incidental engineering costs, referred to in the previous Paragraph, which shall be included in the overhead mark-up, shall include all time spent by engineers for RFI and RFC preparation, Change Order administration, preparation and coordination of shop drawings, attendance at meetings, inspections scheduling, estimating, Claim preparation, submittal preparation and review, mix and shoring design and all other tasks normally performed by contractors as part of the Work under similar construction contracts.

5. Engineering Costs

- a. Engineering costs that constitute a direct cost under a Change Order or other Modification shall be limited to costs that meet all of the following elements. They are:

- (1) Not incidental engineering costs (as described in the immediately preceding Paragraph);

- (2) Costs arising from engineering Work specified in the Change Order or other Modification, and
 - (3) Costs of engineering in excess of the total estimated cost of engineering for the Contract as shown in the Escrowed Bid Documents (if Bid Documents are escrowed).
- b. Engineering costs which arise as a result of a Force Majeure or severe weather event shall not be compensable.
6. Subcontractor Costs
- a. When a Subcontractor performs Changed Work, the mark-ups set forth above shall be applied to the Subcontractor costs. Metro will pay the Contractor one additional mark-up of 5% of the Subcontractor's compensation regardless of the number of intervening tiers of Subcontractors.
 - b. Metro will not pay markups for goods furnished by Suppliers, except Suppliers of major Goods specially fabricated either fully or partially or modified for use in the Contract shall be considered Subcontractors for the purpose of this Paragraph.
 - c. Metro will not pay a mark-up for Units with Unit Prices established in the Contract.

7. Credit Items

Where the Contractor's or any tier Subcontractor's portion of a Change or other Modification involves credit items, or the proposed Change is a fully deductive Change or other Modification, the Contractor shall utilize the same mark-ups in computing the value of the credit.

8. Bond Costs

Changes to the cost of Performance and Payment bonds shall be limited to the actual increase or decrease in the cost of the Bonds arising directly out of the Change or other Modification and shall be paid after Final Acceptance of the Work. A copy of the Surety's invoice must be provided to document the change in the cost of the Bonds.

9. Acceleration Costs

No Acceleration Costs incurred by the Contractor to avoid a delay in any Milestone or in Substantial Completion of the Work shall be payable hereunder except with respect to Change Orders issued by Metro as an alternative to allowing an extension of time pursuant to the Article entitled EXTENSION OF TIME.

I. Audit

The Contractor's records pertaining to Changes pursuant to this Article are subject to audit as set forth in the Article entitled AUDITS.

J. Limitations on Authority

Nothing in this Article shall be construed to bind Metro for acts of any person, including its Authorized Representatives, who exceed their authority as set forth in the Article entitled AUTHORITY OF THE CONTRACTING OFFICER AND AUTHORIZED REPRESENTATIVES.

K. Work After Scheduled Completion Date, or During Suspension or Delay

To avoid any duplicate payment of overhead or profit, if Contractor performs any Work under a CO or other Modification after the Scheduled Completion Date, or during a period of Suspension or Delay which results in a time extension, the mark ups for overhead and profit paid under this Article for the CO or other Modification for that period shall be deducted from any extended overhead or profit that may be otherwise payable to the Contractor under this Contract for the Suspension or Delay.

L. Interest

Except as provided in Public Contract Code Section 20104, no interest shall be payable on any amounts until the later of 30 days after: (1) execution to the Modification by both parties; or (2) the amounts become due and payable under the terms of the Modification.

M. Accord and Satisfaction

The execution of an Amendment by the Contracting Officer and the Contractor's Representative shall constitute a full accord and satisfaction of all amounts payable, all time extensions allowable and all other Claims arising out of the Event or Work that is the subject matter of the Amendment.

GC-34 VALUE ENGINEERING PROPOSALS *

A. Value Engineering Proposals - General

The Contractor may submit to Metro, in writing, value engineering proposals for modifying the Specifications for the purpose of reducing construction costs. The value-engineering proposal shall not impair the essential functions or characteristics of the Work, including service life, economy of operation, ease of maintenance, desired appearance, or design and safety standards.

B. Value Engineering Proposals - Contents

1. Value engineering proposals shall contain the following information:

- a. A general description of the original Contract requirements for the Work and the proposed changes;
 - b. An itemized list of all the proposed modifications to the drawings and specifications;
 - c. An itemized list of all Work and Goods affected by the value-engineering proposal;
 - d. A detailed estimate of the construction costs based on the original Contract requirements and based on the proposed Changes;
 - e. Any requested time extensions or reductions to the Contract Time or Contract Milestones;
 - f. Statement that there will be a minimum twenty-five thousand (\$25,000) net savings; and
 - g. The date by which the Contractor requires a decision from the Contracting Officer concerning the value-engineering proposal.
2. The detailed estimate shall be supported by full and completely detailed estimates of costs by the Contractor, Subcontractors and Suppliers. The estimates of costs shall be determined in the same manner as if the Work were to be paid as a Change pursuant to the provisions the Article entitled CHANGES. The Contractor shall, upon the request of Metro, permit inspection of its original Bid estimate, Subcontracts and purchase orders relating to the value-engineering proposal.
 3. The Contractor's cost of preparing the value-engineering proposal shall be excluded in determining the estimated net savings in construction cost.

C. Value Engineering Proposals – Metro Review

Metro may in its the sole discretion accept the value-engineering proposal or any part thereof, and determine the estimated net saving in construction cost. In determining the estimated net savings, Metro may disregard the original contract bid estimates for any related Work or Goods, which in the judgment of Metro, do not represent a fair measure of the value of the Work or Goods. Metro will not be liable for Delays or damages to the Contractor resulting from any failure of Metro to accept or act upon any value-engineering proposal submitted pursuant to this Article. If a submitted value-engineering proposal is similar to a Change already under consideration by Metro, Metro may make such Change pursuant to the Article entitled CHANGES without respect to the Value Engineering Proposal.

D. Amendments– Metro Issuance

If the value-engineering proposal is acceptable to Metro, in whole or in part, Metro will accept by execution of an Amendment, which shall specifically state that it is executed pursuant to this Article. Such Amendment shall identify all the Changes in the Specifications, Contract Time and Milestones;

shall specify net savings in construction costs; and shall provide that the Contractor be paid 30% of the said net savings amount based upon the difference between the amount contained in the Contract and the estimated net savings, both as determined by Metro.

E. Change Orders – Contract Review

The Contractor shall either accept or reject any proposed Amendment executed by Metro pursuant to this section within (5) working days of its receipt date from Metro. If the Contractor does not reject the proposed Amendment in writing within the five (5) working days will be deemed accepted by Contractor, and shall become an Amendment to the Contract the same as if the Amendment had been executed by the Contractor. Contractor's acceptance, or deemed acceptance, of any Amendment executed by Metro pursuant to this Article shall be unconditional and the compensation stated therein shall constitute full compensation for all Work and Goods covered by the Amendment.

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AUDIT *

A. General

The Contractor, its Subcontractors and Suppliers of any tier shall be subject at any time to audits by the Authorized Auditors to verify compliance with all Contract requirements.

The audits will be performed using FAR Part 31, Generally Accepted Accounting Practices and Principles (GAAP), and Metro's Contractor Cost Guidelines to determine the allowability, allocability, and reasonableness of the costs. If, based on an audit, the Contracting Officer determines that the Contractor has been previously overpaid, such overpayment shall be deducted from the Contractor's next Progress Payment, or after 10 days notice to the Contractor, the Contractor shall reimburse Metro.

B. Metro Rights

The Authorized Auditors shall have the right to examine all records, books documents and any other applicable data or evidence (hereinafter in this Article "Records") necessary to permit adequate evaluation of cost or pricing data submitted in connection with each CN, CO, Modification and Claim, along with the computations and projections used. The Authorized Auditors may also examine such Records in connection with any Application for Progress Payment that relates to Work performed under a CO, and Goods not yet incorporated into the Work.

For a period of three (3) years after the Final Acceptance of the Contract, the Authorized Auditors shall have the right to examine all Records that relate to the negotiation and/or performance of a CO or other Modification for the purpose of determining the accuracy and completeness of the cost or pricing data submitted by the Contractor. For all audits, the Authorized Auditors shall have the right to examine, reproduce and audit all Records regardless of form (e.g., machine readable media such as disk, tape, etc.), or type (e.g.,

databases, application software, database management software, utilities, etc.) of the Contractor, including computations and projections, in order to evaluate whether the Records are accurate, complete and current.

C. Contractor Responsibilities

The Contractor shall maintain its Records within the United States in accordance with FAR Part 31, GAAP, and Metro's Contractor's Cost Guidelines. The Records shall be sufficient to properly reflect all costs the Contractor claims to have been incurred, or anticipates it will incur, in performing the Contract. The Contractor, its Subcontractors and Suppliers are responsible for accounting for unallowable costs in accordance with FAR Subpart 31.201-6. All costs that are expressly unallowable or mutually agreed to be unallowable, including directly associated costs, shall be excluded from any billing, Claim, or proposal applicable to Metro's Contract. The Contractor shall maintain and segregate cost and pricing data, Records, and any other accounting evidence sufficient to properly reflect all direct and indirect costs of whatever nature the Contractor claims to have incurred or anticipates it will incur under any CO or other Modification. The Contractor shall make said evidence (or to the extent accepted by the Authorized Auditors, photographs, micro-photographs or other authentic reproductions thereof) available to the Authorized Auditors at the Contractor's offices at all reasonable times and without charge. The Contractor and its Subcontractors and Suppliers shall keep and preserve all such Records for a period of at least three (3) years from and after Final Acceptance of the Contract, or if the Contract is terminated in whole or in part until three (3) years after the final Contract close-out.

Contractor shall provide Records that are on machine-readable media in a format accessible and readable by the Authorized Auditors.

D. Written Notice

Upon reasonable advance written notice, the Authorized Auditors shall have access at all times to all Records maintained by the Contractor and its Subcontractors and Suppliers for the Contract, for the purpose of auditing and verifying the Contractor's cost claimed to be due and payable hereunder, or anticipated to be incurred in performing the Contract. Reasonable advance written notice shall be provided with a copy sent to the Contractor's Representative for any audits performed at the Contractor's and/or Subcontractor's Home Office.

E. Defective Cost and Pricing Data:

1. Contractor Data

The Contractor shall certify in the form prescribed by Metro that to the best of its knowledge and belief, the data submitted in relation to any Modification or Claim under this Contract were accurate, complete and current as of the date of agreement of the negotiated price of the Modification. If the Contractor, Subcontractor, Supplier, prospective Subcontractor or prospective Supplier supplied certified cost or pricing

data that were not complete, accurate, and current, or furnished data of any description that were not complete, accurate and current, the amount, including profit, negotiated in connection with any Modification or Claim shall be adjusted, and the Contract shall be modified to reflect the adjustment.

2. Subcontractor/Supplier Data

Before awarding any Subcontract in connection with any Change, the Contractor shall require the Subcontractor to submit cost or pricing data, in writing, unless the price is based on adequate price competition; based on established catalog or market prices for commercial items sold in substantial quantities to the general public; or set by Law. The Contractor shall require the Subcontractor to certify in the form prescribed by Metro, to the best of its knowledge and belief, the data submitted were accurate, complete and current as of the date of agreement on the negotiated price of the Subcontract or Subcontract modification.

F. Requirements Not Exclusive

The requirements of this Article are in addition to other audit, inspection, and record keeping requirements specified elsewhere in the Contract.

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CLAIMS

A. Notice of Intent to Claim (NOIC)

1. Conditions to Claim - As a condition to pursuing any Claim under or in connection with the Contract, the Contractor must meet all requirements set forth in this Article for submission of Claims.
2. Time Limits - The Contractor shall, as a condition precedent to entitlement, submit a written Notice of Intent To Claim (NOIC) to the Contracting Officer within 10 days after the Event or Occurrence, giving rise to the potential Claim in accordance with the provisions of this Article. Failure to comply with these requirements shall constitute a waiver by the Contractor of any right, equitable or otherwise, to bring any such Claim against Metro.
3. Content - The NOIC shall set forth the reasons the Contractor believes additional compensation or time is or will be due, the nature of the costs or Delay involved, and insofar as possible, the amount of the potential Claim.
4. Additional Work - If the Claim is for additional Work not yet commenced, Contractor shall, if possible, give the NOIC to the Contracting Officer prior to Contractor's start of performance of the Work.

B. Submittal of and Response to Claims

1. Submittal and Review - Subject to having filed a timely NOIC, the Contractor shall file its Claim in writing within 60 days after the

Occurrence of the act or Event giving rise to the Claim, in sufficient detail for Metro to ascertain its basis and amount. The Contractor shall furnish, when requested by Metro's Authorized Representative, such further information and details as Metro may require to evaluate the Claim. The Contractor shall give Metro's Authorized Representative access to its Records (as defined in the Article entitled AUDIT) and other materials relating to the Work, and shall cause its Subcontractors to do the same, so that Metro's Authorized Representative can fully investigate the Claim.

2. Delay Claims - The Contractor shall submit to the Contracting Officer with each Claim for an adjustment on account of Delay for any cause a proposed revision to the Critical Path Schedule incorporating the effects of the Delay claimed. The Claim shall also contain reasonable proposals to minimize the Delay and its effects. If the Critical Path Schedule submitted to the Contracting officer prior to the Delay for which relief is sought did not describe prior conditions affected by the Delay, then Contractor shall prepare a portion of the Critical Path Schedule reflecting these conditions as a baseline and submit it with the Claim. The Contractor shall also submit an Impacted Schedule showing the proposed revision. The Impacted Schedule shall also contain all other pending Modifications, Change Orders, Delays or Claims of Delay that are not included in the current Critical Path Schedule.
3. Certificate of Current Cost and Pricing Data - All Claim submittals shall include a Certificate of Current Cost and Pricing Data. In addition, and except as otherwise provided in Article 1.5 (defined below), each Claim over \$50,000 shall be accompanied by the following certification that:

"I certify that the Claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the Contract adjustment for which the Contractor believes Metro is liable; and that I am duly authorized to certify the Claim on behalf of the Contractor."
4. Ethics Declaration - For a Claim submittal of \$100,000 or more, Contractor shall submit an Ethics Declaration on the form provided by Metro.

C. Claims Subject to Article 1.5

1. Article 1.5 - This Contract is subject to the provisions of Sections 20104 et seq. of the California Public Contract Code (Article 1.5 of Chapter 1 of Part 3, entitled Resolution of Construction Claims – hereafter "Article 1.5"), and claims subject to said Article 1.5 shall be processed in accordance therewith. Pursuant to Section 20104[c], the full text of Article 1.5 is attached hereto as Attachment 1.
2. Other Requirements - Depending upon the grounds for relief and the nature of relief sought, information and conditions to resolution including additional submittals, not inconsistent with Article 1.5, may be required elsewhere in the Contract.

D. Claims Not Subject to Article 1.5:

For Claims not subject to Article 1.5, the provisions of Article 1.5 are hereby incorporated and shall apply, except the 60 day response period set forth in Section 20104.2(c)(1) shall be 90 days.

E. Government Code Claims

1. Submittal - If the Contractor disputes the Contracting Officer's decision or if the Contracting Officer fails to make a decision with respect to the Claim, the Contractor may file a Claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencement with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code ("Government Code Claim") within the time limits set forth in Government Code.
2. Claims \$50,000 and Under – The commencement of the running of the period of time to file a Government Code Claim for \$50,000 or less shall be tolled until the Contracting Officer denies the Claim in writing pursuant to the process set forth in Section 20104.2(b) of Article 1.5. If the Contracting Officer does not deny the Claim in writing, the Claim shall be deemed denied by the Contracting Officer 15 days after the day the Contractor submits its final documentation as provided in Section 20104.2(b)(3). If the Contracting Officer denies the Claim in part, those parts of the Claim that are denied shall be subject to a Government Code Claim.
3. Claims over \$50,000 - The commencement of the running of the period of time to file a Government Code Claim for Claims over \$50,000 shall be tolled until the Contracting Officer denies the Claim in writing as a result of the "meet and confer" process pursuant to Section 20104.2(e) of Article 1.5. If the Contracting Officer does not deny the Claim in writing after the "meet and Confer" process, the Claim shall be deemed denied by the Contracting Officer 15 days after the last day of the "meet and confer" process. If the Contracting Officer denies the Claim in part, those parts of the Claim that are denied shall be subject to a Government Code Claim.

F. No Claim After Final Acceptance

Contractor shall not be eligible to, and shall not, make any Claims after the Contracting Officer executes a Certificate of Final Acceptance under the Article entitled FINAL INSPECTION AND ACCEPTANCE OF THE WORK. Contractor's Request for Final Acceptance of the Work and the Contracting Officer's issuance of a Certificate of Final Acceptance shall constitute a full accord and satisfaction with respect to all Claims, actual or potential, known or unknown.

G. Performance During Claim or Dispute

The Contractor shall proceed diligently with performance of the Contract pending resolution of any Claim, Dispute, appeal or action ensuing under the Contract, except for any performance the Contracting Officer determines in

writing should be delayed, suspended or terminated as a result of such Claim or Dispute.

H. Accord and Satisfaction

A Claim resolved by a Change Order or Contract Amendment shall constitute a full accord and satisfaction unless the resolution specifically provides otherwise, and contains a description of those elements of the Claim that are not resolved.

GC-37 DISPUTES

A. Administrative Process

1. Negotiation - If a Dispute under the Contract arises, the Contracting Officer and the Contractor's Representative shall use their best efforts to resolve the Dispute through negotiation.
2. Documentation - All Disputes and negotiations shall be documented by each Party in writing and state the specifics of each Dispute and actions taken.
3. Agreement to ADR - If a Dispute cannot be resolved by the Contracting Officer and the Contractor's Representative, they may agree to use an ADR process for settling the Dispute.
4. Determination by Contracting Officer - In the absence of settlement, the Contracting Officer may, upon its own initiative, or upon the written request of the Contractor, make a determination of the Dispute. Upon such determination, Contractor shall immediately comply with the determination.
5. Claims - If the Dispute involves a Claim by the Contractor, the Contractor shall comply with and be subject to the provisions of the Article entitled CLAIMS, including the time limits for the filing of a Government Code Claim.

B. Alternative Dispute Resolution (ADR)

If the Parties choose to use ADR to attempt to resolve a Dispute:

1. The results of the ADR shall not be binding on either Metro or the Contractor unless the Parties have separately agreed prior to the ADR in writing that the ADR will be binding or thereafter agree by a separate settlement or other agreement that it will be binding.
2. A mediation will not be binding, except by separate agreement as a result of the mediation and in no event will a mediator make any findings.
3. Any separate agreement reached by the Parties as a result of a mediation or non-binding arbitration shall be implemented as a Modification.
4. If the ADR does not resolve all issues and there are items to be negotiated in order to enter into a Modification, the Parties shall use their

best efforts to negotiate those issues. If they are unsuccessful the Parties may agree to return to the ADR for further proceedings on the open issues. If the Parties cannot agree, they shall proceed in accordance with the following Paragraphs.

5. If the ADR is an arbitration (or other process in which findings are made), the findings may be used in any concurrent or subsequent Claim, litigation or other action at Law or in equity only if the Parties have agreed that the findings may be used.
6. If either party does not accept the result of a non-binding arbitration, or they are unable to reach agreement on a Modification, the Contracting Officer may make a determination, which shall be final, subject to Contractor's remedies under the Article entitled CLAIMS. In the absence of a determination by the Contracting Officer after conclusion of the ADR, the Contracting Officer's determination prior to the ADR shall apply, subject to Contractor's remedies under the Article entitled CLAIMS.
7. The Parties may agree that the time for the filing of a Government Code Claim, as defined in the Article entitled CLAIMS, shall be tolled during the pendency of an ADR process. The terms of the tolling agreement shall be subject to the agreement of the Parties.

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SUSPENSION *

A. Order of Suspension;

Metro may at any time and for any reason within its sole discretion issue a written order to the Contractor suspending, delaying, or interrupting all or any part of the Work for a specified period of time.

B. Contractor Compliance:

The Contractor shall comply immediately with any written order it receives from the Contracting Officer suspending the Work and take all reasonable steps to minimize costs allocable to the Work covered by the suspension during the period of Work stoppage. Contractor shall continue the Work that is not included in the suspension at normal full strength and shall continue ancillary activities, as reasonably required to preserve property or as otherwise required by the Contracting Officer. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction of the Contracting Officer.

C. Price and Time Adjustments

The Contractor may submit an RFC for an adjustment in the Contract Price (not to include profit) and/or an extension of the Contract Time, to the extent that cost or Delays are shown by the Contractor to be directly; attributable to any suspension. The RFC shall be filed within 20 days after the end of the Work suspension. However, no adjustment shall be made under this Article for any suspension, Delay or interruption to the extent that the Contractor's performance would have been so suspended, Delayed or interrupted by any

other cause, including the fault or negligence of the Contractor, or for which an adjustment to the Contract Price or an extension of Contract Time is provided for, or excluded under any other term or condition of the Contract. The provisions of this Article shall only apply if a written order of suspension, Delay or interruption is issued by the Contracting Officer.

D. Work During Suspension

If during the suspension, the Contracting Officer authorizes the Contractor to incur any costs or perform any Work related to the suspended Work, such authorization shall be by CO and shall identify the authorized Work, any staff required to achieve the level of effort authorized, and the not to exceed amount of the authorization. Metro will make partial payments up to the not to exceed amount of the authorization against costs incurred by the Contractor in connection with the authorized Work.

GC-39 TERMINATION FOR CONVENIENCE OF METRO *

A. Notice of Termination

Metro may in its sole discretion terminate Contractor's performance of the Work under the Contract, without cause, from time to time at any time, in whole or in part. Such termination will be effected by delivery of a Notice of Termination to the Contractor, specifying the extent to which performance of the Work under the Contract shall be terminated and the date upon which such termination shall become effective.

B. Obligations Upon Termination

After receipt of a Notice of Termination, except as otherwise directed by the Contracting Officer, the Contractor shall:

1. Stop Work under the Contract on the date and to the extent specified in the Notice of Termination.
2. Place no further orders or Subcontracts for Goods or Work, except as may be necessary for completion of such portions of the Work expressly excluded from the Notice of Termination.
3. Communicate any Notice of Termination to the affected Subcontractors and Suppliers, and any other parties, at any tier.
4. Terminate all orders and Subcontracts that relate to the performance of the Work terminated by the Notice of Termination.
5. Settle outstanding liabilities and claims arising out of such termination of orders and Subcontracts, with the Acceptance of the Contracting Officer if required (which Acceptance shall be final for the purposes of this Article).
6. Upon the Contracting Officer's written order, assign to Metro in the manner, at the times, and to the extent directed by the Contracting

Officer, all of the right, title, and interest of the Contractor in and to outstanding orders and Subcontracts affected by the termination.

7. Transfer title and deliver to Metro in the manner, at the times, and to the extent directed by Contracting Officer:
 - a. Fabricated or unfabricated materials, supplies and Goods constituting Work in process, and all other products of uncompleted Work,
 - b. Completed Work, supplies, and other Goods procured as a part of, or acquired in connection with, the performance of the Work terminated; and
 - c. Completed or partially completed designs, plans, drawings, information, documentation and other items that would have been required to be completed and Furnished to Metro if the Contract had been completed.
8. Use its best efforts to sell the Goods referred to in this Article in the manner, at the times, to the extent, and at the price(s) directed or authorized by the Contracting Officer, providing that the:
 - a. Contractor is not required to extend credit to any purchaser;
 - b. Contractor may acquire any such Goods under the prescribed conditions; and/or
 - c. Proceeds of any such transfer or disposition shall be applied or otherwise credited to reduce payments made by Metro to the Contractor under the Contract.
9. Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to the Contract that is in the possession of the Contractor and in which Metro has or may acquire an interest.
10. Comply with all other requirements of Metro as may be specified in the Notice of Termination.
11. Complete performance of that portion of the Work that has not been terminated by the Notice of Termination, as applicable and in accordance with the Contract.

C. Submittal and Review of Invoice

Within 60 days after Metro's delivery of a Notice of Termination for Convenience, Contractor shall submit a final invoice based on the percentage of the Work completed prior to the effective date of termination and other costs reasonably incurred by the Contractor to implement the termination. Metro shall review and the Contracting Officer shall approve the invoice, or approve the invoice as adjusted, based upon its determination of the amount due.

D. Failure to Submit Termination Invoice

Upon failure of the Contractor to submit its termination invoice within the time specified, the Contracting Officer will determine the amount due the Contractor, if any, on the basis of information available, and will pay the Contractor the amount so determined. Such payment shall constitute payment in full for the Work performed under the Contract. Any allowable costs incurred prior to the date of termination shall be handled in accordance with the Contract Document entitled COMPENSATION AND PAYMENT PROVISIONS.

E. Partial Payments and Settlements

1. Partial Payments – Under such terms and conditions as it may prescribe and at its sole discretion, Metro may make partial payments against costs incurred by the Contractor in connection with the terminated portion of the Contract whenever the Contracting Officer decides that the aggregate of such payments is within the amount to which the Contractor is entitled hereunder. If the total of such payments is in excess of the amount finally agreed-upon or determined to be due under this Article, such excess shall be payable by the Contractor to Metro upon demand, together with interest at a rate equal to that set forth in California Code of Civil Procedure Section 685.010.
2. Partial Settlements – Subject to the provisions of this Article, the Contractor and the Contracting Officer may agree upon the total of partial amount to be paid to the Contractor by reason of the total of partial termination of the Work pursuant to this Article. The Contract will be amended or revised accordingly and the Contractor will be paid the agreed-upon amount. Nothing in that part of this Article, which deals with the failure to reach agreement on the total amount to be paid to the Contractor, shall be deemed to limit, restrict, or otherwise determine or affect the amount that may be agreed upon pursuant to this section.

F. Payment Upon Failure to Agree

If the Contractor and the Contracting Officer fail to agree on the total amount to be paid the Contractor by reason of the termination of Work pursuant to this Article, Metro will pay the Contractor the amounts determined by the Contracting Officer as follows, exclusive of any amounts already agreed upon in accordance with this Article:

1. The Contract Price allocable to the portion of the Work properly performed or Goods supplied by the Contractor as of the date of termination, as determined in accordance with the Contract Document entitled COMPENSATION AND PAYMENT PROVISIONS reduced by any sums previously paid to the Contractor.
2. The cost of settling and paying Claims arising out of the termination of the Work under Subcontracts or orders as specified above, exclusive of the amounts paid or payable on account of Goods delivered or Work

furnished by Subcontractors prior to the effective date of the Notice of Termination of Work under the Contract.

3. Profit on the cost of Work performed is included in the amount determined above. However, if the Contractor would have sustained a loss on the entire Contract had it been completed, the Contractor shall not be entitled to a profit and the settlement will be reduced to reflect the indicated rate of loss.
4. The reasonable cost of preserving and protecting property will also be paid, as well as any other reasonable costs incidental to the termination of the Work under the Contract or, including those reasonable expenses incurred to determine the amounts due.

G. Exclusions

Except to the extent that Metro will have otherwise expressly assumed the risk of loss, the fair value (as determined by the Contracting Officer) of property that is destroyed, lost, stolen, or damaged (so as to become undeliverable to Metro or other buyer as described above) shall be excluded from the amounts paid to the Contractor.

H. Retention

In arriving at the amount due the Contractor under this Article, retention shall be made for the following:

1. The amount of any Claim that Metro may have against the Contractor in connection with the Contract; and
2. The agreed upon price for and/or proceeds from the sale of Goods or other items acquired or sold by the Contractor that have not been otherwise recovered by or credited to Metro.

I. No Damages or Anticipatory Profits

Neither the Contractor nor any Subcontractor, Supplier or any other third party shall be entitled to any damages, whether they be direct, indirect, special, anticipatory, consequential or any other damages, anticipatory profits on Work not yet performed, as a result of any termination under this Article. Payment to the Contractor in accordance with this Article shall constitute the Contractor's, Subcontractor's, Supplier's and any other third party's exclusive remedy for any termination hereunder.

J. No Waiver

Notwithstanding anything contained in the Contract to the contrary, Metro's termination under this Article shall not waive any right Metro may have to claim damages and Metro may pursue any cause of action that it may have by Law or under the Contract.

TERMINATION FOR DEFAULT ***A. Grounds for Termination for Default**

Metro may terminate this Contract, in whole or in part, for default for any of the following:

1. Contractor fails or refuses to perform any obligation under the Contract or to perform any Work or provide any Goods within the Schedule (including the applicable notice and/or cure periods, if any) or any authorized extension thereof.
2. Contractor fails to perform or comply with any other provision of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms.
3. Contractor's violation of an order or requirement of the Contracting Officer authorized by or within the scope of the Contract.
4. Contractor's abandonment of the Contract, which the Contracting Officer in its sole discretion may determine to exist if Contractor, without authorization ceases to perform substantial Work, which is not otherwise excused under the Contract, for three (3) days.
5. Contractor assigns the Contract, or any portion thereof, or subcontracts any Work without acceptance by the Contracting Officer.
6. Contractor's insolvency, bankruptcy, reorganization, or the filing of any related or similar proceeding; the appointment of a receiver or trustee for Contractor; the execution by Contractor of a general assignment for the benefit of creditors.
7. Failure of the Contractor to pay any amounts owing to any persons performing any portion of the Work, or the failure of the Contractor to pay its debts incurred on the Contract as they become due, providing that such failure continues for a period of 10 working days after written notice to the Contractor by the Contracting Officer.
8. The attachment, levy, execution, or other judicial seizure of any portion of the Contractor's property, or any substantial portion of the other assets of the Contractor, which is not released, expunged, or discharged within a period of 10 working days.
9. The violation or material failure to comply with any Law or order of a Government Entity, applicable to the Contractor, the Work or the Contract, including the submittal or pursuit of any false claim or any other act in violation of any Law relating to false claims.
10. Failure to indemnify any party that the Contractor is obligated to indemnify under the Article entitled LIABILITY AND INDEMNIFICATION and elsewhere under the Contract.

11. Failure to promptly correct any Deficiency, or to re-perform or replace rejected Work or Goods that do not meet Contract requirements.
12. Conviction of the Contractor or any of its officers, partners, principals, employees or any Contractor's Representative, for a violation of any Law related to Contractor's obligations under the Contract, including without limitation, in connection with the Work to be performed, Goods supplied, payments to be made or Claims submitted under the Contract.
13. Contractor's fraudulent representation or other material misrepresentation related to the Pre-qualification Application and process, or to any other representation or warranty under the Contract, including the filing of a False Claim under the California or federal False Claim Acts.
14. Contractor's offering or giving of any improper consideration, in any form, either directly or through an intermediary, to any Metro member, officer, employee or authorized representative with the intent of securing the Contract or the making of any determinations with respect to the Contractor's performance of the Work.
15. Contractor is placed on the California State Labor Commissioner's list of debarred contractors pursuant to Labor Code §1771.1 or §1771.7.

B. Insolvency and Bankruptcy Defined

1. Insolvency – Contractor shall be deemed to be insolvent if it has ceased to pay or has admitted in writing its inability to pay its debts for at least 60 days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the United States Bankruptcy Code, provided that Contractor shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this Contract.
2. Bankruptcy – Contractor shall be deemed to be bankrupt upon the filing of a voluntary or involuntary petition (which involuntary petition is not dismissed within 60 days) regarding Contractor under the United States Bankruptcy Code.

C. Cure Notice

1. Cure Notice

If, the Contracting Officer determines the Contractor is in default of the Contract, the Contracting Officer will issue a Cure Notice to the Contractor, with a copy to the Surety, describing the default.

2. Failure to Cure and Notice to Surety

If the Contractor fails to cure the default within 5 days after receipt of such Cure Notice, or if the default cannot be cured within 5 days, the

Contractor fails to commence to cure within 5 days or fails to diligently proceed to cure or to cure the default within the time the Contracting Officer determines to be necessary, the Contracting Officer shall provide notice to the Surety of the Contractor's failure to cure or commence a cure. The Contracting Officer may in its sole discretion demand that the Surety cure the default. Whether or not Contracting Officer demands that the Surety cure the default, it may take any other actions it deems appropriate to cause the completion of the Work and to mitigate its damages. The Surety on the Performance Bond under the Contract shall not be entitled to take over the Contractor's performance of Work in case of termination under this Article, except with the consent of the Contracting Officer.

3. Failure of Surety to Cure and Notice of Termination

If the Contracting Officer demands that the Surety cure the default, and the Surety fails to cure the default within 5 days after receipt of the Cure Notice, or if the default cannot be cured within 5 days, and the Surety fails to commence to cure within 5 days and diligently proceed to cure within the time Metro determines to be necessary, the Contracting Officer may, by written notice, terminate the Contract or such part of the Contract as the Contracting Officer in its sole discretion deems to be in Metro's best interest.

4. Contractor's Continuing Liability

Whether or not the Contract or any part thereof is terminated, the Contractor shall be liable for any damages to Metro resulting from the Contractor's default.

D. Contractor Obligations on Receipt of Notice

Upon receipt of a Notice of Termination for default from Metro, the Contractor shall:

1. Stop all Work under the Contract on the date and to the extent specified in the Notice of Termination.
2. Place no further orders or Subcontracts for Goods or Work except as may be necessary for completion of such portions of the Work expressly excluded from the Notice of Termination.
3. Communicate any Notice of Termination to the affected Subcontractors and Suppliers at all tiers.
4. Terminate all orders and Subcontracts that relate to the performance of Work terminated by the Notice of Termination.
5. Comply with all other requirements of the Contracting Officer as may be specified in the Notice of Termination or any subsequent notices related to the termination.

E. Metro Completion of Work

Upon Metro's termination of the Contract in whole or in part because of the Contractor's default, Metro shall have the right to complete the Work by whatever means and methods it deems advisable. Metro:

1. May take over the Work and complete it by contract or otherwise.
2. Will not be required to obtain the lowest prices for completing the Work, but shall make such expenditures that, in Metro's sole judgment, best accomplish such completion.
3. May take possession of and use any or all the Contractor's Goods, plant, tools, Construction Equipment, and property of any kind, provided by or on behalf of the Contractor for the purpose of completing the Work, or any portion thereof, and shall not be responsible to the Contractor for fair wear and tear. The Contractor shall have no rights in such property during its use by Metro.
4. May procure, upon such terms as Metro deems appropriate, all Goods and services necessary to complete the Work, and Contractor shall be liable for any and all excess costs incurred by Metro.
5. Charge to the Contractor the expense of completing the Work together with a reasonable charge for engineering, managerial, and administrative services, as certified by Metro. Metro shall deduct said amount out of such monies that may be due or may at any time thereafter become due the Contractor.
6. Charge all other excess costs to Contractor and deduct them out of payments otherwise due at that time or thereafter.
7. If charged costs and expenses are in excess of the sum which otherwise would have been payable to Contractor, then the Contractor shall promptly pay the amount of such excess to Metro upon notice of the excess so due.

F. Transfer of Title and Delivery of Work

If the Contract is terminated as specified in this Article, the Contracting Officer may direct the Contractor to, and the Contractor shall, transfer title to and deliver all designated Goods, Equipment, Documents, Work in progress, tools, dies, jigs, fixtures, plans, drawings, information, and other items that the Contractor has produced or acquired for the terminated portion of the Contract and would have been required to furnish to Metro if the Contract had been completed.

G. Preservation of Metro Property

The Contractor shall, at its sole expense, protect and preserve property in its possession in which Metro has an interest.

H. If Contractor Not In Default

If, after the Notice of Termination for Default, it is determined that the Contractor was not in default, the termination shall be deemed to have been effected for the convenience of Metro in accordance with the Article entitled TERMINATION FOR CONVENIENCE, and adjustment shall be made as provided in that Article.

I. Damages

Neither the Contractor, nor any Subcontractor, Supplier or third party shall be entitled to any damages whether they be direct, indirect, special, anticipatory, consequential, or any other damages as a result of any termination under this Article.

J. Remedies Not Exclusive:

The rights and remedies of Metro provided in this Article are in addition to any other rights and remedies provided by Law or under the Contract.

GC-41 COOPERATION IN EVENT OF TERMINATION

A. General

1. Contractor understands and agrees that Metro has obligations that it cannot satisfy without use of the completed Work, and that a failure to satisfy its obligations under this Contract could result in irreparable damage to Metro and the persons and entities it serves. Therefore, Contractor agrees that in the event of any termination of all or any part of this Contract for any reason, Contractor shall fully cooperate with Metro in the transition of the Work to Metro or to a new contractor or provider of Goods and services, toward the end that there be no interruption of day-to-day operations due to the unavailability of the completed Work, or to related or existing facilities to the extent they are impacted by the termination of this Contract, during such transition.
2. Contractor shall have no right to withhold or limit any of the Work or any transition services on the basis of any alleged breach of this Contract by Metro, other than a failure by Metro to timely pay the amounts due based upon a properly submitted and approved invoice for Work rendered during the transition period or the amounts due for such transition services under this Article. Notwithstanding the provisions of the Article entitled DISPUTES, Metro shall have the right to seek specific performance of this Article in any court of competent jurisdiction, and Contractor hereby waives any defense that damages are an adequate remedy. Compliance with this Article by either party shall not constitute a waiver or estoppel with regard to any rights or remedies available to the parties.

B. Termination Transition Plan

1. Upon the written direction from Contracting Officer included in the Notice of Termination, Contractor shall develop a Termination Transition Plan, to be completed within 10 days after such Notice. The Termination Transition Plan shall be subject to Metro's Acceptance.
2. If the Contractor has not submitted, or Metro has not accepted, a Termination Transition Plan by the effective date of the termination of this Contract, the Contracting Officer may direct the Contractor to continue to perform Work in accordance with Contract requirements to the extent required by the Contracting Officer. This Section shall survive the termination of the Contract.

C. Acts Upon Termination

1. Contractor will (i) meet with Metro' Authorized Representative as soon as practicable after a Notice of Termination has been given, to discuss the Termination Transition Plan or any potential modifications to the then most current Termination Transition Plan, and (ii) use its best efforts to assist Metro in effecting a transition of the Work, in accordance with industry best practices, to Metro or another contractor chosen by Metro.
2. Provided that Metro is current in payment of the Contract amounts owed by Metro to Contractor (except for disputed amounts and withholds), Contractor shall continue to provide Work as well as transition services for a period defined in the Termination Transition Plan. In addition to the Work required of Contractor as set forth in this Contract, the transition services shall include, at a minimum, maintaining current data and records, providing services until transition to Metro or to a new contractor, providing on-site assistance, cooperating with Metro or its designated contractor, and providing such other services as shall be necessary or appropriate to facilitate, without interruption to the Work, the orderly transition of Work to Metro or its new contractor in accordance with industry best practices. If Contractor is providing any Work hereunder at the time of such transition utilizing any property or services of a Subcontractor or Supplier, Contractor shall, at the request of Contracting Officer, assign such Subcontract to Metro.

GC-42 ASSIGNMENT *

A. Consent

1. The Contractor or its Surety shall not assign, transfer, convey, delegate or otherwise dispose of the Contract or the right, title, or interest in it or any part of it (collectively "Assign" or "Assignment") without the prior written consent of the Contracting Officer.
2. Any attempted Assignment without such consent shall be null and void.

3. No right under the Contract shall be asserted against Metro, in Law or in equity, by reason of any Assignment of the Contract, or any part thereof, unless authorized by the Contracting Officer as specified in this Article.

B. Setoffs

Any Assignment of proceeds of the Contract shall be subject to all proper setoffs and withholdings in favor of Metro and to all deductions specified in the Contract. All monies withheld, whether assigned or not, shall be subject to being used by Metro for completion of the Work, pursuant to the terms of the Contract. If the Contracting Officer consents to such Assignment of monies, the Contractor or Surety shall give written notice thereof to Metro at least 10 days before payment is due.

C. Continuing Responsibility

The Contractor's Assignment or delegation of any of its Work under the Contract shall be ineffective to relieve the Contractor of its responsibility for the Work assigned or delegated, unless the Contracting Officer, in its sole discretion has approved such relief from responsibility.

D. Assignment of Certain Legal Rights

The Contractor hereby agrees that the provisions of Public Contract Code §7103(b) are applicable to the Contract, and which provides as follows:

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under §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 the public works contract or the subcontract. This Assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

GC-43 ENVIRONMENTAL COMPLIANCE *

A. Inclusion in Subcontracts

The Contractor shall include the requirements of the following Sections in every Subcontract that is more than one hundred thousand dollars (\$100,000) and shall take such action as Metro's Authorized Representative directs to enforce these requirements.

B. Compliance With Environmental Laws

- a. The Contractor shall comply with all applicable standards, orders, and requirements issued under any and all Environmental Laws, including those related to Hazardous Substances; and all interpretations,

guidelines, clarifications, mitigation measures, and any other requirements of Governmental Entities having jurisdiction related to such Laws.

- b. Without in any way limiting the foregoing, Contractor shall comply with all rules, regulations, and ordinances of the SCAQMD that apply to any Work performed pursuant to the Contract. The Contractor, Subcontractors, and Suppliers shall submit evidence to Metro that the governing air quality control criteria and requirements are being met.
- c. The Contractor shall comply with the applicable requirements of the SCAQMD governing solvents, including but not limited to the solvent portions of paints, thinners, curing compounds, and liquid asphalt used on the Contract. Containers of paints, thinner, curing compound, or liquid asphalt shall be labeled to indicate that the contents fully comply with said requirements.
- d. The Contractor shall comply with all California Laws regarding pollution controls in purchasing and leasing new motor vehicles with Contract funds.
- e. The Contractor shall not burn Goods it disposes of.

C. Environmental Protection Agency Regulations

Without in any way limiting the foregoing, Contractor shall comply with all applicable regulations (40 CFR Part 15) of the Environmental Protection Agency. The Contractor shall not use any facility in the performance of the Contract that is listed on the Environmental Protection Agency List of Violating Facilities, unless and until the Environmental Protection Agency eliminates said name of such facility from said listing. The Contractor shall promptly notify Metro of the receipt of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (or any successor agency), indicating that a facility to be used by the Contractor is under consideration for listing on the Environmental Protection Agency List of Violating Facilities. The Contractor shall also report violations to Metro, to the FTA, and to the Environmental Protection Agency Assistant Administrator for Enforcement.

D. Energy Conservation

In addition to all other Contractual requirements, the Contractor shall comply with all mandatory standards and policies relating to energy efficiency contained in the California energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6321 et. seq.).

GC-44 HISTORICAL, ARCHAEOLOGICAL, PALEONTOLOGICAL AND SCIENTIFIC DISCOVERIES *

All things of historical, archaeological, paleontological, or scientific interest encountered by the Contractor during progress of the Work shall be reported immediately to Metro. Construction in the vicinity of the discovery shall be halted

in order to preserve and protect it until its significance can be determined by Metro. Metro will issue instructions to the Contractor with respect to the disposition of the discovery.

GC-45 WHISTLEBLOWER REQUIREMENTS *

A. Disclosure

The Contractor shall not adopt any rule, regulation or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee believes the information discloses violation or noncompliance with a state or federal regulation; nor shall the Contractor retaliate against an employee for taking such actions as set forth in the California Labor Code §1101 et. seq.

B. Posting and Hotline

The Contractor shall post and maintain Metro's Telephone Hotline poster provided by Metro at the Worksites during the term of the Contract. The Hotline poster shall be posted in prominent locations that are highly visible and accessible to the Contractor's employees. The Contractor shall not hinder or coerce its employees from using Metro Telephone Hotline to report concerns relative to the performance of any Metro contract. The Contractor shall provide access to Metro representatives for the purpose of verifying the Contractor's adherence to this Article. In the event Metro inspection finds the Contractor has failed to comply herewith, the Contractor shall correct such failures including, but not limited to, replacing Hotline posters and sponsoring training sessions, with Metro representatives, on the use of Metro Hotline.

C. Reporting

The Contractor, or its employees, shall immediately report any attempt by any member, officer, or employee to solicit improper consideration. The report shall be made to the Contracting Officer or Metro Inspector General's Hotline.

GC-46 SEVERABILITY *

If any Article, Section, Paragraph, sentence, clause, phrase or any other provision ("Provision") contained in the Contract or CWO is determined, declared, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable ("Determined Unenforceable"), this shall not affect the other Provisions of the Contract or CWO, which shall remain in full force and effect as if the Provision Determined Unenforceable was not originally contained in the Contract or CWO.

GC-47 GOVERNING LAW *

The Contract shall be governed by and interpreted in accordance with the laws of the State of California, and to the extent applicable, by the laws of the United States. By entering into the Contract, the Contractor consents and submits to the jurisdiction of the Courts of the State of California over any action at Law, suit in equity, or other proceeding that may arise out of the Contract.

GC-48 PUBLIC RECORDS ACT *

A. Ownership and Disclosure

Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of Metro's business, including information submitted by the Contractor ("Records"), shall become the exclusive property of Metro and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). Metro's use and disclosure of its records are governed by this Act. Metro will use its best efforts to inform the Contractor of any request for any financial records or documents marked "Trade Secret", "Confidential" or "Proprietary" provided by the Contractor to Metro. Metro will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

B. Litigation Related to Disclosure

In the event of litigation concerning the disclosure of any Records, Metro's sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold Metro harmless from all costs and expenses including attorney's fees in connection with any such action.

GC-49 LIABILITY AND INDEMNIFICATION *

A. Definitions

1. "Indemnitees" shall mean Metro, its Authorized Representatives and subsidiaries, and their respective members, directors, officers, employees and agents.
2. "Indemnitors" shall mean the Contractor, the Contractor's Representative, any other representative of the Contractor, any of its officers, employees, Subcontractors or Suppliers, or any person or organization directly or indirectly employed by any of them, in connection with or relating to the Work or the Contract.
3. "Liabilities" shall mean any and all Claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses or expenses, including but not limited to workers compensation claims, and all fees of accountants, attorneys or other professionals related to any Claim or liability.

B. Indemnification

To the fullest extent permitted by law, the Contractor shall, at its sole cost and expense, fully defend, indemnify and hold harmless Metro, its Authorized Representatives, including its CM, and their respective subsidiaries, affiliates,

members, directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, and expenses, including but not limited to any fees of accountants, attorneys or other professionals (collectively "Liabilities"), arising out of, in connection with, resulting from or related to, any act, omission, fault or negligence of the Contractor, Contractor's Representative, or any of its officers, agents, employees, Subcontractors or Suppliers, or any person or organization directly or indirectly employed by any of them (Collectively, the "Indemnitors"), in connection with or relating to or claimed to be in connection with or relating to the Work or the Contract, including without limitation to any Liability arising out of:

1. The personal injury to or death of any person (including employees of the parties to be indemnified) or for damage to or loss of use of property (including property of Metro); and
2. Metro's reliance upon the use of data or other information furnished or delivered by the Contractor pursuant to the Contract.

C. Description

1. The indemnification specified in this Article shall
 - a. Survive termination or close-out of the Contract and is in addition to any other rights or remedies that the Indemnitees may have under the Law or Contract.
 - b. Apply in the event of the act, omission, fault, or negligence, whether active or passive, of the Indemnitee.
 - c. Not apply to Liabilities arising from the sole negligence or willful misconduct of the Indemnitee.
2. In the event of any Claim or demand made against any Indemnitee, Metro may at its sole discretion reserve, retain, or apply any monies due the Contractor under the Contract for the purpose of resolving such claims; provided, however, Metro may release such funds if the Contractor gives Metro reasonable assurance that Metro's interests will be protected. Metro shall, at its sole discretion, determine whether such assurance is reasonable.

D. Employee and Third Party Claims

1. Employee Claims: Claims against any Indemnitee or Indemnitor by any employee of any Indemnitor, including claims under any workers' compensation act, disability benefit act or other employee benefit act or insurance, shall not in any way limit the Indemnitor's Liabilities to the Indemnitees.
2. Third Party Claims: Nothing contained in the Contract or CWO is intended to or shall have the effect of creating any rights in any third party against Metro. The inclusion of the Contract or any part thereof in any other

document shall not be deemed to be creating or incorporating any obligation, duty, or liability on the part of Metro. The Contractor shall indemnify the AUTHORITY in accordance with the provisions of this Article against any claim made by any third party claiming rights under the Contract.

E. Joint and Several Liability

If the Contractor is a joint venture or partnership, each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of the Contractor that are assumed under or arise out of the Contract. Each of such venturers or partners waives notice of the breach or non-performance of any undertaking or obligation of the Contractor contained in, resulting from or assumed under the Contract, and the failure to give any such notice shall not affect or impair such venturer's or partner's joint and several liability hereunder.

F. Other Rights and Remedies

The Contractor:

1. Acknowledges that the rights and remedies of Metro specified herein are in addition to and do not limit any rights or remedies of Metro afforded by the Contract or by Law;
2. Agrees that it is the Contractor's obligation to construct the Work, or cause the construction of the Work in accordance with the Contract Documents and that the Indemnitees are fully entitled to rely on the Contractor's performance of such obligation.
3. Agrees that any review and/or acceptance by the Contracting Officer or any Authorized Representative hereunder shall not relieve the Contractor of any of its obligations under the Contract Documents or in any way diminish its liability for performance of such obligations or its obligations to provide indemnities hereunder.

G. Limitation of Liability

The following restrictions shall apply to the Indemnities set forth in Sections A and C of this Article:

1. With respect to any loss, damage or expense of the type covered by the insurance required to be provided under this Contract, the Contractor's Indemnity obligation shall not extend to any loss, damage or expense arising from the sole negligence or willful misconduct of the Indemnitee or its agents, servants or independent contractors who are directly responsible to such Indemnitee.
2. With respect to any loss, damage or expense which is not of the type covered by the insurance required to be provided under this Contract, the Contractor's Indemnity obligation shall not extend to any loss, damage or expense to the extent that such loss, damage or expense was caused by

the negligence or willful misconduct the Indemnitee or its agents, servants or independent contractors who are directly responsible to such Indemnitee (in other words, a comparative negligence standard shall apply).

3. Except as permitted by California Civil Code §2782.1, 2782.2 and 2782.5, such indemnities shall not inure to the benefit of an Indemnitee so as to impose liability on the Contractor for the active negligence of Metro, or to relieve Metro of liability for such active negligence.

GC-50 RIGHTS IN SHOP DRAWINGS, RECORD DRAWINGS, SAMPLES, TECHNICAL DATA, PATENTS AND COPYRIGHTS *

A. Shop Drawings

Shop Drawings submitted to Metro by the Contractor, Subcontractors or Suppliers of any tier pursuant to the Contract, are the property of Metro, and Metro may use and disclose, in any manner and for any purpose unless Shop Drawings delivered under the Contract are marked "Confidential", "Trade Secret", or "Proprietary" in accordance with the Article entitled PUBLIC RECORDS ACT.

B. Samples

When specified or requested by Metro, typical samples of Goods, properly tagged with, name of Work, Contractor, Goods, Supplier, location of Work and date of submittal, shall be submitted in triplicate by the Contractor for acceptance by Metro. Samples shall be of size indicated in the Specifications, or where no size is indicated, shall be of sufficient size to permit evaluation. Samples shall be submitted sufficiently in advance of the time when they are to be used so that any rejection thereof will not delay the accepted construction Schedules. Allow ten (10) working days for checking and notification from Metro. Accepted samples will be so labeled and dated, and a transmittal of acceptance will be sent to the Contractor. One accepted sample will be kept at Metro.

C. Technical Data

1. Technical data, as used herein, means any form or format of technical writing, pictorial reproductions, drawings or other graphic representations, and documents of a technical nature, including computer software and program listings, which are developed or required to be delivered pursuant to the Contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration. Technical data includes, but is not limited to:
 - a. Manuals or instructional information prepared for installation, operation, maintenance, or training purposes;
 - b. Data pertaining to items, components, or processes which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements; and

- c. Computer and microprocessor software documentation including program design language or pseudo-code listings, fully annotated source code and machine level listings.
2. Except as limited by the Article entitled PUBLIC RECORDS ACTS Metro shall have the right to use, duplicate, modify or disclose the technical data and the information conveyed therein, in whole or in part, in any manner whatsoever, and to have or permit others to do so, for the purpose of operating, maintaining, procuring or modifying the Work, or the Transit System of which the Work is a part, or any Equipment or other items supplied by the Contractor.

D. Patents and Copyrights

1. Metro and its Authorized Representatives and employees acting within the scope of their official duties shall have a royalty-free license to publish, translate, reproduce, deliver, and use as they deem fit all technical data covered by copyright, patent or other proprietary rights supplied for the Contract. Contractor shall obtain the written permission of the owner of the patent, copyright or other proprietary right for Metro to use such technical data in the manner herein described.
2. The Contractor warrants that the Goods used on and/or incorporated into the Work shall be delivered free of any rightful claim of third party for infringement of any United States patent, copyright or other proprietary right. If a suit or proceeding based on a claimed infringement of a patent, copyright or other proprietary right is brought against Metro, and/or the CM, the Contractor shall, at its own expense, defend or settle any such suit or proceeding if authorized to do so in writing by Metro, and bear all damages and cost associated therewith.
3. The Contractor shall bear all costs arising from the use of patented Goods and/or processes used on and/or incorporated into the Work. When use of these Goods and/or processes are judged to be an infringement and their use is banned, the Contractor, at its own expense, shall with the concurrence of Metro, do one of the following:
 - a. Secure for Metro the right to continue using said Goods and/or processes by suspension of the injunction or by procuring a license(s);
 - b. Replace said Goods and/or process with non infringing Goods and/or processes;
 - c. Modify said Goods and/or processes so that they become Non-infringing; or
 - d. Remove said Goods and/or processes and refund the sum paid therefore without prejudice to any other rights of Metro.

E. Metro Design

The preceding Section shall not apply to any Goods manufactured to the detailed design of Metro contained in the Contract Documents.

GC-51 NO WAIVER OF CONDITIONS *

Failure of Metro to enforce at any time, or from time to time, any provision of the Contract shall not be construed as a waiver thereof.

No waiver by Metro of any breach or default of any provision of the Contract shall constitute a waiver of any other breach or of such provision.

Failure or delay by Metro to insist upon strict performance of any term or condition of the Contract, or to exercise any right or remedy provided herein or by Law, shall not be deemed a waiver of any right of Metro to insist upon strict performance of the Contractor's obligations set forth in the Contract, or any of its rights or remedies as to any prior or subsequent default hereunder.

GC-52 CONTRACTOR'S INTERACTION WITH THE MEDIA & THE PUBLIC *

A. Approval of Copy

Prior to publication, the Contractor shall submit to Metro for its review and approval all Metro related copy it proposes to use for advertising or public relations purposes. The Contractor shall not allow Metro related copy to be published in its advertisements and public relations programs prior to receiving such approval. The Contractor shall ensure that all published information is factual and that it does not in any way imply that Metro endorses the Contractor's firm, services or products.

B. Contact With News Media

The Contractor shall refer all inquiries from the news media relating to the Contract or the Work to Metro, and shall comply with the direction of Metro's Authorized Representative for Media Relations regarding statements to the media.

C. Coordinating With the Public

The Contractor shall designate a staff person acceptable to Metro to keep Metro informed of all impacts on the community resulting from the Work.

D. Complaints

If the Contractor receives a complaint from a member of the community, the Contractor shall inform Metro promptly and comply with the direction of Metro.

E. Tours

Metro will notify the Contractor at least five (5) working days in advance of a media related site visit to the construction area.

F. Notices to the Public

The Contractor shall provide written notice to the community that it will be impacted by any event (e.g., for utility shutoffs, road closures, etc.) at least five (5) days prior to the anticipated event. Contractor shall submit six (6) copies of the proposed notice to Metro's Public Affairs staff at least ten (10) days prior to the anticipated event.

GC-53 AGENT TO ACCEPT SERVICE

The Contractor shall maintain within Los Angeles County a duly authorized Agent to accept service of legal process ("Authorized Agent") on its behalf, and shall keep Metro advised of such Authorized Agent's name and address during the entire Contract Time and for three (3) years thereafter, or as long as the Contractor has warranty obligations under the Contract, whichever period terminates later. The Authorized Agent on the Effective Date of the Contract is identified in the Article in the Special Provisions entitled NOTICE AND SERVICE THEREOF. If at any time the Contractor does not meet the above requirement to maintain and identify to Metro its Authorized Agent, the Contractor agrees that the Secretary of State of the State of California shall be the Contractor's Authorized Agent.

END OF GENERAL CONDITIONS

