

GENERAL CONDITIONS SERVICES (FORM A)

GC-01 GLOSSARY OF TERMS

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

- * Marks required Subcontract provisions that must flow down to all Subcontracts.
- Acceptance:** Acceptance by Metro's Authorized Representative of completion of Work by the issuance of a Certificate of Final Acceptance or other document, as provided in the Contract.
- Attachment:** A document attached to any Contract Document, including without limitation, Exhibits and Appendices, incorporated by inclusion or by reference within the Contract.
- Authorized Representative:** Person, or firm authorized or empowered to act for, or on behalf of Metro.
- Change or Change Order:** A written order from Metro's Authorized Representative directing Changed Work and making conforming changes to the Contract Price, Contract Time.
- Commencement Date:** The commencement date of the Period of Performance. All Work dates and Schedules under the Contract shall be measured from this date. May occur on the Effective Date or on a later date in a Notice to Proceed.
- 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; includes the Contract Documents and all Attachments.
- Contract Documents:** The documents described as such in the Form of Contract and incorporated in to the Contract, and including without limitation Attachments and Exhibits incorporated either by attachment or by reference.
- Contract Price:** The total compensation to be paid to the Contractor under the Contract, including Amendments and Change Orders.
- Contract Time:** The number of calendar days to complete the Contract, including all authorized time extensions; begins on the Effective Date and ends on the Scheduled Completion Date.
- Effective Date:** The day the Contract becomes effective and binding on the Parties.

Federal Acquisition Regulation (FAR): Uniform policies for acquisition of supplies and services by executive agencies of the federal government. Where specific FAR provisions are made applicable in this Contract, such provisions are incorporated herein as though fully set forth.

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.

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 Metro Authorized Representative.

Modification Any written addition, deletion, adjustment or alteration to the Contract, whether arising out of the unilateral exercise by the MAT of any right under the Contract, or by mutual agreement/action executed by the Parties. A Modification may be unilateral or bilateral, and includes Change Orders, adjustments in quantities, extensions of time, administrative changes and adjustments, and all other actions and events that result in an alteration, correction or adjustment of the Total Contract Price or Time, any Contract term or process, or any other obligation of either Party.

Notice to Proceed or NTP: Written authorization from Metro to the Contractor specifying the Commencement Date and providing other information as set forth in this Contract.

Period of Performance: The total time period from Commencement Date and to the Scheduled Completion Date for Contractor to complete the Work. May also refer to the period of performance of a defined element of the Work.

Schedule: A time phased project execution plan that identifies all activities necessary to complete the Work in a logical time phased manner.

Scheduled Completion Date: The date all Work is to be completed, and the date that Contract Time ends.

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. Unless otherwise specified, Subcontractor includes a Subcontractor of any tier.

Statement of Work: The description of the Work to be completed, including without limitation all things described, stated, incorporated in to or referenced in the Contract Document entitled Statement of Work, or included, referenced or incorporated in any other Contract Document. Document may also be entitled Specifications, Technical Specifications, Scope of Work, Contract Drawings, or other description of the Work.

Warranty: A representation, promise or affirmation given by the Contractor 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 Statement of Work, or in any other Contract Document, including Attachments.

Work: When capitalized, all goods, equipment and materials, and all productive and operative efforts used and services provided to generate the results specified, indicated or implied in the Contract to complete the project described in the Statement of Work. The term may also refer to Work in progress.

GC-02 CONTRACTOR'S ORGANIZATION

- A. In performing Work under this Contract, Contractor will be acting as an independent contractor and not as an agent or employee of Metro. Contractor will have no authority to contract in the name of Metro and Contractor will be responsible for its own acts and those of its agents and employees.
- B. 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 supervisory and other key personnel.
- C. The Contractor shall not reassign key personnel to other projects without Metro's prior written approval and until a satisfactory replacement has been approved by Metro. The Contractor shall secure the prior written approval of Metro for any change or reassignment of key personnel, submitting written documentation of the new individuals' qualifications.
- D. If Metro provides office space to the Contractor, or requires Contractor to locate its office space in a specific location, then at all times during the performance of Work hereunder, only related Work shall be performed in such office space and Contractor shall not use such office space to perform non-Contract related work.

GC-03 METRO AUTHORIZED REPRESENTATIVES

- A. Metro's Authorized Representatives shall be its Contracting Officer, Project Manager and Contract Administrator, or persons designated by written Notice to Contractor as their Authorized Representatives. The authority of such designated Authorized Representatives will be limited as expressly set forth in the Notice.

- B. The Project Manager shall have the authority to direct the Work of the Contractor and responsibility to manage the project and Work in accordance with the terms of the Contract.
- C. The Contractor Administrator shall have the authority and responsibility to administer all contractual matters.
- D. Metro Project Manager and Contract Administrator shall be identified in the Special Provisions of this Contract, or in a Notice to Proceed, if applicable.

GC-04 AMENDMENTS

- A. Any Amendment to this Contract must be in writing and signed by both the Contractor and Metro.
- B. Amendments shall include Change Orders that are agreed to and executed by both parties.
- C. Any other changes to the Contract not covered by a Change Order shall be made through an amendment to this Contract.

GC-05 RESPONSIBILITY FOR WORK AND STANDARD OF PERFORMANCE*

- A. The Contractor's Project Manager shall supervise and direct the Work, and have overall responsibility for the Work in accordance with the Contract. The Contractor shall be solely responsible for implementation of all Work, means, methods, techniques, sequences, and procedures and for coordination of all portions of the Work under the Contract.
- B. The Contractor shall perform and require its Subcontractors to perform the Work in accordance with the requirements of this 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. 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. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Contract.
- C. If any Work provided by the Contractor is deficient because of the Contractor's or a Subcontractor's failure to perform the Work in accordance with the above standards, Metro shall report such deficiencies in writing to the Contractor. Metro thereafter may:
 - 1. Have the Contractor re-perform such Work at the Contractor's own expense; or

2. Have such Work performed in accordance with the Article entitled TERMINATION FOR DEFAULT herein, by others and the costs thereof charged to and collected from the Contractor.
- D. Corrected or re-performed Work shall be subject to the above Standards of Performance.

GC-06 INSPECTION OF WORK, ACCEPTANCE*

- A. Metro reserves the right to inspect all and every part of the Work at any time during the performance and after completion, at its discretion. Metro shall not be obligated to make any inspections, however, and neither the inspection of the Work, nor the lack thereof, shall relieve the Contractor of its responsibility for performing and providing the Work in accordance with the terms of this Contract.
- B. Metro shall not be deemed to have accepted the Contractor's performance of the Work unless Metro's Authorized Representative has given written Notice of final acceptance of the Work to the Contractor. No payment in whole or in part shall be construed to be an acceptance of the Work.
- C. When the Contractor determines that all Work as authorized in this Contract is fully completed including all required submissions and deliveries to Metro specified in this Contract, the Contractor shall give Metro a written request for final Contract Acceptance, specifying that the Work is completed and the date on which it was completed. Within ten (10) days after the receipt of the request for final Contract Acceptance, Metro will commence a final review of the Work and, within 60 days will either:
1. Give the Contractor a final Contract Acceptance; or
 2. Advise the Contractor in writing of any outstanding item or items which must be furnished, completed or corrected at the Contractor's cost.
- D. Notwithstanding the final Contract Acceptance the Contractor will not be relieved of its obligations hereunder, nor will the Contractor be relieved of its obligations to complete any portions of the Work, the non-completion of which were not disclosed to Metro (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise); and the Contractor shall remain obligated under all those provisions of this Contract which expressly or by their nature extend beyond and survive final Contract Acceptance.
- E. Any failure by Metro to reject the Work or to reject the Contractor's request for final Contract Acceptance as set forth above, shall not be deemed to be Acceptance of the Work by Metro for any purpose nor imply Acceptance of, or agreement with, the Contractor's request for final Contract Acceptance.

GC-07 WARRANTY*

The Contractor warrants that all Work shall be in accordance with this Contract, shall comply with the design requirements and/or Contract Standard of Performance and shall be free of defects in Workmanship and materials for a period of one year from final acceptance of the Work. In the event of breach of this warranty, the Contractor shall take the necessary actions to correct the breach and the consequences thereof, at the Contractor's sole expense, in the most expeditious manner as permitted by existing circumstances. If the Contractor does not promptly take steps to correct the breach upon notification thereof by Metro, Metro without waiving any other rights or remedies it may have at law or otherwise, may do so or cause others to do so, and the Contractor shall promptly reimburse Metro for all expenses and costs incurred in connection therewith.

GC-08 FORCE MAJEURE

Force Majeure events are limited to (1) events beyond the control and not due to an act or omission of the Contractor, the effects of which materially and adversely affect the Contractor's ability to fulfill its obligations hereunder, and (2) events, the effects of which could not have been avoided by due diligence and reasonable efforts of the Contractor. Force Majeure events include natural disasters, wars, riots, civil disorders, sabotage, strikes, labor disputes, freight embargos and weather conditions more severe than normal. An earthquake of less than 3.5 on the Richter Scale shall not be a Force Majeure event.

GC-09 EXTENSION OF TIME*

A. The Contractor will be granted an extension of time and will not be assessed with liquidated damages, if provided under this Contract, or costs for any portion of the delay in the schedule for completion of the Work beyond the time named in the Contract caused by Force Majeure or events or delays caused solely by Metro, provided that;

1. Contractor has taken reasonable precautions to prevent further delays owing to such causes; and
2. Contractor notifies Metro in writing of the cause(s) of the delay within five (5) days from the beginning of any such delay.

Metro shall ascertain the facts and impact of the delay on the schedule. Any remedies granted shall be the final and conclusive remedies for the consequences of any delay. Contractor has the burden of proof of the existence of a Force Majeure event as defined in GC-7 or other event causing delay beyond its control, the effects of the delay that were unavoidable by due diligence and reasonable efforts, including impact to schedule, and the extent of the resulting delay.

- B. A delay in starting or proceeding with the Work after date of NTP due to circumstances under the control of the Contractor shall not be a cause for granting a time extension.
- C. The Contractor shall submit to Metro at the earliest possible date and supplement thereafter as information becomes available:
 - 1. An analysis of the impact of the claimed delay event upon the Contractor's then current schedule, identifying the affected activities and the actual impacts; and
 - 2. Proposals to minimize the effects of the claimed delay.
- D. Neither the granting of an extension of time nor Metro's Acceptance of Contractors' performance of any part of the Work after expiration of the Contract Term of Performance shall be deemed a waiver of Metro's rights under the Contract.

GC-10 CHANGES

- A. Metro may make changes to the Work described in the Statement of Work, including adding extra Work, through a written Change Order. A Change Order shall be within the general scope of the Contract and shall not modify the overall purpose or scope of the Contract.
- B. Extra Work is defined as Work that was not contained in this Contract, is determined by Metro to be necessary, and bears a reasonable relation to the Work in the scope of this Contract.
- C. If any change under this Article causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the Work, an adjustment in the compensation and schedule will be made, which shall be incorporated into this Contract by written Change Order. The Contractor shall not make any changes in the Work or perform any extra Work unless authorized in advance by written Change Order. Upon receipt of a Change Order from Metro's Authorized Representative, the Contractor shall continue performance of the Statement of Work as modified by the Change Order.
- D. Except as otherwise expressly provided in this Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be determined in accordance with the applicable cost principles of Part 31 of the Federal Acquisition Regulations (FAR).

GC-11 DISPUTES

- A. Performance During Dispute: Unless otherwise directed by Metro the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

- B. Claims for Damages: Except as otherwise provided for claims related to termination (which are covered under section entitled Termination), Contractor shall make all claims in writing to Metro within 60 days after the event or occurrence giving rise to the claim.
- C. Remedies: The duties and obligations imposed by this Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligation, rights and remedies otherwise imposed or available by law.
- D. Resolution of Disputes: The Parties shall use their best efforts to resolve disputes under this Contract by submission of the dispute to Metro's Authorized Representative and Contractor's Representative. If these representatives cannot resolve the dispute, the Parties may agree to use an alternative dispute resolution (ADR) process such as arbitration, mediation, or other recognized ADR process for settling a dispute. If the Parties are unable to resolve the dispute, and are unable to agree on an acceptable form of ADR, or the ADR does not result in an agreement or binding resolution, the dispute may be pursued by either party in a court of competent jurisdiction in the State of California, County of Los Angeles.

GC-12 TERMINATION*

Metro may, by written Notice to the Contractor, terminate this Contract in whole or in part at any time, either for Metro's convenience or for default. Upon receipt of such Notice, the Contractor shall, to the extent specified in the Notice; -1) deliver to Metro all data, drawings, specifications, reports, estimates, summaries and such other information and material as may have been prepared or developed by the Contractor), or its Subcontractors in performance under this Contract; and -2) take all other actions necessary to effect the termination.

A. Termination for Convenience

Contractor shall submit its termination claim, if any, within six months after the effective date of the termination and shall comply with the procedures contained in FAR Part 49, including any required certifications. Metro and Contractor shall attempt to reach agreement on the amount to be paid based upon the terms of the Contract. Under no circumstances shall the Contractor be entitled to anticipatory or unearned profits or consequential damages as a result of a termination or partial termination under this provision.

B. Termination for Default

Metro may terminate this Contract for failure of the Contractor to perform any obligation or comply with any requirement of this Contract. Except for a default that cannot by its nature be cured, prior to termination for default Metro shall issue a cure Notice to the Contractor. If the Contractor fails to cure the default or commence cure of the default in accordance with the cure Notice, within five (5) days of the date of the cure Notice or if no cure Notice is required, Metro may proceed to terminate for default. Contractor shall have no right to terminate unless Metro has failed to pay any invoice

rendered by Contractor when due and payable and has failed to remedy such failure within fifteen (15) days following receipt of a Notice from Contractor stating its intention to terminate.

C. Termination Claims

If a dispute related to a termination or termination claim arises and the parties are unable to resolve the dispute, it shall be resolved in accordance with the section entitled Disputes.

GC-13 ASSIGNMENT*

Contractor will not assign or subcontract any part of this Contract without the prior written consent of Metro, and any attempt to do so will be void and unenforceable.

GC-14 SEVERABILITY*

In the event any Article, section, subarticle, paragraph, sentence, clause, or phrase contained in the Contract shall be determined, declared, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, such determination, declaration, or adjudication shall in no manner affect the other Articles, sections, subarticles, paragraphs, sentences, clauses, or phrases of the Contract, which shall remain in full force and effect as if the Article, section, subarticle, paragraph, sentence, clause, or phrase declared, determined, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, was not originally contained in the Contract.

GC-15 GOVERNING LAW*

This Contract has been negotiated between Metro and the Contractor and shall be subject to the laws of the State of California.

GC-16 JURISDICTION

By entering into this Contract, the Contractor consents and submits to the jurisdiction of the Courts of the State of California, County of Los Angeles, over any action at law, suit in equity, and/or other proceeding that may arise out of this Contract.

GC-17 PUBLIC RECORDS ACT*

A. All records, documents, drawings, plans, specifications, and all other information relating to the conduct of Metro's business, including information submitted by the Contractor, shall become the exclusive property of Metro and shall be deemed public records. Said information shall be 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 documents provided by the Contractor to Metro marked "Trade Secret",

“Confidential” or “Proprietary” or any financial records provided by the Contractor to Metro.

- B. In the event of litigation concerning the disclosure of any information submitted by the submitting party, Metro’s sole involvement will be as a stakeholder, retaining the information 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 information and shall indemnify and hold Metro harmless from all costs and expenses including attorney’s fees in connection with any such action.

GC-18 INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless Metro, its officers, agents and employees from all liability, damages, losses and expenses (“Liability”), including, without limitation, Liability arising out of injuries to and death of persons and damage to property, resulting from the acts or omissions of Contractor, its agents, employees or subcontractors related to Contractor’s performance of its Work hereunder.

GC-19 RIGHTS IN DATA/COPYRIGHT*

All documents and materials prepared or developed by the Contractor and its subcontractors pursuant to this Contract shall become the property of Metro without restriction or limitation on their use and shall be made available upon request, to Metro at any time. Original copies of such shall be delivered to Metro upon completion of the Work or termination of the Work. The Contractor shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the written approval of Metro.

GC-20 WAIVER

Failure or delay by Metro to insist upon strict performance of any terms or conditions of the Contract, or to exercise any rights or remedies provided 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. No waiver by Metro of any breach of any provision of the Contract shall constitute a waiver of any other breach or of such provision.

GC-21 CONFIDENTIALITY*

- A. Contractor shall treat as confidential and return to Metro all data, specifications, reports, drawings, and other materials made available to Contractor for use in performing its Work under this Contract.
- B. All data, specifications, reports, articles, drawings, surveys, and other materials prepared by Contractor in performing Work under this Contract will be the

property of Metro and Contractor shall treat them as confidential, and deliver them to Metro at its request or upon completion of Contractor's Work.

GC-22 SAFETY AND LOSS PREVENTION *

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.

A. Metro's Safety Principles

1. Safety is a 24/7 priority
2. Safety is everyone's responsibility
3. Accidents and injuries are preventable
4. Working safely is a condition of employment
5. Training is essential for good safety performance
6. Management is accountable for safety

B. Contractor Responsibilities

The Contractor is responsible for:

1. Complying with all applicable safety Laws
2. Enforcing Worksite safety practices; and
3. The discovery, determination and correction of any unsafe conditions related to the Contractor's performance of the Work or Goods supplied by the Contractor on Metro property.
4. 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.

C. Safety Practices

1. The Contractor shall inform its personnel of Metro safety practices and the requirements of METRO's safety program identified in [Metro Safety Manual For Other Than Major Construction](#).
2. 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. 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.

GC-23 ENGLISH REQUIREMENTS *

At all times, all Contractor personnel on site must have sufficient knowledge of the English language to comprehend safety related directions and requirements. At all times the Contractor shall have a lead representative on site who has sufficient comprehension of the English language to read, write, speak and understand all job related directions and discussions.

End Of General Conditions (Services) Form A

