

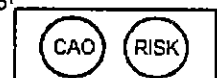
**CONTRACT FOR GOODS & SERVICES  
HVAC Repair and Replacement On-Call**

**THIS AGREEMENT** is executed this 18 day of Nov, 2015 by and between the CITY OF MONTEREY, a municipal corporation, hereinafter called "City," and Della Mora Heating, Sheet Metal & Air Conditioning Inc., hereinafter called "Contractor."

**IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:**

1. **Scope.** Contractor hereby agrees to provide to the City, as the scope of services under this Agreement, the following services: Contractor to provide labor, material, equipment, and project management for HVAC Repair and Replacement work per scope of work. Scope of work is further discussed in City's Bid Specs dated November 2, 2015 attached as Exhibit "A", and Contractor's Proposal dated November 9, 2015 attached as Exhibit "B". In the event of a conflict between the terms of this Agreement and the attached exhibits, the order of precedence shall be as follows: #1 this Agreement; #2 City's Bid Specifications (Exhibit "A") and #3 Contractor's Proposal (Exhibit "B").
2. **Timely.** Contractor shall perform all tasks in a timely fashion, as set forth more specifically in paragraph 3 below. Failure to so perform is hereby deemed a material breach of this Agreement, and City may terminate this Agreement with no further liability hereunder, or may agree in writing with Contractor to an extension of time to complete the work.
3. **Term.** The work under this Agreement shall commence November 23, 2015 and shall be completed by November 22, 2016 unless City grants a written extension of time as set forth in paragraph 2 above.
4. **Payment.** City agrees to pay and Contractor agrees to accept as full and fair consideration for the performance of this Agreement an hourly fee fully described in Contractor's bid, Exhibit "B" for a not to exceed amount of Sixty Four Thousand Nine Hundred Ninety Nine Dollars and no cents (\$64,999.00). Contractor has no right of reimbursement for expenses under this Agreement. Compensation shall become due and payable 30 days after City's approval of Contractor's submission of monthly written invoices to the City. The payment of any compensation shall be contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If City determines that the work set forth in the written invoice has not been performed in accordance with the terms of this Agreement, City shall not be responsible for payment until such time as the work has been satisfactorily performed.
5. **Meet & Confer.** Contractor agrees to meet and confer with City or its agents or employees with regard to services as set forth herein as may be required by City to insure timely and adequate performance of this Agreement.
6. **Insurance.** Contractor shall maintain the following insurance in full force and effect.
  - a. Without altering or limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

T00005-CA OR-5 Contract for Goods & Services - \$4,000 and over (v. 3.0 - 9/02/2015)



I. Contractor's Commercial General Liability Insurance including but not limited to personal injuries, bodily injuries, premises/operations, completed operations/products, contractual liability, independent contractors (if any part of the work is to be subcontracted), broad form property damage and cross-liability coverage with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

II. Commercial Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

III. Workers' Compensation Insurance. If Contractor employs others in the performance of this Agreement, Contractor shall maintain workers' compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$100,000 per occurrence for employer's liability. Workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

b. Other Insurance Requirements:

I. All insurance under this Agreement must be written by an insurance company that is either:

- \* Admitted to do business in California with a current A.M. Best rating of no less than A:VI;

or

- \* An insurance company with a current A.M. Best rating of no less than A:VII.

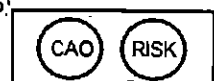
Exception may be made for the State Compensation Insurance Fund when not specifically rated.

II. Each insurance policy required by this agreement shall be endorsed to state that City of Monterey shall be given notice in writing at least thirty days in advance of any change, cancellation, or non-renewal thereof.

III. The general liability and auto policies shall:

- \* Provide an endorsement naming the City of Monterey, its officers, officials, and employees as additional insureds under an ISO CG 20 10 11 85 or equivalent.

- \* Provide that such insurance is primary and non-contributing insurance to any insurance or self-insurance maintained by the City.



\* Contain a "Separation of Insureds" provision substantially equivalent to that used in the ISO form CG 00 01 10 01.

IV. Prior to the start of work under this Agreement, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this agreement with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

V. Neither the insurance requirements hereunder, nor acceptance or approval of Contractor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Contractor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Contractor is financially liable for its indemnification obligations under this Agreement.

VI. Any deductibles or self-insured retentions must be declared to and approved by the City of Monterey. At the option of the City, either: the insured shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

VII. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

VII. Contractor shall either (1) require each of its subcontractors to procure and to maintain during the life of its subcontract, Commercial General Liability Insurance, Vehicle Liability Insurance and Workers' Compensation Insurance of the type and in the amounts specified above, or; (2) insure the activities of its subcontractors in its policies. Prior to commencement of any work by any subcontractor, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this paragraph with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificates of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

7. **Indemnification.** Contractor hereby agrees to the following Indemnification and Hold Harmless Clause:

To the fullest extent permitted by law, Contractor agrees to indemnify, investigate, defend (at Contractor's sole cost and expense and with legal counsel reasonably approved by City), protect and hold harmless, the City of Monterey, its officials, officers, employees, agents, and representatives from and against any and all claims [including, without limitation, claims for bodily injury or death (including but not limited to Contractor, persons employed by Contractor, persons acting on behalf of Contractor, and third parties) or damage to property], demands, obligations, losses, damages, actions, causes of action, suits, judgments, fines, penalties, liabilities, defense costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs, and all other professional, expert or Contractors' fees and costs) of every kind or nature arising out of or in connection with or relating to any work or activities of Contractor (or Contractor's contractors' or subcontractors', if any) conducted under this Agreement or arising out of the failure on Contractor's part to perform their obligations under this agreement. Except as provided by law, the indemnification provisions stated above shall apply regardless of the existence or degree of fault of the City, except for those Claims which arise out of the sole negligence or willful misconduct of the City.

Notwithstanding the provisions of the above paragraph, Contractor agrees to assume all risk, and to indemnify and hold harmless the City from and against any and all claims, demands, defense costs, liability, expense, or damages or any kind or nature arising out of or in connection with damage to or loss of any property belonging to Contractor or Contractor's employees, contractors, representatives, patrons, guests or invitees.

Contractor further agrees to indemnify City for damage to or loss of City property arising out of or in connection with Contractor's work associated with this agreement or arising out of any act or omission of Contractor or any of Contractor's employees, agents, contractors, representatives, patrons, guests or invitees; excepting such damage or loss arising out of the negligence of the City.

8. **Licensing.** Contractor warrants that it is properly licensed to perform the work specified under this Agreement, including but not limited to possession of a current City business license.

9. **Non-Discrimination.** No discrimination shall be made by Contractor or any subcontractor in the hiring and employment of persons for the work under this Agreement or any other City project because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person. Every person in violation of this section is subject to the penalties in accordance with the provisions of Section 1735 of the Labor Code.

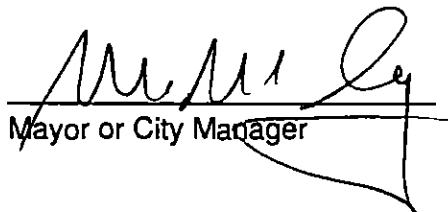
10. **Prevailing Wages.** The work performed under this Agreement is not a Public Works Project as defined by the California Labor Code or a project subject to the Davis Bacon Act (40 U.S.C. 3141 *et seq.*) and as such is not subject to either state or federal prevailing wage laws.


11. **Legal day's work; Forfeiture for Violations.** Notwithstanding any provisions of Labor Code Section 1810 et seq., to the contrary, eight hours labor constitutes a legal day's work in all cases where the same is performed under the direction, control, or by the authority of any officer of City, and Contractor or any subcontractor shall, as a penalty to the City of Monterey, forfeit fifty dollars (\$50) per day for each worker employed in the execution of this Agreement in violation of this provision
12. **Termination.** City may terminate this Agreement upon ten days' written notice. The amount of damages, if any, as a result of such termination may be decided by negotiations between the parties or before a court of competent jurisdiction.
13. **Agency.** In performing the services specified under this Agreement, Contractor is hereby deemed to be an independent contractor and not an agent or employee of City.
14. **Non-Assignability.** The rights and obligations of Contractor hereunder are not assignable and cannot be delegated without written consent of City.
15. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and supersedes any and all prior agreements, whether oral or written, relating to the subject matter thereof. Any modification of the Agreement will be effective only if it is in writing signed by both parties hereto.
16. **Validity.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way.
17. **Counterparts.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.
18. **Laws.** Contractor agrees that in the performance of this Agreement it will comply with all applicable State, Federal and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Monterey.

IN WITNESS WHEREOF, this Agreement is entered into by the parties hereto on the day and year first above written in Monterey, California.

CITY OF MONTEREY

CONTRACTOR

  
\_\_\_\_\_  
Mayor or City Manager

  
\_\_\_\_\_  
Della Mora Heating, Sheet Metal  
& Air Conditioning Inc.

BUILDING MAINTENANCE DIVISION  
PHONE 831-646-3926 FAX 831-643-0962

**CALL FOR BIDS (INFORMAL)**

**PROJECT OPENING DATE:** November 2, 2015

**PROJECT NAME:** HVAC Repair/Replacement On-Call

**PROJECT LOCATION:** City of Monterey & Presidio of Monterey, Monterey Ca  
93940

**PROJECT DESCRIPTION:**

Contractor to provide all labor, material, equipment, and project management for HVAC Repair/Replacement On-Call Contract for Presidio Municipal Services Agency (PMSA) projects in accordance with the Specification. The work shall be located in the City of Monterey, Presidio of Monterey (POM) and Ord Military Community (OMC) . The contract agreement will be for a not to exceed amount of \$64,999.00. The amount of work to be requested during the twelve-month contract period cannot be well defined at the outset. There is no guarantee of work during the Contract. Work shall be issued through Work Orders.

Contractor bidding must be legally entitled to perform contracts requiring Class C20 Warm-Air Heating, Ventilating, and Air-Conditioning Contractor Licenses. Any bidder or contractor not so licensed shall be subject to all penalties imposed by law including, but not limited to, any appropriate disciplinary action by the Contractor State License Board.

**BID SCHEDULE (Schedule of Quantities and Prices)**

Shall be received in the office of the Building Maintenance Division at Presidio Bldg. 268, Monterey CA., UNTIL **10:00 A.M on November 9, 2015** for HVAC Repair/Replacement On-Call per scope.

Please e-mail your bid to [kinzie@monterey.org](mailto:kinzie@monterey.org) .



## EXHIBIT A

Item	Description	Unit	Number of Hours	Non-Prevailing Wages	Prevailing Wage
1	Project Manager	Hr	1		
2	Superintendent	Hr	1		
3	Foreman/Lead	Hr	1		
4	HVAC Technician	Hr	1		
5	HVAC Plumber	Hr	1		
6	Sheet metal worker	Hr	1		
7	Laborer	Hr	1		
	HVAC Repair/Replacement On-Call		<b>TOTAL</b>		
	Clarification: Schedule for Prevailing and Non-Prevailing wages, Contractor may bid only prevailing wages.				
	<b>CONTRACTORS INFORMATION</b>				
8	Materials Mark-up	%		%	
9	Sub-Contractor Mark-up	%		%	
10	Performance and Payment Bond	%		%	
11	Contractor's fee (\$1-\$64,999)	%		%	

NAME OF FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_



TELEPHONE: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED SIGNATURE: \_\_\_\_\_

CONTRACTORS LEGAL NAME: \_\_\_\_\_  
(Please Print)WHERE CONTRACTOR IS ORGANIZED: \_\_\_\_\_  
(i.e. California Corporation, or individual doing business under Ca. Law)

CONTRACTOR LICENSE NUMBER: \_\_\_\_\_

LICENSE EXPIRATION DATE: \_\_\_\_\_

SUB CONTRACTORS: \_\_\_\_\_  
(That you would use)

SUBCONTRACTOR LICENSE: \_\_\_\_\_

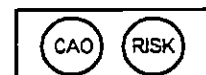
**BID ITEM DESCRIPTION**

This section covers details of individual items of the Bid Schedule to insure that it is clear as to what is to be included in each item. The costs submitted with each item are to reflect the work to be completed under that bid item only. Payment of all the following items shall be for actual materials installed on the job and for actual work accomplished.

**ITEM DESCRIPTIONS: (SCOPE)**

The unit and lump sum prices paid shall be full compensation for completing the contract, and shall include all labor, materials, equipment, taxes and incidentals for a complete job, and no separate or additional compensation shall be made therefore. Payment of all the following items shall be for actual materials installed on the job and for actual work accomplished. The scope of work for each item shall include, but shall not be limited to:

1. Hourly Rate





The hourly rate will include the labor cost, labor cost surcharge, and labor markup and equipment necessary for the trade. (see Technical Specifications)

**2. Materials Markup**

This percentage cost shall include mark up for materials purchased by the prime contractor for each project. The Engineer reserves the right to furnish any or all the materials it deems necessary to complete the work. The Contractor shall have no claims for costs and markup on materials furnished by the City.

**3. Sub-Contractor Markup**

This percentage cost shall include prime contractor's mark-up for sub-contractor's cost for completion of each project work order.

**4. Payment Bond**

This percentage cost shall include contractor's cost for providing payment bond for each project work order. Payment Bond is required on all projects \$25,000.00 and over. At the time of award Contractor will file with the City a public works labor and materials bond (Payment Bond) in the amount of one hundred percent (100%) of the contract price.

**5. Contractor's Fee**

These pay items are for overhead and profit as a percentage of the total construction cost for items listed for a project in the ranges of \$1 to \$64,999.00. This markup only applies to work performed by the prime contractor's own forces. Fee shall include insurance costs.

**Overtime & Premium Pay**

Overtime & Additional Premium pay will be paid in accordance with Davis Bacon and California DIR prevailing wage rates. The following time periods for work that will be performed between 3:30 p.m. to 9:30 p.m., Monday through Friday and Saturday/Sunday from 7:00 a.m. to 5:00 p.m. for a complete 40 (forty) hour work week.

In California, the general overtime provisions are that a nonexempt employee 18 years of age or older, or any minor employee 16 or 17 years of age who is not required by law to attend school and is not otherwise prohibited by law from engaging in the subject work, shall not be employed more than eight hours in any workday or more than 40 hours in any workweek unless he or she receives one and one-half times his or her regular rate of pay for all hours worked over eight hours in any workday and over 40 hours in the workweek. Eight hours of labor constitutes a day's work, and employment beyond eight hours in any workday or more than six days in any workweek is permissible provided the employee is compensated for the overtime at not less than:

One and one-half times the employee's regular rate of pay for all hours worked in excess of eight hours up to and including 12 hours in any workday, and for the first eight hours worked on the seventh consecutive day of work in a workweek; and

Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight on the seventh consecutive day of work in a workweek.

DBA has no overtime (OT) compensation requirements. However, most contractors performing work on these projects are required by FLSA to pay OT compensation at time and one-half the worker's "regular rate of pay" for the hours worked in excess of 40 each week.

Overtime hours are defined as all hours worked in excess of 40 hours in any workweek. Overtime hours must be paid at no less than one and one-half times the regular rate or basic pay plus the straight-time rate for any required fringe benefits. Contractors must total the hours worked by employees at multiple projects in the same workweek. DOL rules make overtime pay under CWHSSA necessary if the combined hours on various government DBA/CWHSSA-covered contracts exceed 40 hours. The Fair Labor Standards Act, enforced by DOL, requires that overtime premium be paid if the combined total for all work, both government and private, exceed 40 hours in the workweek.

Premium pay is to be paid in accordance with Davis Bacon Act wage determinations when applicable.

#### **Ancillary Items**

Payment for any items that do not have instruction indicating where expenses for said items are to be accounted for are to be considered ancillary to the work and accounted for in every one of the lump sum or unit price items and no additional compensation will be allowed therefore.

#### **Bid Clarification**

Award of contract, if any be made, shall be made to the Contractor with the lowest responsive and responsible bid based on the Grand Total. The Grand Total will be the basis for bid comparison.

Pursuant to the provisions of the California Public Contract Code Section 20103.8, City reserves the option to award any or all the additive bid items in addition to the original contract after the lowest responsible Bidder has been determined, should the City later obtain additional funding for additive alternatives not awarded with the original contract.

Unit and lump sum prices shall be for items in place, as shown in the specifications, including all labor, material, equipment, taxes, and incidentals necessary for a complete job.

Whenever unit prices are required and there is a incorrect extension thereof, the unit price correctly extended shall prevail and the total bid shall be corrected to reflect the correct extension.

The foregoing quantities are approximate only, being given as a basis for comparison of bids, and the City of Monterey does not, expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or

decrease the amount of work by twenty-five percent (25%) or to omit portions of the work as may be deemed necessary by the Engineer.

For items 1-7; the amount in the "Amount" column shall be the product of "Number of Hours" and Hourly Rate". Sub-Total A is the sum of the Amount of the Column for items 1-7. For items 8 through 11, the percentages for markup, bond, and the contractor's fee for work orders valued between \$1 and \$59,999.00 shall be added. The amount for line 12 shall be the total percentage amount of the "Total Cost" column. The cost (\$50,000), and total percentage amount is for basis of comparison only. Individual percentages as appropriate will be applied to work orders issued under the contract. An example of a completed bid schedule is attached as Exhibit B.

The amount of work to be requested during the twelve-month contract period cannot be well defined at the outset. The bidder agrees to do the work on an on-call basis in such increments and at such times and locations as will be defined in written requirements to be issued by the City as the need arises. Contractor shall submit cost estimates based on the project, plans, scope of work and accepted prices described in the Proposed Schedule of Quantities and Prices. The bidder agrees that the offer to do the work at the established contract hourly rates and percent cost and shall remain in effect for all written work orders as herein described and issued by the City during the twelve month period beginning with the effective date of the notice to proceed or the exhaustion of the funding limit, whichever comes first. There is no guarantee of work during the contract. Costs for insurance and bonds will not be reimbursed in the event that no work is issued during the course of the contract.

### **Bidder Responsibility**

- A. Standards of Responsibility. City may reject bids on the basis of non-responsibility. A responsible bidder is one that has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance of the contract. Factors to be considered in determining whether the standard of responsibility has been met include whether a bidder has:
  - 1. The appropriate financial, material, equipment, facility, and personnel resources, including all required certifications and licenses, and expertise necessary to indicate its capability to meet all contractual requirements;
  - 2. A satisfactory record of performance, including but not limited to any prior work performed by bidder for City;
  - 3. A satisfactory record of integrity, diligence and professionalism in the specific contract work;
  - 4. The legal qualifications to contract with the City; and
  - 5. Supplied all information requested by City in connection with the inquiry concerning responsibility.
- B. Information Pertaining to Responsibility. The prospective contractor shall supply any information requested by the City concerning the responsibility of such contractor, including the qualifications and performance records of contractor's employees and

proposed subcontractors. If the prospective contractor fails to supply the requested information, the City shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if failure to provide the requested information is deemed unreasonable by City.

- C. City's Duty Concerning Responsibility. Before awarding a contract, the City must be satisfied that the prospective contractor is responsible. City may use the information provided by prospective contractor as well as information obtained from other legitimate sources, including City staff's own experience with the contractor and contractor's staff.
- D. Written Determination of Non-responsibility Required. If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the City. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror,

**ENVIRONMENTAL REQUIRED DOCUMENTS:**

- 1. Contractor is responsible to fill out the City's Construction and Demolition Debris Waste Management Plan form, as Appendix A, at the end of the project.

**DOCUMENTS DUE TIME FRAME:**

Contract once awarded to Contractor, is due back to City of Monterey no later than 10 calendar days.

Contractors insurance is due back to City of Monterey no later than 10 Calendar days per Contract requirements #6 & #7.

Contractors Bond, if required, is due to City of Monterey within 10 Calendar days from award.

If Contractor is unable to provide these documents within the 10-day deadline the City will look to award work to the next responsive, responsible bidder.

**INSURANCE REQUIREMENTS: IF CONTRACTOR IS AWARDED THE BID THE FOLLOWING WILL BE REQUIRED:**

Attached is SAMPLE of contract containing required indemnification and insurance requirements. Please be prepared to furnish all insurance per #6 & #7 of this sample contract.

**PREVAILING WAGES:**

Contractor and all subcontractors shall be responsible for determining which prevailing wage rate applies to the corresponding labor classification to be used in the execution of this contract and shall pay accordingly.

Local prevailing wage rates shall be paid in accordance with Sections 1770, 1773, and 1782, as amended, of the California Labor Code, and **Section 28-20(e) of the Monterey City Code, on all public works construction contracts exceeding twenty-five thousand dollars (\$25,000) and all public works contracts for alteration, demolition, repair or maintenance work exceeding fifteen thousand dollars (\$15,000).** Local wage rates may be obtained from City of Monterey, Capital Projects Office, 353 Camino El Estero, Monterey, CA, (831-646-3997) or the Director, Department of Industrial Relations, State of California, 455 Golden Gate Avenue, San Francisco, California (415-703-4774). Any Bidder contractor awarded a public works contract that uses a craft or classification not in the general prevailing wage determinations may be required to pay the wage rate most closely related in the general determinations, effective at the time of the call for bids.

In accordance with the provisions of Sections 1725.5, 1771.1, 1771.3, and 1771.4 of the Labor Code, this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal (subject to the requirements of Section 4104 of the Public Contract Code), or engage in the performance of any contract for public work, as defined by that chapter of the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code.

In accordance with the provisions of Section 1773.3 of the Labor Code, the City of Monterey shall provide notice to the Department of Industrial Relations (DIR) of the award of any public works contract subject to the requirements of Chapter 1 of the Labor Code, within five days of the award. The notice shall be transmitted electronically in a format specified by the DIR (see <https://www.dir.ca.gov/pwc100ext/>) and shall include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the DIR specifies that aids in the administration and enforcement of this chapter.

**MCNAMARA-O'HARA SERVICE CONTRACT ACT (SCA)**

The McNamara-O'Hara Service Contract Act requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. The Department of Labor issues wage

determinations on a contract-by-contract basis in response to specific requests from contracting agencies. These determinations are incorporated into the contract.

For contracts equal to or less than \$2,500, contractors are required to pay the federal minimum wage as provided in Section 6(a)(1) of the Fair Labor Standards Act.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to SCA-covered contracts.

The Service Contract Act applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services in the United States through the use of service employees. Contractors and subcontractors performing on such Federal contracts must observe minimum wage and safety and health standards, and must maintain certain records, unless a specific exemption applies.

Service contracts which do not exceed \$2,500 are not subject to wage and fringe benefit determinations or to the safety and health requirements of the SCA. However, the SCA does require that employees performing work on such contracts be paid not less than the above minimum wage rate provided by section 6(a)(1) of the Fair Labor Standards Act.

All provisions of the SCA except the safety and health requirements are administered by the Wage and Hour Division.

The wage and hour requirements of the McNamara-O'Hara Service Contract Act (SCA) are administered by the Wage and Hour Division (WHD). The Act covers contracts and any bid specifications in excess of \$2,500, whether negotiated or advertised, entered into by federal and District of Columbia agencies where the principal purpose of the contract is to furnish services in the U.S. through the use of service employees. The definition of a service employee includes any employee engaged in performing services on a covered contract other than a bona fide executive, administrative, or professional employee who meets the exemption criteria set forth in 29 CFR Part 541.

The Act does not apply to certain types of contractual services. These statutory exemptions include:

- Contracts for construction, alteration, and/or repair of public buildings or public works, including painting and decorating (those covered by the Davis-Bacon Act);
- Work required in accordance with the provisions of the Walsh-Healey Public Contracts Act;
- Contracts for transporting freight or personnel where published tariff rates are in effect;

- Contracts for furnishing services by radio, telephone, telegraph, or cable companies subject to the Communications Act of 1934;
- Contracts for public utility services;
- Employment contracts providing for direct services to a federal agency by an individual or individuals;
- Contracts for operating postal contract stations for the U.S. Postal Service;
- Services performed outside the U.S. (except in territories administered by the U.S., as defined in the Act); and
- Contracts administratively exempted by the Secretary of Labor in special circumstances because of the public interest or to avoid serious impairment of government business.

#### Basic Provisions/Requirements

The SCA requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement as provided in wage determinations issued by the Department of Labor. These determinations are incorporated into the contract.

For contracts equal to or less than \$2,500, contractors are required to pay the federal minimum wage of \$7.25 per hour effective July 24, 2009. Contractors must also, under the provisions of the Contract Work Hours and Safety Standards Act and the Fair Labor Standards Act, pay employees at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek.

Finally, employers must notify employees working in connection with the contract of the compensation due them under the wage and fringe benefits provisions of the contract.

#### Employee Rights

The SCA provides covered service workers on federal service contracts the right to receive at least the locally prevailing wage rate and fringe benefits, as determined by the Department of Labor, for the type of work performed. The Wage and Hour Division accepts complaints of alleged SCA wage violations.

#### Recordkeeping, Reporting, Notices and Posters:

##### **Notices and Posters**

Every employer performing work covered by the Service Contract Act is required to provide each employee working on the contract notice of the SCA payment and fringe benefit requirements for the different classes of service employees and to post the "Employee Rights on Government Contracts" notice (including any applicable wage determination) at the site of the work in a prominent and accessible place where it may be easily seen by employees. There are no size requirements for the poster. The Employee Rights on Government Contracts poster is available Spanish as well.

If the contractor employs workers with disabilities under special minimum wage certificates, the "Notice to Workers with Disabilities/Special Minimum Wage (PDF) poster" must also be posted. This poster explains the conditions under which special minimum wages may be paid. It must be posted in a conspicuous place on the employer's premises where it can be readily seen by employees and the parents or guardians of workers with disabilities.

### Recordkeeping

Some of the records required to be kept under this law are also required under the Fair Labor Standards Act (see Wage and Hour Division Fact Sheet #21: Recordkeeping).

Under the Service Contract Act, contractors and subcontractors are required to maintain certain records for each employee performing work on the covered contract. Basic records, such as name, address, and Social Security number of each employee must be maintained for three years from completion of the work. In addition, records on the following must be maintained for three years:

- The correct work classification(s), wage rate(s), and fringe benefits provided (or cash equivalent payments provided in lieu of fringe benefits)
- The total daily and weekly compensation of each employee
- The number of daily and weekly hours worked by each employee
- Any deductions, rebates, or refunds from each employee's compensation
- Any list of a predecessor contractor's employees which had been furnished showing employee's length of service information
- A list of wages and fringe benefits for those classes of workers conformed to the wage determination attached to the contract

The contractor shall also make available a copy of the contract upon request from the Wage and Hour Division.

### Reporting

There are no reporting requirements.



### Penalties/Sanctions

Violations of the SCA may result in contract terminations and liability for any resulting costs to the government, withholding of contract payments in sufficient amounts to cover wage and fringe benefit underpayments, legal action to recover the underpayments, and debarment from future contracts for up to three years.

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge. Contractors and subcontractors may appeal decisions of Administrative Law Judges to the Administrative Review Board. Final Board determinations on violations and debarment may be appealed to and are enforceable through the federal courts.

### Relation to State, Local, and Other Federal Laws

The SCA applies only to contracts awarded by the federal or District of Columbia governments. As noted above, contractors are required to compensate employees working in connection with covered contracts for overtime work in accordance with the overtime pay standards of the Fair Labor Standards Act and the Contract Work Hours and Safety Standards Act.

### **THE FOLLOWING PROVISIONS APPLY TO ALL FEDERALLY-FUNDED PROJECTS:**

This project is partially or completely federally funded. Federal and/or State prevailing wage rates, whichever are higher, shall apply. Contractor and all subcontractors shall be responsible for determining which prevailing wage rate applies to the corresponding labor classification to be used in the execution of this contract and shall pay accordingly. Contractor and all subcontractors shall, if applicable, comply with the provisions of the Davis-Bacon Act (incorporated herein and attached as Appendix B hereto) and all amendments thereto.

The Federal minimum wages shall be based on the wages that the United States Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State of California.

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the county, or counties, in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the State General Prevailing Wage Rates for this project, available at City of Monterey Capital Projects Office, 353 Camino El Estero, Monterey, CA (831/646-3997) and available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov/dlsr/PWD/Northern.html>.

If there is a difference between the Federal minimum wage rates predetermined by the Secretary of Labor and the State General prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors shall pay not less than the higher wage rate. The City will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractors shall pay not less than the Federal minimum wage rate, which most closely approximates the duties of the employees in question.

Prevailing wage rates are required to be posted at the jobsite. Contractor **shall submit a certified payroll along with Fringe Benefit Statement** with invoice at end of project.

**Non-Discrimination.** No discrimination shall be made by Contractor or any subcontractor in the hiring and employment of persons for the work under this Agreement or any other City project because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person. Every person in violation of this section is subject to the penalties in accordance with the provisions of Section 1735 of the Labor Code.

#### **PRESIDIO OF MONTEREY ADDITIONAL REQUIREMENTS:**

##### **OTHER PERSONNEL**

Contractor shall submit a list (see attached form, Exhibit B, Installation Access Application; given upon award of project) of all personnel working on Presidio within two (2) days from award of contract and shall ensure the Contractor's employees observe and comply with all Contractor and Army policies, regulations, and procedures concerning fire, safety, environmental protection, sanitation, security, traffic, parking, gratuities, flag courtesy, "off limits" areas, and possession of firearms or other lethal weapons. Contractor's personnel shall be legal residents or citizens of the United States and shall be able to clearly communicate in the English language. Contractor shall ensure the Contractor's personnel do not present an appearance, such as would embarrass the Command or residents of Presidio, and that their conduct shall not reflect discredit upon the installation or the Department of the Army. The Contractor shall remove from the job site any employee for reasons of misconduct or security. The removal of such a person shall not relieve the Contractor of the requirements to provide personnel to perform adequate and timely service. The Contractor shall not hire off-duty or former Government employees whose employment would result in a conflict with the Joint Ethics Regulations, DOD 5500.7-R. Contractor shall notify City of Monterey of

any changes on the working status of key personnel immediately in writing for review and approval.

## **PROTECTION OF GOVERNMENT PROPERTY**

Government property grounds and facilities, if damaged or removed because of the Contractor's operations, shall be restored or replaced to same or better than the original condition and located in the same position and alignment as is reasonably possible.

## **VEHICLES**

Contractor personnel utilizing Contractor-owned or privately owned vehicles on the military community shall possess a valid State driver's license and proof of insurance for vehicles. Contractor shall have clearly identified vehicles with the name of the Contractor prominently displayed on both sides of the vehicle while working on the installation. Contractor shall adhere to installation parking policy.

## **JOB SITE SECURITY REQUIREMENTS**

The Presidio has a tight strictly-enforced Entrance Security System that requires random searches of all vehicles and, while every effort will be made to provide timely access, it will not always be possible. Also the work will be completed while the buildings are occupied so there will be times that areas are inaccessible, or interruptions to work will be necessary. Again these will be kept to a minimum, but cannot be foreseen and should be considered in the bids, as no additional compensation will be made for such delays.

## **TERMINATION**

The City of Monterey may terminate this service agreement with the selected contractor upon ten (10) days written notice if the agreement between the Federal Government (Presidio or DMDC) act is terminated for any reason. The service agreement with the selected contractor may be terminated immediately without notice if the Contractor is found to have violated the terms of the agreement or any state, federal or local law or requirement related to the subject agreement, has filed a petition for bankruptcy, becomes insolvent, or discontinues its business for any other reason.

## **GENERAL REQUIREMENTS:**

### **BUSINESS LICENSE**

Contractor is required to produce a copy of their current City of Monterey business license once awarded.

### **PERMIT**

If a permit is required, must be obtained before the work starts. Determination by City Representative in charge of the project.

### **ELECTRICAL WORK**

All electricians performing work under this contract, as defined as making electrical connections at or above 100 volt-amperes, shall be **certified** pursuant to Section 3099 et seq. of the California Labor Code. Contractor shall submit proof of certification, or proof that the requirements of Section 3099.4 (a) of the California Labor Code have been met, prior to electricians commencing work under this contract.

### **LEAD BASED PAINT**

Contractor is responsible to adhere to the EPA - Renovation, Repair and Painting (RRP). See <http://www.epa.gov/lead/pubs/renovation.htm>

### **WARRANTY**

One year (minimum) warranty for all purchased equipment, materials and components will be provided by the Contractor and will provide copies of all manufacturer warranties and purchase documents to City Representative within 20-days following the final closeout of the project.

### **TIME LINE**

UNIQUE CONDITIONS (CONDITIONS THAT WILL AFFECT THEIR BIDS): Bid is to be good for 60-days.

The Contractor shall submit bonds or alternative security and evidence of insurance that conforms to the contract within five (5) calendar days after the award of the contract.

A Notice to Proceed will be issued upon receipt of the forgoing documents.. A specific work order notice shall be issued for the work to be performed and shall serve as a Notice to Proceed for that specific project.

The Contractor shall diligently prosecute the contract to completion on or before the expiration of contract timeline stated on the work order. Timelines shall be as follows unless additional time is authorized by the Project Manager.

<u>For each work order valued at:</u>	<u>Timeline</u>
Less than \$5,000	7 calendar days
\$5,000 to \$9,999	14 calendar days
\$10,000 to \$24,999	21 calendar days
\$25,000 or over	To be individually negotiated.

The terms of this contract shall remain in effect for one year from the effective date of the Notice to Proceed or the contract amount \$64,999 is spent, whichever comes first.

## **PAYMENT**

The General Services Manager shall retain ten (10) percent of the value of all work done as part security for the fulfillment of the contract by the Contractor. Retained sums will be released when final inspection is done and approved by the Building Maintenance Representative. **Certified Payroll and Benefit Statement is required on all Presidio projects over \$2,000.00, to be submitted with invoice.**

## **BONDS**

Payment Bond: is required on all projects \$25,000.00 and over. At the time of award Contractor will file with the City a public works labor and materials bond (Payment Bond) in the amount of one hundred percent (100%) of the contract price (per Calif. Civil Code §9550).

Surety needs to be an admitted carrier in California with a valid surety license and posses a minimum rating from A.M. Best Company of A-VII. The Surety and/or co-sureties should be listed as an acceptable surety on federal bonds by the United States Department of the Treasury, subject to the maximum amount shown in the listing. If co-sureties are used, their bonds shall be on a joint and several basis.

Said bond is to meet with the approval of the City Attorney of the City of Monterey.

**NONCOLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND  
SUBMITTED WITH BID**

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party  
making the foregoing bid.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ in \_\_\_\_\_[city], \_\_\_\_\_ County, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

## DEBARMENT AND SUSPENSION CERTIFICATION

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any state, federal, or local agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any state, federal, or local agency within the past 3 years;
- Does not have a proposed debarment pending; and
- Has not be indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

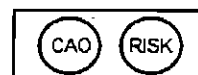
Exceptions will not necessarily result in denial of award, but will be considered in determining Bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

I declare under penalty of perjury that the foregoing is true and correct and that this certification is signed this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ in \_\_\_\_\_ [city], \_\_\_\_\_ County, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title



## **TECHNICAL SPECIFICATIONS**

Sample of HVAC work requested via work orders, but not limited to:

1. Circulating pump repair and replacement
2. Thermostat repair and replacement
3. Duct work
4. Functional testing
5. Air conditioning unit repair and replacement
6. Expansion tank repair and replacement
7. HVAC system upgrades
8. Exhaust fan work
9. Dehumidifier work
10. Heat pump repair and replacement
11. Air handler repair and replacement
12. Furnace repair and replacement
13. Boiler repairs and replacement



[SAMPLE]

**CONTRACT FOR SERVICES**  
**Name of Project**

**THIS AGREEMENT** is executed this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the CITY OF MONTEREY, a municipal corporation, hereinafter called "City," and CONTRACTOR'S NAME, hereinafter called "Contractor."

**IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:**

1. **Scope.** Contractor hereby agrees to provide to the City, as the scope of services under this Agreement, the following services: Describe general scope of work. Scope of work is further discussed in Title of City's Bid Specs, Attachment A and Contractor's Proposal dated (xx), Attachment B.
2. **Timely.** Contractor shall perform all tasks in a timely fashion, as set forth more specifically in paragraph 3 below. Failure to so perform is hereby deemed a material breach of this Agreement, and City may terminate this Agreement with no further liability hereunder, or may agree in writing with Contractor to an extension of time..
3. **Term.** The work under this Agreement shall commence date of start of work and shall be completed by date of end of work unless City grants a written extension of time as set forth in paragraph 2 above.
4. **Payment.** City agrees to pay and Contractor agrees to accept as full and fair consideration for the performance of this Agreement, [\_\_\_\_\_ Dollars (\$\_\_\_\_\_) or [(an hourly fee in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) per hour, not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_)], as more fully described in title of Contractors fee schedule, Attachment C. Contractor has no right of reimbursement for expenses under this Agreement. Compensation shall become due and payable 30 days after City's approval of Contractor's submission of monthly written invoices to the City. The payment of any compensation shall be contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If City determines that the work set forth in the written invoice has not been performed in accordance with the terms of this Agreement, City shall not be responsible for payment until such time as the work has been satisfactorily performed.
5. **Meet & Confer.** Contractor agrees to meet and confer with City or its agents or employees with regard to services as set forth herein as may be required by City to insure timely and adequate performance of this Agreement.
6. **Insurance.** Contractor shall maintain the following insurance in full force and effect.
  - a. Without altering or limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:
    1. Contractor's Commercial General Liability Insurance including but not limited to personal injuries, bodily injuries, premises/operations, completed operations/products, contractual liability, independent contractors (if any part of the work is to be subcontracted), broad form property damage and cross-liability

coverage with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

II. Commercial Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

III. Workers' Compensation Insurance. If Contractor employs others in the performance of this Agreement, Contractor shall maintain workers' compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$100,000 per occurrence for employer's liability. Workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

b. Other Insurance Requirements:

I. All insurance under this Agreement must be written by an insurance company that is either:

- \* Admitted to do business in California with a current A.M. Best rating of no less than A:VI;
- or
- \* An insurance company with a current A.M. Best rating of no less than A:VII.

Exception may be made for the State Compensation Insurance Fund when not specifically rated.

II. Each insurance policy required by this agreement shall be endorsed to state that City of Monterey shall be given notice in writing at least thirty days in advance of any change, cancellation, or non-renewal thereof.

III. The general liability and auto policies shall:

- \* Provide an endorsement naming the City of Monterey, its officers, officials, and employees as additional insureds under an ISO CG 20 10 11 85 or equivalent.
- \* Provide that such insurance is primary and non-contributing insurance to any insurance or self-insurance maintained by the City.
- \* Contain a "Separation of Insureds" provision substantially equivalent to that used in the ISO form CG 00 01 10 01.

IV. Prior to the start of work under this Agreement, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this agreement with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

V. Neither the insurance requirements hereunder, nor acceptance or approval of Contractor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Contractor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Contractor is financially liable for its indemnification obligations under this Agreement.

VI. Any deductibles or self-insured retentions must be declared to and approved by the City of Monterey. At the option of the City, either: the insured shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

VII. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

VII. Contractor shall either (1) require each of its subcontractors to procure and to maintain during the life of its subcontract, Commercial General Liability Insurance, Vehicle Liability Insurance and Workers' Compensation Insurance of the type and in the amounts specified above, or; (2) insure the activities of its subcontractors in its policies. Prior to commencement of any work by any subcontractor, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this paragraph with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificates of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

7. **Indemnification.** Contractor hereby agrees to the following Indemnification and Hold Harmless Clause:

To the fullest extent permitted by law, Contractor agrees to indemnify, investigate, defend (at Contractor's sole cost and expense and with legal counsel reasonably approved by City), protect and hold harmless, the City of Monterey, its officials, officers, employees, agents, and representatives from and against any and all claims [including, without limitation, claims for bodily injury or death (including but not limited to Contractor, persons employed by Contractor, persons acting on behalf of Contractor, and third parties) or damage to property], demands, obligations, losses, damages, actions, causes of action, suits, judgments, fines, penalties, liabilities, defense costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs, and all other professional, expert or Contractors' fees and costs) of every kind or nature arising out of or in connection with or relating to any work or activities of

Contractor (or Contractor's contractors' or subcontractors', if any) conducted under this Agreement or arising out of the failure on Contractor's part to perform their obligations under this agreement. Except as provided by law, the indemnification provisions stated above shall apply regardless of the existence or degree of fault of the City, except for those Claims which arise out of the sole negligence or willful misconduct of the City.

Notwithstanding the provisions of the above paragraph, Contractor agrees to assume all risk, and to indemnify and hold harmless the City from and against any and all claims, demands, defense costs, liability, expense, or damages of any kind or nature arising out of or in connection with damage to or loss of any property belonging to Contractor or Contractor's employees, contractors, representatives, patrons, guests or invitees.

Contractor further agrees to indemnify City for damage to or loss of City property arising out of or in connection with Contractor's work associated with this agreement or arising out of any act or omission of Contractor or any of Contractor's employees, agents, contractors, representatives, patrons, guests or invitees; excepting such damage or loss arising out of the negligence of the City.

8. **Licensing.** Contractor warrants that it is properly licensed to perform the work specified under this Agreement, including but not limited to possession of a current City business license.

9. **Non-Discrimination.** No discrimination shall be made by Contractor or any subcontractor in the hiring and employment of persons for the work under this Agreement or any other City project because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person. Every person in violation of this section is subject to the penalties in accordance with the provisions of Section 1735 of the Labor Code.

10. **Legal day's work; Forfeiture for Violations.** Notwithstanding any provisions of Labor Code Section 1810 et seq., to the contrary, eight hours labor constitutes a legal day's work in all cases where the same is performed under the direction, control, or by the authority of any officer of City, and Contractor or any subcontractor shall, as a penalty to the City of Monterey, forfeit fifty dollars (\$50) per day for each worker employed in the execution of this Agreement in violation of this provision.

11. **Termination.** City may terminate this Agreement upon ten days' written notice. The amount of damages, if any, as a result of such termination may be decided by negotiations between the parties or before a court of competent jurisdiction.

12. **Agency.** In performing the services specified under this Agreement, Contractor is hereby deemed to be an independent contractor and not an agent or employee of City.

13. **Non-Assignability.** The rights and obligations of Contractor hereunder are not assignable and cannot be delegated without written consent of City.

14. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and supersedes any and all prior agreements, whether oral or written, relating to

the subject matter thereof. Any modification of the Agreement will be effective only if it is in writing signed by both parties hereto.

15. **Validity.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way.

16. **Counterparts.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

17. **Laws.** Contractor agrees that in the performance of this Agreement it will comply with all applicable State, Federal and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Monterey.

IN WITNESS WHEREOF, this Agreement is entered into by the parties hereto on the day and year first above written in Monterey, California.

CITY OF MONTEREY

CONTRACTOR

\_\_\_\_\_  
Mayor or City Manager

\_\_\_\_\_  
[name & title of authorized signatory]



## **Construction and Demolition Debris Waste Management Plan – APPENDIX A**

### **Introduction**

This guide will help you complete your Construction and Demolition (C&D) Debris Waste Management Plan required for all Presidio of Monterey infrastructure improvements projects.

### **General Information**

Construction and Demolition (C&D) debris contributes up to 30% of the waste stream in the Monterey Bay Area. C&D debris includes the materials generated in the construction and/or demolition of general construction, streets & underground construction, buildings, remodels and additions.

### **Section I. Information**

#### **Project Information**

All information must be filled out completely within 15 days of the award of contract and before any construction begins.

- a) **Owner's Name** – owner of the structure or property
- b) **Owner's Address** – current address of the owner of the structure or property
- c) **Project Name & Number** - Official project name & number as issued by DPW
- d) **Project Address** – location of the jobsite
- e) **Project Contact Person** – person in charge of the construction/demolition project also include phone, email, and address
- f) **Type of Building** – check where applicable
- g) **Type of Project** – check all that apply
- h) **Total Project Cost** – cost of the construction/demolition project
- i) **Total Square Feet** – Area remodeled or for new construction enter the size of structure

#### **Waste Hauler Information**

- a) **Waste Hauling Company** – company that hauls construction debris from your jobsite
- b) **Contact Name** – name of representative at hauling company
- c) **Address, City/State/Zip, Phone, Fax** – location and contact information for the hauling company

List all haulers if you have more than one company removing your construction/demolition debris

## Section II. Construction Debris Material Handling

- 1) Complete the schedule to determine types and quantities of C&D debris created on the job site. List approximate weights of each type of materials, describe material type and where it originates from, and list the planned destination for all C&D materials.
- 2) Where applicable, list actions taken to recycle materials and minimize and divert solid waste from the waste stream.
- 3) Describe areas where more recycling or solid waste minimization and diversion could take place.
- 4) Following the completion of the project complete the C&D schedule by:

The project developer shall report the quantities of all construction and demolition debris recycled. At a minimum, all of the materials listed in the approved recycling plan should be reported below.

The project developer shall attach receipts from a bonafide recycling facility or other pertinent documentation to demonstrate recycling of the materials.

This C&D Waste Management Plan Shall be submitted to the contracting officer, and maintained in the City project Folder.

**Form must be signed and dated by City Representative**

**For questions regarding waste disposal please contact the Monterey Regional Waste Management District at [cdinfo@co.wake.nc.us](mailto:cdinfo@co.wake.nc.us) or call 919-856-5216. Visit our website at [www.wakegov.com](http://www.wakegov.com)**

For more information regarding the Monterey Regional Waste Management Fees Please Visit the following website:

<http://www.mrwmd.org/pdf/disposal%20fee%20brochure%2001-09.pdf>

For and introduction to Construction and Demolition waste reduction please visit the following website:

<http://www.mrwmd.org/pdf/CandDWasteReductionReuseandRecycling.pdf>

## APPENDIX A

## Section I. Information

## Project Information:

Owner's Name: Address: Project TITLE: Project Address: City/State/Zip: 

Project Manager

Project Contact Person: Phone:  831-760- Email: Address:  B.Maint. 580 Pacific St.City/State/Zip:  Monterey, CA. 93940Type of Building: ☐ Commercial ☐ Housing ☐  
Classrooms/OfficeType of Project: ☐ New Construction ☐ Addition/Renovation ☐ DemolitionTotal Project Cost: \$  \$  Total L. Ft.: 

## Waste Hauler Information:

1) Waste Hauling Company: Contact Name: Address: City/State/Zip: Phone:  Fax: Email: 2) Waste Hauling Company: Contact Name: Address: City/State/Zip:



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

Email: \_\_\_\_\_

**Section II: Construction Debris Material Handling**

- 1) List approximate weights of each type of materials, describe material type and where it originates from, and list the planned destination for all C&D materials.

Waste Type	Estimate Qty. Recycled (lbs)	Material Type & Origin	Destination Facilities
Concrete			
Asphalt			
Masonry			
Clean Lumber (unpainted)			
Drywall			
Metal			
Roofing Shingles			
Cardboard			
Green Waste			
Hazardous Waste			

Other Material			
----------------	--	--	--

- 2) Describe actions taken to recycle materials and minimize and divert solid waste from the waste stream.

- 3) Describe areas where more recycling or solid waste minimization and diversion could take place:

- 4) Following the completion of the project complete the C&D schedule and attach any and all disposal or recycling tags or receipts.

**CONSTRUCTION AND DEMOLITION (C&D) SCHEDULE SOLID WASTE AND RECYCLING  
REPORTS**

**Reporting Period** From:

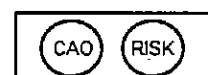
To:

Waste Type	Amount Recycled/ Diverted (lbs)	Receipt Attached (Yes or No)	Name of Recycling Facility or Landfill	Date of Disposal	Cost of Recycling /Disposal
Concrete	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Asphalt	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Masonry	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Clean Lumber (unpainted)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Drywall	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Metal	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Roofing Shingles	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Cardboard	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Green Waste	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Hazardous Waste	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other Material	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Acceptance:**

\_\_\_\_\_  
Contractor –

\_\_\_\_\_  
Contracting Officer



**APPENDIX B****DAVIS-BACON ACT (JULY 2005)**

(a) Definition.—“Site of the work”—

(1) Means—

(i) *The primary site of the work.* The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any.* Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the “primary site of the work” as defined in paragraph

(a)(1)(i), or the “secondary site of the work” as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any

account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash

equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be

incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the

contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section

1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The City shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The City shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

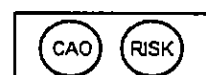
(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the City agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the City to the Administrator of the:

Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
Washington, DC 20210



The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the City or will notify the City within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the City do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the City shall refer the questions, including the views of all interested parties and the recommendation of the City, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the City or will notify the City within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

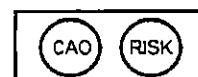
#### CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (JULY 2005)

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government.

The City will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The City will withhold from payments due under the contract sufficient funds required to satisfy any



Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the City will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the City or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the City or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts*. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

#### APPRENTICES AND TRAINEES (JULY 2005)

(a) Apprentices.

(1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed—

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training

Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause,

shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

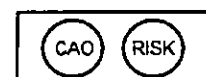
(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees.

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the





registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive

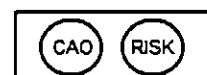
Order 11246, as amended, and 29 CFR Part 30.

#### PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the— Superintendent of Documents U.S. Government Printing Office, Washington, DC 20402 The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—



(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

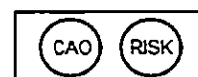
(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the City or authorized representatives of the City or the Department of Labor. The Contractor or subcontractor shall permit the City or representatives of the City or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the City may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

#### WITHHOLDING OF FUNDS (FEB 1988)

The City shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the City may, after written notice to the Contractor, take such action as may be



necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**SUBCONTRACTS (LABOR STANDARDS) (JULY 2005)**

(a) *Definition.* "Construction, alteration or repair," as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated offsite;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the "site of the work" as defined in the FAR clause at 52.222-6, Davis-

Bacon Act of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of work" definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the work" definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the "site of the work" definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

(1) Davis-Bacon Act;

(2) Contract Work Hours and Safety Standards Act—Overtime Compensation (if the clause is included in this contract);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination—Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Davis-Bacon and Related Act Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the City a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within

the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the City an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

#### **CONTRACT TERMINATION—DEBARMENT (FEB 1988)**

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

#### **DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)**

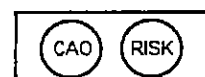
The United States Department of Labor has set forth in 29 CFR parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives. **COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are hereby incorporated by reference in this contract **CERTIFICATION OF ELIGIBILITY (FEB 1988)**

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.



## Exhibit B

Item	Description	Unit	No. of Hours	Hourly Price Rate	Amount
1	Project Manager	Hr	1	40	40
2	Superintendent	Hr	1	40	40
3	Foreman/Lead	Hr	1	40	40
4	HVAC Technician	Hr	1	40	40
5	HVAC Plumber	Hr	1	40	40
6	Sheet Metal Worker	Hr	1	40	40
7	Laborer	Hr	1	40	40
				<b>Sub Total A</b>	280
		<b>Unit</b>	<b>Total Cost (Basis of Comparison Only)</b>	<b>% of Cost</b>	<b>Amount</b>
8	Premium Labor cost--Forty hours work week to be done as follows: Weekdays (M-F) 3:30 p.m. to 9:30 p.m., Weekend (S) 7:00 a.m. to 5:00 p.m.	%	\$50,000	15%	7,500
9	Materials Mark-up	%		5%	
10	Sub-Contractor Mark-up	%		5%	
11	Performance and Payment Bond	%		1.5%	
12	Contractor's fee (\$1-\$59,999)	%		5%	
13	Total Mark-up for lines 9, 10, 11, and 12	%	\$50,000	16.5%	8,250
				<b>Sub Total B</b>	15,750.00
				<b>Grand Total (Sub Total A + Sub Total B)</b>	16,030.00



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EXHIBIT "B"

BLDG. MAINT. DIV.

Item	Description	Unit	Number of Hours	Non-Prevailing Wages	Prevailing Wage
1	Project Manager	Hr	1	128	128
2	Superintendent	Hr	1	127	127
3	Foreman/Lead	Hr	1	126	126
4	HVAC Technician	Hr	1	125	125
5	HVAC Plumber	Hr	1	125	125
6	Sheet metal worker	Hr	1	125	125
7	Laborer	Hr	1	100	115
	HVAC Repair/Replacement On-Call				
			TOTAL	\$ 856.00	\$ 871.00
	Clarification: Schedule for Prevailing and Non-Prevailing wages, Contractor may bid only prevailing wages.				
	CONTRACTORS INFORMATION				
8	Materials Mark-up	%		15 %	
9	Sub-Contractor Mark-up	%		15 %	
10	Performance and Payment Bond	%		3 %	
11	Contractor's fee (\$1-\$64,999)	%		5 %	

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BLDG. MAINT. DIV.

NAME OF FIRM: Della Mora Heating, Sheet Metal & Air Conditioning Inc

ADDRESS: 3332 Paul Davis Dr, Marina Ca, 93933



TELEPHONE: 831-883-4500

FAX NUMBER: 831-883-2800

E-MAIL: DellaMora@Sbcglobal.net

SIGNATURE: [Signature]

PRINTED SIGNATURE: David DellaMora

CONTRACTORS LEGAL NAME: D+L DellaMora Heating, Sheet Metal & Air Conditioning Inc.  
(Please Print)

WHERE CONTRACTOR IS ORGANIZED: California Corporation  
(i.e. California Corporation, or individual doing business under Ca. Law)

CONTRACTOR LICENSE NUMBER: 696294

LICENSE EXPIRATION DATE: 9/30/16

SUB CONTRACTORS: Morson Electrical Services  
(That you would use)

SUBCONTRACTOR LICENSE: 854907

### **BID ITEM DESCRIPTION**

This section covers details of individual items of the Bid Schedule to insure that it is clear as to what is to be included in each item. The costs submitted with each item are to reflect the work to be completed under that bid item only. Payment of all the following items shall be for actual materials installed on the job and for actual work accomplished.

### **ITEM DESCRIPTIONS: (SCOPE)**

The unit and lump sum prices paid shall be full compensation for completing the contract, and shall include all labor, materials, equipment, taxes and incidentals for a complete job, and no separate or additional compensation shall be made therefore. Payment of all the following items shall be for actual materials installed on the job and for actual work accomplished. The scope of work for each item shall include, but shall not be limited to:

1. Hourly Rate

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BLDG. MAINT. DIV.

**NONCOLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND  
SUBMITTED WITH BID**


The undersigned declares:

I am the RMO of Della Mora Hastings, SM & AC Inc., the party making the foregoing bid.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on this 6<sup>th</sup> day of November, 2015 in Marina [city], Monterey County, California.

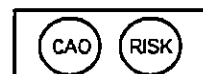
  
Signature

David Della Mora RMO  
Printed Name and Title

**RECEIVED**

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## DEBARMENT AND SUSPENSION CERTIFICATION

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:


- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any state, federal, or local agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any state, federal, or local agency within the past 3 years;
- Does not have a proposed debarment pending; and
- Has not be indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining Bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

I declare under penalty of perjury that the foregoing is true and correct and that this certification is signed this 6<sup>th</sup> day of November, 2015 in Marina [city], Monterey County, California.

  
Signature

David Della Manna RMO  
Printed Name and Title

RECEIVED

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