

**SECTION 7 - PROSECUTION OF THE WORK
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SECTION 7 PROSECUTION OF THE WORK

7-1 BEGINNING OF WORK

No work may take place prior to receipt of the executed Contract and review of the prescribed bonds and insurance. Upon receipt of the executed Contract and approval of the bonds and insurance by the City, a Notice to Proceed will be issued which will constitute authorization to begin work.

Contract time shall begin at Notice To Proceed or per contract documents for development projects and encroachment permits. The SWPP department must sign off on BMP's prior to work progressing.

7-2 AMOUNT OF WORK UNDER CONSTRUCTION

The Contractor shall not have more work under construction than can be prosecuted properly with regard to the rights of the public.

7-3 PRECONSTRUCTION CONFERENCE AND PROGRESS MEETINGS

Prior to beginning work a preconstruction conference shall be held for the purpose of reviewing the Work. The Contractor must attend this preconstruction conference, and shall invite Subcontractors and others necessary to ensure all topics are adequately covered. Topics discussed include, but are not limited to, mobilization, access, temporary facilities, utilities, subcontractors, schedules, procedures, correspondence, progress payments, payroll records, Storm Water Pollution Prevention Plans (SWPPP), coordination, safety, after-hour contacts for Contractor and City of Elk Grove personnel, quality control/quality assurance, personnel assignments, and other topics as appropriate.

Progress meetings, as stipulated in the Special Provisions or as required by the City, will be conducted throughout the duration of the Contract. The purpose of these meetings is to inform, discuss, and resolve issues related to the Work; the Contractor or the Contractor's agent shall attend. Topics discussed include, but are not limited to, progress, schedules, safety, SWPPP, Requests for Information, Change Orders, Field Instructions, field coordination, submittals, quality control/quality assurance, testing, startup, safety, and other topics related to the Work.

7-4 WORK TO BE PROSECUTED WITH ADEQUATE SUPERVISION, LABOR FORCE, EQUIPMENT AND METHODS

The Contractor shall prosecute the Work under the Contract with all materials, tools, machinery, apparatus, and labor necessary to complete the Work as described, shown, or reasonably implied under the Contract, or as directed by the City, on or before the scheduled completion date.

7-4.01 Superintendence

The Contractor shall keep on the Work, throughout its progress, a competent superintendent who shall have complete authority to represent and act for the Contractor. Such superintendent shall be capable of reading and understanding the Contract, and shall receive and follow any instruction given by the City. The Contractor shall notify the City in writing of the proposed superintendent for City approval. Further changes to this appointment must be submitted for approval in writing.

Whenever the Contractor or the Contractor's superintendent is not present on a particular part of the Work where it may be desired to give direction, orders will be given by the City and shall be received and obeyed by the foreman or other representative who may have charge of the particular work in reference to which the orders are given, or the City may stop the work until the Contractor or the Contractor's superintendent arrives.

7-4.02 Labor

Workers, laborers, or mechanics skilled in each class of work shall accomplish every part of the Work.

7-4.03 Equipment and Methods

Only equipment and methods suitable to produce the quality required by the Contract will be permitted to operate on the Work. Except as specified in Section 5-7, “Contractor’s Equipment”, of these Specifications, equipment shall be that used in general practice for the work undertaken. If any part of the Contractor's plant, equipment, or methods of executing the Work is unsafe, inefficient, or inadequate to ensure the required quality or rate of progress of the Work, the City of Elk Grove may order the Contractor to modify the Contractor’s facilities or methods. The Contractor shall promptly comply with such orders at the Contractor’s expense. However, neither compliance with such orders nor failure of the City to issue such orders shall relieve the Contractor from the obligation to secure the degree of safety, the quality of the Work, and the rate of progress required by the Contract. The Contractor is responsible for the safety, adequacy, and efficiency of his plant, equipment, and methods.

7-5 SCHEDULES

The Contractor shall submit a schedule, in accordance with this Section and Section 5-8, “Contractor’s Submittals”, of these Specifications, which illustrates the Contractor’s plans for carrying out the Work. The City will review the schedule, and any updates or revisions, for conformance to the Contract. City review of a schedule, update, or revision does not relieve the Contractor of responsibility for the feasibility of the schedule or requirements for accomplishments of milestones and completion within Contract Time, nor does the City of Elk Grove review warrant or acknowledge the reasonableness of the schedule’s logic, durations, labor estimates, or equipment productivity.

If no separate item is provided in the Bid Form, payment for schedules shall be included in payments for mobilization. If no bid item for mobilization is included in the Bid Form, conformance with this provision is incidental to and included in the various bid items and no additional payment will be made. Updates and revisions of the schedules are included in the prices paid for other items of work.

The City may withhold twenty-five percent (25%) of the Progress Payment but not more than fifty thousand dollars (\$50,000), whichever is greater, until a satisfactory baseline schedule, update, or revision has been submitted and reviewed.

7-5.01 Progress Schedule

A bar chart or similar form of progress schedule will be required for all contracts. Unless otherwise agreed to by the City, the latest version of MS Project or Primavera shall be used. The Contractor shall submit three (3) copies, plus an electronic copy, of a complete baseline progress schedule at the preconstruction conference (see Section 7-3, “Preconstruction Conference and Progress Meetings”, in this Section of these Specifications). The baseline progress schedule shall show all major portions of the Work, the estimated dates on which the Contractor shall start each portion of the Work, and the contemplated dates for completing each portion of the Work or the approximate percentage of the Work or portions of the Work scheduled for completion at any time.

Unless agreed to by the City, the progress schedule shall be updated and submitted to the City with each Progress Payment request or when requested by the City. All schedule updates or revisions shall show the effects of any occurrence upon which the Contractor will base a notice of potential claim or has based any claim (see Section 9, “Changes and Claims”, of these Specifications), and shall expressly call the City’s attention to those effects. A revised or updated schedule shall be submitted within ten (10) Working Days of a City request.

The Contractor shall carry out the various elements of the Work concurrently, as is practicable, and shall not defer construction of any portion of the Work in favor of any other portion, without the express written approval of the City.

Despite the submission of a progress schedule, the Contractor shall be governed by the direction of

the City if, in the judgment of the City, it becomes necessary to accelerate the Work or any part thereof, or cease work at any particular point and concentrate the Contractor's forces at such other point or points, with the intent of preventing delays.

7-5.02 CPM Schedule

When required by the Special Provisions, in lieu of the progress schedule required by the previous Section (Section 7-5.01), the Contractor shall submit a practicable Critical Path Method (CPM) network schedule within ten (10) days of receipt of the Contract. Unless otherwise agreed to by the City, the latest version of MS Project or Suretrak shall be used. The CPM network diagram shall be time-scaled and include printouts showing the mathematical analysis of the CPM network diagram. Activities shall include, but not be limited to, construction activities, procurement activities, submittal activities, and any other activities by the Contractor, the City of Elk Grove, or any other entity that may impact the Work. Submittal and procurement activities shall include falsework drawings, post tensioning drawings, test procedures, mix designs, long time lead items, etc. The following information shall be shown for each activity:

1. Unique number(s) for each activity
2. Activity description
3. Activity relationships and dependencies (logic)
4. Activity duration in Working Days
5. Early start, early finish, late start, late finish dates (calendar date, i.e. day, month, year)
6. Total float, free float
7. For completed activities: actual start dates, actual finish dates, duration, and logic
8. Interim milestone dates and completion dates
9. Detailed list of work contained within each activity
10. Manpower loading for each item of work for unit price contracts
11. Cost loading for each item of work for lump sum contracts

The Contractor shall submit three (3) full-size paper copies and an electronic copy of each CPM schedule. Updates to the CPM schedule shall be submitted with each Progress Payment request, when Contract events are changed, or within five (5) Working Days of a City request. A narrative describing the general status of the Work and addressing any problem areas or delays shall be submitted with each revision or update, with impacts on critical path items of work highlighted. A corrective course of action shall also be included when problem areas or delays are encountered.

All schedule updates or revisions shall show on the critical path the effects of any occurrence upon which the Contractor has based a notice of potential claim or will base any claim (see Section 9, "Changes and Claims", of these Specifications) and shall expressly call the City's attention to the effects.

7-5.03 Three-Week Rolling Schedule

A three-week rolling schedule shall be provided by the Contractor at each progress meeting. The schedule shall provide an accurate representation of the work planned for the current week and subsequent two (2) weeks.

The schedule shall be provided in a bar chart form with information derived from and consistent with the current project schedule. The schedule shall include activity ID number, activity description, start and finish dates (both scheduled and actual), and any other information requested by the City. Each activity shall be coded to note activities on the critical path and activities that are behind schedule.

7-6 UNUSUAL SITE CONDITIONS

The Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any:

1. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of

the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

2. Subsurface or latent physical conditions at the site differing from those indicated in the Contract.
3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The Contractor shall follow up the prompt notification with written documentation of the unusual site condition within five (5) Working Days. The City will have the site remediated or issue a Contract Change Order per Section 9, “Changes and Claims”, of these Specifications if it finds that the conditions do materially differ or involve hazardous waste.

7-7 PURSUANCE OF WORK DURING INCLEMENT WEATHER

During inclement or unsuitable weather or other unfavorable conditions, the Contractor shall pursue only such portions of the Work that will not be damaged by the weather or unfavorable conditions. When the weather or unfavorable conditions creates hazardous travel or working conditions, as determined by the City, the Contractor may be directed to stop that portion of the Work, in accordance with Section 5-21, “Temporary Suspension or Delay of Work”, of these Specifications, until the weather clears or the conditions are no longer unfavorable.

The Contractor must keep roads safe and inspect and maintain stormwater pollution prevention and erosion control devices during inclement weather or unfavorable conditions. Lane and road closures may not be allowed if the City determines that the traffic controls will create unnecessary risk to the traveling public, the Contractor, and/or City of Elk Grove employees.

7-8 PEAK HOURS, HOURS OF DARKNESS, HOLIDAYS, AND WEEKENDS

7-8.01 Allowable Times and Hours of Work

Unless otherwise noted in the Special Provisions or approved by the City, no work shall be done between the hours of 6 p.m. and 7 a.m., or on Saturdays, Sundays, or legal holidays. Unless otherwise noted in the Special Provisions or approved by the City, no lane of traffic shall be closed to the public during the peak hours of 7:00 a.m. to 8:30 a.m. and 3:00 p.m. to 6:00 p.m., except as necessary for the proper care and protection of work already performed or in case of an emergency repair as defined below. All lane closures need to be removed on Friday (year round) by 1:00pm on streets designated in Appendix “A”, unless otherwise approved. These exceptions are allowed only with the City’s written permission.

7-8.02 Off-Period Work

A written request to work between 6 p.m. and 7 a.m. or on Saturdays, Sundays, or legal holidays, or to close a lane of traffic during peak hours must be submitted at least two (2) Working Days in advance of the intended work. The City will evaluate the Contractor's request to determine if there is a benefit to the City, a nuisance or a hazard to the public, the project, or the area surrounding the site, and if the Contractor should pay any City overtime costs related to the off-period work. The City may place conditions on any approval of off-period work based on this analysis.

7-8.03 Emergency Repairs

An emergency repair is a repair to the Work (including traffic controls, barricades, or temporary signs) required as a result of an unforeseen event that poses a danger to the public or jeopardizes the integrity of the Work, whether completed or not. The Contractor may be allowed to close a lane of traffic or work at night, on Saturdays, Sundays, or legal holidays for an emergency repair. The Contractor must notify the City within one (1) hour of dispatch of the Contractor’s repair crews, and give their name, an emergency contact number, the location of the emergency repair, and a tentative completion date and time. The Contractor shall notify the City when the emergency repair is completed and the road is clear,

or, if an extension of time is required, the Contractor must provide a revised tentative completion date and time.

7-8.04 Revocation of Permission For Off-Period Work

The City may revoke permission for off-period work if the Contractor endangers the public, an employee, or themselves by violating a safety and health regulation, or fails to maintain an adequate work force and traffic control devices for reasonable prosecution and inspection of such work.

7-8.05 Working Shifts

Two- or three-shift operations may be established as a regular procedure by the Contractor upon written permission from the City. Such permission may be revoked if the Contractor fails to comply with applicable safety and health regulations, fails to maintain adequate force and equipment for reasonable prosecution and inspection of the Work, or fails to provide sufficient artificial light to permit the Work to be carried out safely and appropriately and to permit proper inspection.

7-8.06 Lane and Road Closures During November/December Holiday Season

Except as provided in the Special Provisions or approved by the City, construction will be suspended and no activities that interfere with public traffic shall be conducted on designated streets during the holiday season (defined as the four-day Thanksgiving weekend through January 1). A map showing designated streets is included as Appendix A. Changes to this map may be done by the Public Works Department before the start of the holiday season. Contact the Director of Public Works at the City of Elk Grove, 8401 Laguna Palms Way, Elk Grove, CA 95758 to receive a copy of the latest map. All existing pits, excavations, trenches, and openings in the road surface shall be backfilled and paved to produce a level and smooth surface. All barricades and barriers shall be removed from all traffic lanes, unless authorized by the City as long-term traffic controls. Only emergency repairs as defined in Section 7-8.03, “Emergency Repairs”, in this Section of these Specifications will be permitted during the holiday season.

7-9 TEMPORARY FACILITIES AND SERVICES

Unless specified otherwise in the Special Provisions, the Contractor shall be responsible for providing and maintaining necessary material storage facilities, utilities, field offices, temporary roads, fences, security, etc. for prosecuting the Work. The Contractor shall not connect to or draw construction water from fire hydrants without written approval from the utility owner and the City.

7-10 PROTECTION OF WORK, PERSONS AND PROPERTY

The Contractor shall protect the Work and materials from damage until completion and acceptance of the Work. Neither the City nor any of its agents assume any responsibility for collecting funds from any person or persons that damages the Contractor’s work.

The Contractor shall store materials and equipment in accordance with manufacturer’s recommendations and erect such temporary structures as required to protect them from damage.

The Contractor shall furnish guards, fences, warning signs, walks, and lights, and shall take all other necessary precautions to prevent damage or injury to persons or property.

7-11 PROOF OF COMPLIANCE WITH CONTRACT

When requested by the City, the Contractor shall submit properly authenticated proof of the Contractor’s compliance with the Contract.

7-12 DELAYS

The Contractor shall provide notification to the City for any delays, in accordance with Section 7-13, “Notice of Delays”, in this Section of these Specifications.

7-12.01 Avoidable Delays

The Contractor shall not receive any time extensions or compensation for avoidable delays. Avoidable delays include, but are not limited to, the following:

1. Delays that affect only a portion of the work but do not prevent or delay the prosecution of controlling items of work nor the completion of the whole Work within the Contract Time.
2. Delays associated with the reasonable interference of other contractors employed by the City that do not necessarily prevent or delay the prosecution of controlling items of work or the completion of the whole Work within the Contract Time.
3. Delays associated with loss of time resulting from the necessity of submitting plans for City approval or from City surveys, measurements, inspections, and testing.
4. Delays that could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or Subcontractors.
5. Any curtailment of the Contractor’s operations due to the action of the Air Quality Management District (AQMD) and City Staff.

7-12.02 Unavoidable Delays

The Contractor may be granted an extension of Contract time for delays that are determined to be beyond the control of the Contractor, impact a controlling item of work, and could not be prevented by the exercise of care, prudence, foresight, and diligence. Unavoidable delays may include City acts, acts of God or of the public enemy, fire, floods, epidemics, and strikes. Material shortages and delays in utility company relocations may be classified as unavoidable if the Contractor produces satisfactory evidence of acting in a timely manner.

1. The Contractor shall not receive any additional compensation due to inclement or unsuitable weather or conditions resulting therefrom, acts of God or of the public enemy, fire, floods, epidemics, strikes, material shortages, or utility relocations.
2. The Contractor may be entitled to additional compensation for unavoidable delays the City determined resulted from an City act or the discovery of cultural resources as specified in Section 10-12, “Archeological and Cultural Resources”, of these Specifications, except as modified below:
 - a. Compensation for unavoidable delays shall not be granted when the Contractor could have reasonably anticipated the delay.
 - b. When there are two (2) or more concurrent delays and at least one (1) is noncompensable, no compensation other than time extension shall be provided.
 - c. Compensation for unavoidable delays shall be granted only if such unavoidable delay affects controlling operations that would prevent completion of the Work.

7-13 NOTICE OF DELAYS

The Contractor shall immediately notify the City in writing if the Contractor foresees any delay in the prosecution of the Work or immediately upon the occurrence of any unavoidable delay, but in no case shall the written notice be provided to the City later than two (2) Working Days after the occurrence of the unavoidable delay. The Contractor shall state the probability of the delay occurring and its cause so the City may take steps to prevent the occurrence or continuance of the delay and determine whether the delay is avoidable or unavoidable, its duration, and the extent.

The City of Elk Grove will assume that all delays were avoidable unless the City was notified as indicated above and through its investigation found them unavoidable. No consideration for additional time or compensation will be given for any delay not called to the City’s attention at the time of its occurrence.

7-14 CARELESS DESTRUCTION OF STAKES AND MARKS NO CAUSE FOR DELAY

If the Contractor or Subcontractors carelessly destroy City-placed stakes and marks causing a delay in the Work, the Contractor shall have no claim for damages or time extensions. See also Section 5-9, “Surveys”, of these Specifications.

7-15 TIME OF COMPLETION

Time is of the essence on all City contracts. The Contractor shall complete all of the Work called for under the Contract within the Contract Time set forth in the Special Provisions. The City will furnish the Contractor a weekly statement showing the number of days charged to the Contract for the preceding week, the number of days of time extensions approved or under consideration, the number of days originally specified for the completion of the Contract, and the extended date for completion.

The Contractor will be allowed fifteen (15) days from the issuance of the weekly statement to file a written protest stating how the Contractor’s estimate of Contract days charged to the Contract differs from the City’s. If no protest is received, it shall be deemed by the City that the Contractor has accepted the statement as being correct.

7-16 EXTENSION OF TIME NOT A WAIVER

Time extensions granted for unavoidable delays or for the execution of extra or additional work shall not operate as a waiver of the City of Elk Grove’s rights under the Contract.

7-17 INCLEMENT WEATHER AND CONTRACT TIME

Except as modified by the Contract Documents, a Contract day will not be charged if, in the opinion of the City of Elk Grove, inclement or unsuitable weather or its effects prevents working on the current controlling operation at the beginning of the shift for at least five (5) consecutive hours, or for at least (5) hours during the shift. A current controlling operation is any feature of the Work (e.g., an operation or activity including settlement, curing periods, and submittal activities) that if delayed or prolonged will delay the time of completion of the Contract.

7-18 EXTENSION OF TIME

The Contractor will be allowed a time extension to complete the Work equal to the sum of all unavoidable delays as determined in accordance with Section 7-12.02, “Unavoidable Delays”, in this Section of these Specifications, plus any adjustments in Contract Time due to Contract Change Orders as outlined in Section 9-12, “Time Extensions for Changes”, in these Specifications. During such time extension, the Contractor will not be charged for extra engineering and inspection or liquidated damages. Requests for a time extension must be submitted in writing to the City within ten (10) days of the event that is the reason for the request for time extension and before the expiration of the Contract time. Any extension shall be referenced on the updated monthly progress schedule and shown as days impacted.

7-19 SUBSTANTIAL COMPLETION

Only if substantial completion is recognized in the Contract Documents will this section apply. When the Contractor considers the entire Work, or a specific portion of the Work, substantially complete, the Contractor shall certify in writing to the City that the Work is substantially complete and request that the City grant substantial completion. Within five (5) Working Days, the City and the Contractor shall inspect the Work to determine the status of completion. If the City does not consider the Work ready for its intended use, the City will notify the Contractor in writing, giving the City’s reasons. If the City considers the Work ready for its intended use, the City will grant substantial completion. The City will provide a list of items to be completed or corrected (punch list) before Final Acceptance and Final

Payment. Within ten (10) Calendar Days of being provided a list of items to be completed or corrected, the Contractor shall proceed to correct or complete such items. The counting of time for liquidated damages will cease for the entire Work, or a specific portion of the Work, on the date substantial completion is granted, but shall not bind the City to formal acceptance nor relieve the Contractor from the responsibility of completing or correcting any work.

7-20 CLEANING UP

Throughout the construction period, the Contractor shall keep the site of the Work in a presentable condition, dispose of any surplus materials, keep roadways reasonably clear of dirt and debris, keep all sidewalk and other pedestrian areas clear of dirt, loose gravel, debris and any tripping hazards, clean out all drainage ditches and structures, and repair any fences or other property damaged during the progress of the Work, to the satisfaction of the City of Elk Grove. The Contractor shall also keep the work site cleaned of all rubbish, excess material, and equipment. All portions of the work shall be left in a neat and orderly condition prior to requesting final inspection. Surplus material shall be disposed of in accordance with Section 18-7, “Surplus Material Disposal”, of these Specifications. The final inspection will not be made until final clean up has been accomplished.

7-21 FINAL INSPECTION AND FIELD ACCEPTANCE

The Contractor shall notify the City in writing of the completion of the Work, and the City shall promptly inspect the Work. The Contractor or the Contractor's representative shall be present at the final inspection. The Contractor will be notified in writing of any defects or deficiencies. The Contractor shall proceed to correct such defects or deficiencies within ten (10) days of such notification. When notified that correction of the defective or deficient work is complete, the City will again inspect the Work to ascertain that the corrections are in accordance with the Contract. Proof that a “Notice of Termination” has been filed with SWRBC must be received by the City prior to acceptance. The City will issue an acceptance letter and will recommend to the Council final acceptance of the Work if it finds all the corrections acceptable. Acceptance by the City shall cause the commencement of warranty periods, but shall not bind the Council to final acceptance nor relieve the Contractor from the responsibility of completing or correcting any work.

7-22 FINAL ACCEPTANCE AND NOTICE OF COMPLETION

Upon completion of the Work, including acceptance of M&O manuals, Record Drawings, and test reports, the City will recommend to City Council that it accept the Project as complete. Upon acceptance by City Council, a Notice of Completion will be filed with the City Clerk and a thirty-five (35) day lien period begins. (See Section 8-11, “Final Estimate and Payment”, of these Specifications.)

7-23 RELEASE OF WARRANTY PERIOD

Unless modified by the Contract Documents or Subdivision Improvement Agreement, this section shall apply to all projects and encroachment permits issued by the City.

Contractors are to inform the City sixty (60) days prior to the end of the one-year warranty period and schedule an inspection. The City requires five (5) working days notice to schedule the inspection. Any items found deficient shall be corrected by the Contractor at no expense to the City.

The warranty period does not end until all items have been verified as complete by the City. Once all items have been verified as complete, the City will return any security held. The City may extend warranty periods and hold securities if agreed to by the Contractor under exceptional circumstances.