

## **SECTION 4 SCOPE OF WORK**

4-1.01	Intent of Plans and Specifications
4-1.02	Final Cleaning Up
4-1.03	Changes
4-1.03A	Procedure and Protest
4-1.03B	Increased or Decreased Quantities
4-1.03B(1)	Increases of More than 25 Percent
4-1.03B(2)	Decreases of More than 25 Percent
4-1.03B(3)	Eliminated Items
4-1.03C	Changes in Character of Work
4-1.03D	Extra Work
4-1.03E	Revocable Contract Items
4-1.04	Detours
4-1.05	Use of Materials Found on the Work
4-1.07	Differing Site Conditions

## SECTION 4

## SCOPE OF WORK

**4-1.01 Intent of Plans and Specifications.** - The intent of the plans and specifications is to prescribe the details for the construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the contract. Where the plans or specifications describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment and incidentals, and do all the work involved in executing the contract in a satisfactory and workmanlike manner.

**4-1.02 Final Cleaning Up.** - Before final inspection of the work, the Contractor shall clean the job site, highway, material sites, and all ground occupied by the Contractor in connection with the work of all rubbish, excess materials, falsework, temporary structures, and equipment. All parts of the work shall be left in a neat and presentable condition. Full compensation for final cleaning up will be considered as included in the prices paid for the various contract items of work and no separate payment will be made therefor.

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

**4-1.03 Changes.** - The City reserves the right to make such alterations, deviations, additions to or deletions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of the work or to delete any item or portion of the work, as may be deemed by the City to be necessary for the proper completion or construction of the whole work contemplated.

Any such changes will be set forth in a contract change order which will specify, in addition to the work to be done in connection with the change made, adjustment of contract time, if any, and the basis of full compensation for such work. A contract change order will not become effective until approved by the City.

Upon receipt of an approved contract change order, the Contractor shall proceed with the ordered work. If ordered in writing by the City, by letter of intent to perform extra work, executed by the Director or the Director's properly authorized agent, the Contractor shall proceed with the work so ordered prior to actual receipt of an approved contract change order therefor. In such cases, the City will, as soon as practicable, issue an approved contract change order for such work and the provisions in Section 4-1.03A, "Procedure and Protest," shall be fully applicable to such subsequently issued contract change order.

When the compensation for an item of work is subject to adjustment under the provisions of this Section 4-1.03, the Contractor shall, upon request, furnish the Engineer with adequate detailed cost data for such item of work. If the Contractor requests an adjustment in compensation for an item of work as provided in Sections 4-1.03B (1) or 4-1.03B (2), such cost data shall be submitted with their request.

If City proposes to Contractor that Contractor perform work by way of change order, and the City and Contractor cannot agree upon a price for performing such change order work, City has the right to issue to Contractor a "Directed Change Order" requiring Contractor to perform work at the price and on the terms

which City, in its sole discretion, shall deem reasonable. Contractor will thereafter perform work for the price and on the terms set forth in such change order. The Contractor shall not have the right to terminate the contract based upon the issuance of a "Directed Change Order." Contractor may then make a claim as provided for in this contract for any additional compensation, or time extension, or both which the Contractor believes is due and owing to them for performing such work.

The compensation provided for in each and every change order shall include all costs and taxes applicable thereto, and the City shall not be liable for any increase in taxes during the term of change order work.

The overhead and profit markup on each and every change order shall include full compensation for all costs incurred by the Contractor for any additional time required to complete the change order.

**4-1.03A Procedure and Protest.** - A contract change order approved by the City may be issued to the Contractor at any time. Should the Contractor disagree with any terms or conditions set forth in an approved contract change order which the Contractor has not executed, the Contractor shall submit a written protest to the City, within 15 days after the receipt of such approved contract change order. The protest shall state the points of disagreement, and, if possible, the contract specification references, quantities, and costs involved. If a written protest is not submitted, payment will be made as set forth in the approved contract change order and such payment shall constitute full compensation for all work included therein or required thereby. Such unprotested approved contract change orders will be considered as executed contract change orders as that term is used in Sections 4-1.03B to 4-1.03D, inclusive.

Where the protest concerning an approved contract change order relates to compensation, the compensation payable for all work specified or required by said contract change order to which such protest relates will be determined as provided in Sections 4-1.03B to 4-1.03D, inclusive. The Contractor shall keep full and complete records of the cost of such work and shall permit the City to have such access thereto as may be necessary to assist the City in making determination of the compensation payable for such work.

Where the protest concerning an approved contract change order relates to the adjustment of contract time for the completion of the work, the time to be allowed therefor will be determined as provided in Section 8-1.07, "Liquidated Damages."

Proposed contract change orders may be presented to the Contractor for consideration prior to approval by the City. If the Contractor signifies acceptance of the terms and conditions of such proposed contract change order by executing such document and if such change order is approved by the City and issued to the Contractor, payment in accordance with the provisions as to compensation therein set forth shall constitute full compensation for all work included therein or required thereby. A contract change order executed by the Contractor and approved by the City is an executed contract change order as that term is used in Sections 4-1.03B to 4-1.03D, inclusive. An approved contract change order shall supersede a proposed, but unapproved, contract change order covering the same work.

The City may provide for an adjustment of compensation as to a contract item of work included in a contract change order determined as provided in Sections 4-1.03B to 4-1.03D, inclusive, if such item of work is eligible for an adjustment of compensation thereunder.

**4-1.03B Increased or Decreased Quantities.** - Increases or decreases in the quantity of a contract item of work will be determined by comparing the total pay quantity of such item of work with the Engineer's Estimate therefor.

If the total pay quantity of any item of work required under the contract varies from the Engineer's Estimate therefor by 25 percent or less, payment will be made for the quantity of work of said item performed at the contract unit price therefor, unless eligible for adjustment pursuant to Section 4-1.03C, "Changes in Character of Work."

If the total pay quantity of any item of work required under the contract varies from the Engineer's Estimate therefor by more than 25 percent, in the absence of an executed contract change order specifying the compensation to be paid, the compensation payable to the Contractor will be determined in accordance with Sections 4-1.03B(1), 4-1.03B(2), or 4-1.03B(3), as the case may be, except as provided in Section 4-1.03E.

**4-1.03B(1) Increases of More Than 25 Percent.** - Should the total pay quantity of any item of work required under the contract exceed the Engineer's Estimate therefor by more than 25 percent, the work in excess of 125 percent of such estimate and not covered by an executed contract change order specifying the compensation to be paid therefor will be paid for by adjusting the contract unit price, as hereinafter provided, or at the sole option of the City, payment for the work involved in such excess will be made on the basis of force account as provided in Section 9-1.03, "Force Account Payment."

Such adjustment of the contract unit price will be the difference between the contract unit price and the actual unit cost, which will be determined as hereinafter provided, of the total quantity of the item. If the costs applicable to such item of work include fixed costs, such fixed costs will be deemed to have been recovered by the Contractor by the payments made for 125 percent of the Engineer's Estimate of the quantity for such item, and in computing the actual unit cost, such fixed costs will be excluded. Subject to the above provisions, such actual unit cost will be determined by the City in the same manner as if the work were to be paid for on a force account basis as provided in Section 9-1.03, or such adjustment will be as agreed to by the Contractor and the City.

When the compensation payable for the number of units of an item of work performed in excess of 125 percent of the Engineer's Estimate is less than \$5,000 at the applicable contract unit price, the Engineer reserves the right to make no adjustment in said price if the Engineer so elects, except that an adjustment will be made if requested in writing by the Contractor within 10 working days from the date the Contractor became aware, or should have reasonably become aware, of the increase.

**4-1.03B(2) Decreases of More Than 25 Percent.** - Should the total pay quantity of any item of work required under the contract be less than 75 percent of the Engineer's Estimate therefor, an adjustment in compensation pursuant to this Section will not be made unless the Contractor so requests in writing within 10 working days from the date when the Contractor became aware, or should have reasonably become aware, of the decrease. If the Contractor so requests, the quantity of said item performed, unless covered by an executed contract change order specifying the compensation payable therefor, will be paid for by adjusting the contract unit price as hereinafter provided, or at the option of the City payment for the quantity of the work of such item performed will be made on the basis of

force account as provided in Section 9-1.03, provided however, that in no case shall the payment for such work be less than that which would be made at the contract unit price.

Such adjustment of the contract unit price will be the difference between the contract unit price and the actual unit cost, which will be determined as hereinafter provided, of the total pay quantity of the item, including fixed costs. Such actual unit cost will be determined by the City in the same manner as if the work were to be paid for on a force account basis as provided in Section 9-1.03, or such adjustment will be as agreed to by the Contractor and the City.

The payment for the total pay quantity of such item of work will in no case exceed the payment which would be made for the performance of 75 percent of the Engineer's Estimate of the quantity for such item at the original contract unit price.

**4-1.03B(3) Eliminated Items.** - Should any contract item of the work be eliminated in its entirety for any reason, including but not limited to the convenience of the City, in the absence of an executed contract change order covering such elimination, payment will be made to the Contractor for actual costs incurred in connection with such eliminated contract item if incurred prior to the date of notification in writing by the City of such elimination.

If acceptable material is ordered by the Contractor for the eliminated item prior to the date of notification of such elimination by the City, and if orders for such material cannot be canceled, it will be paid for at the actual cost to the Contractor. In such case, the material paid for shall become the property of the City and the actual cost of any further handling will be paid. If the material is returnable to the vendor and if the Engineer so directs, the material shall be returned and the Contractor will be paid for the actual cost of charges made by the vendor for returning the material. The actual cost of handling returned material will be paid.

The actual costs or charges to be paid by the City to the Contractor as provided in this Section 4-1.03B (3) will be computed in the same manner as if the work were to be paid for on a force account basis as provided in Section 9-1.03, "Force Account Payment."

**4-1.03C Changes in Character of Work.** - If an ordered change in the plans or specifications materially changes the character of the work of a contract item from that on which the Contractor based their bid price, and if the change increases or decreases the actual unit cost of such changed item as compared to the actual or estimated actual unit cost of performing the work of said item in accordance with the plans and specifications originally applicable thereto, in the absence of an executed contract change order specifying the compensation payable, an adjustment in compensation therefor will be made in accordance with the following.

The basis of such adjustment in compensation will be the difference between the actual unit cost to perform the work of said item or portion thereof involved in the change as originally planned and the actual unit cost of performing the work of said item or portion thereof involved in the change, as changed. Actual unit costs will be determined by the City in the same manner as if the work were to be paid for on a force account basis as provided in Section 9-1.03, or such adjustment will be as agreed to by the Contractor and the City. Any such adjustment will apply only to the portion of the work of said item actually changed in character. At the option of the City, the work of said item or portion of item

which is changed in character will be paid for by force account as provided in Section 9-1.03.

If the compensation for an item of work is adjusted under this Section 4-1.03C, the costs recognized in determining such adjustment shall be excluded from consideration in making an adjustment for such item of work under the provisions in Section 4-1.03B, "Increased or Decreased Quantities."

Failure of the City to recognize a change in character of the work at the time the approved contract change order is issued shall not be construed as relieving the Contractor of their duty and responsibility of filing a written protest within the 15 day limit as provided in Section 4-1.03A, "Procedure and Protest."

**4-1.03D Extra Work.** - New and unforeseen work will be classed as extra work when determined by the City that such work is not covered by any of the various items for which there is a bid price or by combinations of such items. In the event portions of such work are determined by the City to be covered by some of the various items for which there is a bid price or combinations of such items, the remaining portion of such work will be classed as extra work. Extra work also includes work specifically designated as extra work in the plans or specifications.

The Contractor shall do such extra work and furnish labor, material, and equipment therefor upon receipt of an approved contract change order or other written order of the City, and in the absence of such approved contract change order or other written order of the City the Contractor shall not be entitled to payment for such extra work.

Payment for extra work required to be performed pursuant to the provisions in this Section 4-1.03D, in the absence of an executed contract change order, will be made by force account as provided in Section 9-1.03, or as agreed to by the Contractor and the City.

**4-1.03E Revocable Contract Items.** - Items noted as "Revocable" in the Proposal may be deleted entirely or in part at the sole discretion of the City. The provisions of Section 4-1.03B "Increased or Decreased Quantities" shall not apply to entire or partial deletion of Revocable items.

**4-1.04 Detours.** - The Contractor shall construct and remove detours and detour bridges for the use of public traffic as provided in the special provisions, or as shown on the plans, or as directed by the Engineer. Payment for such work will be made as set forth in the special provisions or at the contract prices for the items of work involved if the work being performed is covered by contract items of work and no other method of payment therefor is provided in the special provisions, otherwise the work will be paid for as extra work as provided in Section 4-1.03D

When public traffic is routed through the work, provision for a passageway through construction operations will not be considered as detour construction or detour maintenance and such work shall conform to and be paid for as provided in Section 7-1.08, "Public Convenience," unless otherwise specified in the special provisions.

Detours used exclusively by the Contractor for hauling materials and equipment shall be constructed and maintained by the Contractor at their expense. The failure or refusal of the Contractor to construct and maintain detours at the proper time shall be sufficient cause for closing down the work until such detours are in satisfactory condition for use by public traffic. Contractor shall not be

allowed additional compensation or an extension of time to complete the work due to such as suspension of work order.

Where the Contractor's hauling is causing such damage to the detour that its maintenance in a condition satisfactory for public traffic is made difficult and unusually expensive, the Engineer shall have authority to regulate the Contractor's hauling over the detour.

**4-1.05 Use of Materials Found on the Work.** - Unless designated as selected material as provided in Section 19-2.07, "Selected Material," the Contractor, with the approval of the Engineer, may use in the proposed construction such stone, gravel, sand or other material suitable in the opinion of the Engineer as may be found in excavation. The Contractor will be paid for the excavation of such materials at the contract price for such excavation, but the Contractor shall replace at their expense with other suitable material all of that portion of the material so removed and used which was contemplated for use in the work, except that the Contractor need not replace, at their expense, any material obtained from structure excavation used as structure backfill. No charge for materials so used will be made against the Contractor. The Contractor shall not excavate or remove any material from within the highway location that is not within the excavation, as indicated by the slope and grade lines, without written authorization from the Engineer.

**4-1.07 Differing Site Conditions.** - For all excavations extending deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any:

1. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the California Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
2. Subsurface or latent physical conditions at the site differing from those indicated in the contract documents.
3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

The City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's costs of, or the time required for, performance of any part of the work, City shall issue a change order under the procedures described in the contract documents.

In the event a dispute arises between the City and the Contractor as to whether or not the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights

provided either by the contract documents or by law which pertain to the resolution of disputes and protests between the contracting parties.

**END OF SECTION**