

**CITY OF AUBURN STANDARD SPECIFICATIONS**

**GENERAL CONDITIONS**

**SECTION 8**

**PROSECUTION AND PROGRESS**

---

**8.01 SUBLETTING OR ASSIGNING OF CONTRACT**

The Contractor shall not sublet more than seventy percent (70%) of the Contract, nor assign, transfer, convey, sell, or otherwise dispose of any portion of the Contract, his right, title, or interest therein or his power to execute such Contract, to any person, firm, or corporation without written consent of the City. Such consent shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the Contract.

**8.02 PROSECUTION OF WORK**

The Contractor shall give the Engineer definite notice of his intention to start Work at least forty-eight (48) hours in advance of beginning Work.

The Contractor must continuously and diligently prosecute the Work in such order and manner as approved by the Engineer. The Contractor shall employ an ample force to accomplish the Work in a safe and workmanlike manner at the rate of progress deemed necessary by the Engineer to insure its completion within the time set forth in the Proposal and Contract. Unless otherwise instructed by the Engineer, each operation shall start as soon after the Contract is awarded as conditions will permit. Each class of Work will be expected to progress from the date it is begun until completed. All equipment shall be maintained in good working order and provision shall be made for immediate emergency repairs.

Should the Contractor fail to maintain a satisfactory rate of progress, the Engineer will require that additional forces be placed on the Work in order that the Work be brought up to the required progress schedule and maintained there.

All Work in progress shall receive the personal attention either of the Contractor or of a competent and reliable superintendent who shall have full and final authority to act for him. In case the Contractor delegates authority to a superintendent, he shall notify the Engineer in writing, stating the name of the person authorized to act as superintendent. Should the prosecution of the Work be discontinued by the Contractor, with the consent of the Engineer, the Contractor shall provide forty-eight (48) hours written notice before resuming operations.

**8.03 LIMITATIONS OF OPERATIONS**

The Contractor shall at all times conduct the Work in such manner and in such sequence as will insure the least practicable interference with the traffic. He shall not open work to the prejudice of work already started and the Engineer may require the Contractor to finish a section on which work is in progress before work is started on any additional section.

Whenever work being done by other Contractors is contiguous or related to the Work included in the Contract, the respective rights of the various interests involved shall be resolved first among the Contractors by agreement, and in the event of no agreement, shall be established by the Engineer.

The Contractor shall be responsible for coordinating its plan and schedule for the work with other Contractors, and in the event the Engineer must decide the rights of the various interests involved, the Contractor's remedy shall be with the other Contractors, and not with the City.

#### **8.04 CHARACTER OF WORKMEN AND EQUIPMENT**

All sub-contractors, superintendents, foremen, and workmen employed by the Contractor shall be competent and reliable. All workmen must have sufficient skill and experience to properly perform the work assigned them and shall make due and proper effect to execute the Work in the manner prescribed in the Contract Documents. The Engineer may demand, but shall not have the obligation to demand the dismissal of any person employed by the Contractor in, about, or upon the Work who misconducts himself or is incompetent or negligent in the due and proper performance of his duty and such person shall not again be employed by the Contractor without written consent of the Engineer. Should the Contractor continue to employ or reemploy any such person, the Engineer may withhold all estimates, which are or may become due or he may suspend the Work until the Contractor complies with such orders.

The methods and appliances used, the labor employed, and the machinery and equipment used shall be of sufficient size and in such condition as to meet the requirements and produce a satisfactory quality and quantity of work and complete the Contract within the specified time. No change in the machinery and equipment employed on the Work, which shall have the effect of decreasing its capacity, shall be made except by written permission of the Engineer. The measure of the capacity of machinery and equipment shall be its actual performance on the Work.

In case the actual progress shall fall behind the estimated progress at any time, or should it become apparent that the Contractor will be unable to complete the Contract at the time and manner specified in the Contract, the Engineer may require that additional equipment meeting with his approval be placed on the Work. Should the Contractor fail to furnish suitable or sufficient tools, machinery or equipment, or labor for the proper prosecution of the Work, the Engineer may withhold all estimates, which are or may become due until his orders are complied with or the Contract may be annulled as hereinafter provided.

Equipment used on any portion of the Work shall also be such that no injury to the roadway, adjacent property, or other highways will result from its use.

#### **8.05 TEMPORARY SUSPENSION OF WORK**

The Engineer shall have the authority to suspend the Work wholly or in part for such period as hereby deemed necessary, due to conditions which he considers unfavorable for the suitable prosecution of the Work, or for failure on the Contractor's part to carry out orders given or to perform any provision of the Contract. No additional compensation shall be paid the Contractor on account of such suspension. The Contractor shall immediately respect the written order of the Engineer to suspend the Work wholly or in part. Upon suspension, the Work shall be put in proper and satisfactory condition, carefully covered and properly protected as directed by the Engineer. The Contractor shall not suspend the Work without such authority and the Work shall be resumed when conditions are favorable and methods are corrected, as ordered in writing by the Engineer, and the Contractor shall provide the Engineer with sufficient advance written notice of when he proposes to resume Work to afford the Engineer opportunity to re-establish inspection.

Should the progress of the Work be stopped by temporary injunction, court, restraining order, process or judgment of any kind directed to either of the parties hereto, then such period of delay shall not be charged against the Contract time. The City is not liable to the Contractor because of such delay or termination of Work.

If for any reason it should become necessary to stop work for an indefinite period, the Contractor shall restore all materials in such a manner that they will not obstruct or impede the traveling public or become damaged in any way and he shall provide suitable drainage and take every precaution to prevent damage to or deterioration of the Work performed.

#### **8.06 DETERMINATION OF CONTRACT TIME**

The number of working days or calendar days allowed or the calendar date specified for completion of the work included in the contract will be fixed by the City of Auburn, will be stated in the proposal and contract, and will be designated as the contract time.

Contract time charges shall begin when the Contractor begins work on a pay item or incidental work that will interfere with traffic and in no case later than 15 calendar days after the signing of the contracts/bonds.

**8.07 EXTENSION OF CONTRACT TIME**

No extension of the time set for completion of the Work will be made unless the Contractor demonstrates to the satisfaction of the Engineer that weather conditions, quantity of work or other factors varied substantially from what was expected. The Contractor is advised to consider normal rainfall during the contract time, as determined by the NOAA report. If a time extension is granted, the extension shall be in the same ratio as the increase in the total cost. The day will be rounded up to the next half-day increment. The following equation shall be used for the computation of time extension:

$$\frac{\text{Change Order total (\$)}}{\text{Original Contract Price (\$)}} = \frac{\text{Time Extension (day)}}{\text{Original contract time (days)}}$$

**8.08 FAILURE OR DELAY IN COMPLETING WORK ON TIME**

Time is of the essence of this Contract. Should the Contractor or the Surety fail to complete the Work within the time stipulated in the Contract, or within such extra time as may be allowed as provided herein, the Contractor and the Surety shall be liable to the City for Liquidated Damages as described in the Instructions to Bidders. Permitting the Contractor to continue and finish the Work or any part of it after the calendar date specified for completion or after the expiration of the number of working days allowed for completion, after any extension of time, shall in no way operate as a waiver on the part of the City of the rights of the City under this Contract.

**8.09 DEFAULT OF CONTRACT**

If the Contractor fails to begin the Work under Contract within the time specified, or fails to perform the Work with sufficient workmen, equipment, or materials to insure its prompt completion, or performs the Work unsuitably, or neglects or refuses to remove materials or perform anew such work as shall be rejected as defective and unsuitable, or discontinues the prosecution of the Work, or from any other cause whatsoever does not carry on the Work in an acceptable manner, or becomes insolvent or is adjudicated bankrupt, or commits any act of bankruptcy or insolvency, or allows any final judgment to stand against him unsatisfied for a period of ten (10) days, the Engineer may give notice in writing by registered mail to the Contractor and the Surety of such default. If within ten (10) days after such notice the Contractor does not proceed to remedy the default to the satisfaction of the Engineer specified in said notice, or the Surety does not proceed to take over the Work for completion under the direction of the Engineer, the City shall have full power and authority, without impairing the obligation of

the Contract or the Contract Bonds, to take over the completion of the Work; to appropriate or use any or all material and equipment that may be, in the opinion of the Engineer, suitable and acceptable; to enter into agreements with others for the completion of the Contract according to the terms and provisions thereof; or to use such other methods as in its opinion may be required for the completion of the Contract in a manner acceptable to the Engineer. The Contractor and his Surety shall be liable for all costs and expenses incurred by the City, in completing the Work and for all liquidated damages in conformity with the terms of the Contract. In case the sum of such liquidated damages and the expense so incurred by the City is less than the sum which would have been payable under the Contract if it had been completed by the Contractor or his Surety, the Contractor or his Surety shall be entitled to receive the difference; and in case the sum of such expense and liquidated damages exceeds the sum which would have been payable under the Contract, the Contractor and his Surety shall be liable and shall pay the City the amount of such excess. Notice to the Contractor shall be deemed to be served when delivered to the person in charge of any office used by the Contractor, his representative at or near the Work or by registered mail addressed to the Contractor at his last known place of business.

#### **8.10 EXTRA AND FORCE ACCOUNT WORK**

For rental rate of equipment (other than small tools) authorized by the Engineer for use on Force Account work, the Engineer will use the latest publication of the Rental Rate Blue Book published by Dataquest Incorporated of San Jose, California, to determine payment to the Contractor. Payment will be made for the actual time that the authorized equipment is in operation on the Force Account work. The hourly rate for each piece of equipment will be the monthly rate shown in the equipment table divided by the number of hours the equipment is used for all work in the month. Consideration will be given to paying standby cost. Operating rates and standby rates for the equipment will be computed as follows:

##### **A. Operating Rates**

The hourly rate will be multiplied by the appropriate rate adjustment factor and regional factor shown in the Rate Adjustment Table and on the Regional adjustment Map, respectively, to obtain the adjusted hourly rate. The estimated operating cost per hour from the equipment table will be added to the adjusted hourly rate to establish the operating rate.

##### **B. Standby Rates**

The use of a standby rate is appropriate when equipment has been ordered to be available for force account work but is idle for reasons, which are not the fault of the Contractor.

The standby rate will be determined by multiplying the adjusted hourly rate by 0.50.

Operating rates will be used only when the equipment is actually being used. Standby rates will be used under the following conditions:

1. The equipment must be totally dedicated to the Force Account work and not used intermittently on the Work.
2. Standby cost will not be considered until after the equipment has been operated on the Force Account work.
3. If the equipment is dedicated for Force Account for a full calendar workweek, the standby time will be forty (40) hours minus the operating time for the week. If the difference in these two figures is zero (0) or less, there will be no payment for standby.
4. If the equipment is dedicated for Force Account for a full calendar day, the standby time per day will be eight (8) hours minus the operating time for the day, if the difference in these two figures is zero (0) or less, there will be no payment for standby.

The preceding will apply without further adjustment if the Engineer approves overtime work.

If equipment is required that is not listed in the Rental Rate Blue Book, then the payment will be made for that equipment based on a certified or paid invoice for the time period covered by the invoice. In this case, the equipment must be totally dedicated to the Force Account work and no distinction will be made between operating cost and standby cost. If this equipment is owned by the Contractor, then rental rates for operating and standby costs shall be agreed upon between the Contractor and Engineer prior to its use.