



Camino Real Regional Mobility Authority

El Paso Streetcar Infrastructure Project

EXHIBIT A

GENERAL CONDITIONS

Addendum No. ~~23~~24

3.35. **Divided Highway.** A highway with separate roadways intended to move traffic in opposite directions.

3.36. ~~3.36.~~ **Downtown Loop.** The portion of the Project that includes all work towards the completion of the Project on Franklin, including turnouts to Oregon and Stanton, Kansas, Father Rahm, and Santa Fe, including the turnouts and track into Sun Metro's downtown transit center.

3.37. ~~3.37.~~ **Easement.** A real property right acquired by one party to use land belonging to another party for a specified purpose.

3.38. ~~3.37.~~ **Engineer.** The CRRMA or its designated representative.

3.39. ~~3.38.~~ **Expressway.** A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.

3.40. ~~3.39.~~ **Family Member.** A family member of an individual is the individual's parent, parent's spouse, step-parent, step-parent's spouse, sibling, sibling's spouse, spouse, child, child's spouse, spouse's child, spouse's child's spouse, grandchild, grandparent, uncle, uncle's spouse, aunt, aunt's spouse, first cousin, or first cousin's spouse.

3.41. ~~3.40.~~ **Final Acceptance.** See Section 4.17.

3.42. ~~3.41.~~ **Force Account.** Payment for directed work based on the actual cost of labor, equipment, and materials furnished with markups for project overhead and profit.

3.43. ~~3.42.~~ **Freeway.** An expressway with full control of access.

3.44. ~~3.43.~~ **Frontage Road.** A local street or road auxiliary to and located along an arterial highway for service to abutting property and adjacent areas and for control of access (sometimes known as a service road, access road, or insulator road).

3.45. ~~3.44.~~ **General Conditions.** The general and special conditions contained in Articles 1 through 8 and applicable to the project.

3.46. ~~3.45.~~ **Good Industry Practice.** The exercise of the degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from time to time from a skilled and experienced engineer, constructor or maintenance contractor seeking in good faith to comply with its contractual obligations, complying with all applicable laws and engaged in the same type of undertaking under circumstances and conditions similar to those within the same geographic area as the Project.

3.47. ~~3.46.~~ **Hazardous Materials or Waste.** Hazardous materials or waste include but are not limited to explosives, compressed gas, flammable liquids, flammable solids, combustible liquids, oxidizers, poisons, radioactive materials, corrosives, etiologic agents, and other material classified as hazardous by 40 CFR 261, or applicable state and federal regulations.

3.48. ~~3.47.~~ **Highway, Street, or Road.** General terms denoting a public way for purposes of vehicular travel, including the entire area within the right of way. Recommended usage in urban areas is highway or street; in rural areas, highway or road.

3.49. ~~3.48.~~ **Historically Underutilized Business.** A corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit certified by the Texas Building and Procurement Commission, and 51% owned by one or more persons who are economically disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic

Americans, Asian-Pacific Americans, Native Americans, or women, and have a proportionate interest and demonstrate active participation in the control, operation, and management of the business' affairs. Individuals meeting the HUB definition are required to be residents of the State of Texas. Businesses that do not have their primary headquarters in the State of Texas are not eligible for HUB certification.

3.50. ~~3.49.~~ **Incentive and Disincentive Provisions.** An adjustment to the Contract price of a predetermined amount for each day the work is completed ahead of or behind the specified milestone, phase, or Contract completion dates. The amount of the incentive and disincentive is determined based on estimated costs for engineering, traffic control, delays to the motorists, and other items involved in the Contract.

3.51. ~~3.50.~~ **Independent Assurance Tests.** Tests used to evaluate the sampling and testing techniques and equipment used in the acceptance program. The tests are performed by the CRRMA or its designated representative and are not used for acceptance purposes.

3.52. ~~3.51.~~ **Inspector.** The person assigned by the CRRMA to inspect for compliance with the Contract any or all parts of the work and the materials used.

3.53. ~~3.52.~~ **Instructions to Proposers.** The Instructions to Proposers included in a Request for Proposals containing the requirements for submitting a Proposal for a project.

3.54. ~~3.53.~~ **Intelligent Transportation System.** An integrated system that uses video and other electronic detection devices to monitor traffic flows.

3.55. ~~3.54.~~ **Interim Completion.** Substantial Completion of the Interim Milestone Work in accordance with the requirements of Article 4.16 of these General Conditions.

3.56. ~~3.55.~~ **Interim Milestone Work.** The work detailed in Technical Specifications Volume 1-EP 000-SYS, which includes (i) all work necessary to begin systems integration testing, ~~and of the Downtown Loop,~~ (ii) completion of the Maintenance and Storage Facility (MSF) including obtaining an occupancy permit from the City, ~~and (iii) completion of the yard track.~~

3.57. ~~3.56.~~ **Intersection.** The general area where 2 or more highways, streets, or roads join or cross, including the roadway and roadside facilities for traffic movements within it.

3.58. ~~3.57.~~ **Island.** An area within a roadway from which vehicular traffic is intended to be excluded, together with any area at the approach occupied by protective deflecting or warning devices.

3.59. ~~3.58.~~ **Joint Venture.** Any combination of individuals, partnerships, limited liability companies, or corporations submitting a single bid proposal.

3.60. ~~3.59.~~ **Key Personnel.** The positions designated as such in the Instructions to Proposers and/or contract documents for a project.

3.61. ~~3.60.~~ **Lane Rental.** A method to assess the Contractor daily or hourly rental fees for each lane, shoulder, or combination of lanes and shoulders taken out of service.

3.62. ~~3.61.~~ **Letting.** The receipt, opening, tabulation, and determination of the apparent best value proposal.

3.63. ~~3.62.~~ **Letting Official.** The Executive Director or any CRRMA employee empowered by the Executive Director to officially receive Proposals and close the receipt of Proposals at a letting.

15.1.5. All remaining Punch List work for the Project can be completed with no impact to traffic. If any lane closures are required to complete the Punch List items, Contractor shall be only entitled to close lanes upon approval by the CRRMA.

15.2. Substantial Completion of the Project shall be deemed to have occurred when:

15.2.1. The items set forth in Article 15.1 have occurred;

15.2.2. Contractor has corrected any defects and deficiencies in the Work relating to the Project to the satisfaction of the CRRMA, and the CRRMA has notified Contractor in writing of its acceptance, or waiver pending Final Acceptance, of such corrections and the concurrence that Substantial Completion of the Project has occurred;

15.2.3. Contractor has received all applicable governmental approvals required for the Project and to be obtained by Contractor pursuant to this Contract;

15.2.4. All adjustments have been accepted by the applicable utility owners;

15.2.5. A Punch List to be performed prior to Final Acceptance of the Project has been mutually agreed to by the CRRMA and Contractor;

15.2.6. All equipment and other Work to be provided by Contractor with respect to Project systems has been provided, completed, tested, and is fully operational;

15.2.7. All work has been completed in accordance with [Technical Specifications Volume 1-EP-000-SYS](#); and

15.2.8. ~~15.2.7.~~ The CRRMA has issued a certificate of Substantial Completion to Contractor acknowledging the satisfaction of the conditions set forth in 15.2.1 through 15.2.6 above. The CRRMA agrees to issue such certificate when such conditions have been satisfied.

15.3. Notification of Substantial Completion.

15.3.1. Contractor shall provide the CRRMA with not less than 20 days' prior written notification of the date Contractor determines it will achieve Substantial Completion. During such 20-day period, Contractor and the CRRMA shall meet and confer and exchange information on a regular cooperative basis with the goal being the CRRMA's orderly, timely inspection and review of the Project and the CRRMA's issuance of a certificate of Substantial Completion.

15.3.2. During such 20-day period, the CRRMA shall conduct an inspection of the Project and its components, a review of the final construction documents and such other investigation as may be necessary to evaluate whether Substantial Completion is achieved.

15.3.3. Contractor shall provide the CRRMA a second written notification when Contractor determines it has achieved Substantial Completion. Within five days after expiration of the 20-day period and the CRRMA's receipt of the second notification, the CRRMA shall either: (a) issue the Certificate of Substantial Completion (dated as of the date of Contractor's second notification) or (b) notify Contractor in writing setting forth, as applicable, why the Project has not reached Substantial Completion. If the CRRMA and Contractor cannot agree as to the date of Substantial Completion, such dispute shall be resolved according to the dispute resolution procedures set forth in the Contract.

16. INTERIM COMPLETION.

dress appropriately, wear high-visibility safety apparel, use flags, signs, stop-slow paddles, and other hand-signaling devices and follow the flagging procedures in the TMUTCD. Comply with the requirements of Article 6.2.6.6, "Training."

2.6.4. **Law Enforcement Personnel.** Provide uniformed law enforcement personnel with patrol vehicles as directed. Document the work zone traffic services provided. Law enforcement personnel providing work zone traffic services must be trained for the service they perform. This item shall be paid for by force account and as directed by the CRRMA. Comply with Article 6.2.6.6, "Training."

2.6.5. **Other Work Zone Personnel.** Workers involved with TCP must be trained using CRRMA-approved training.

2.6.6. **Training.** Workers involved with TCP must be trained using TxDOT-approved training. Provide a copy of the certification of completion to the CRRMA.

2.7. Measurement and Payment

2.7.1. The Contractor shall not be compensated for the preparation of the Health and Safety Plan and other safety submittals under this section, including effort to respond to the CRRMA's comments, updating and daily implementation or finalization of the Health and Safety Plan.

2.7.2. The Contractor shall receive no separate payment for updating the HASP and site health and safety file, safety practices and dust control conducted, and safety equipment and materials provided by the Contractor during the Project. These costs shall be included in the bid for related contract items.

3. LAWS TO BE OBSERVED

Comply with all federal, state, and local laws, ordinances, and regulations that affect the performance of the work. Indemnify and save harmless the CRRMA and its representatives against any claim arising from violation by the Contractor of any law, ordinance, or regulation.

This Contract is between the CRRMA and the Contractor only. No person or entity may claim third-party beneficiary status under this Contract or any of its provisions, nor may any non-party sue for personal injuries or property damage under this Contract.

The Contractor shall not be entitled to a Change Order related to a change in applicable law after the date proposals are due unless the change results in an increase in Contractor's costs of at least \$150,000 as a result of (1) a new major state or federal environmental approval not previously required for the Project, or (2) a law that specifically targets the Project or the Contractor.

4. PERMITS, LICENSES, AND TAXES

Procure all permits and licenses; pay all charges, fees, and taxes; and give all notices necessary and incidental to the due and lawful prosecution of work, except for permits provided by the CRRMA and as specified in Article 6.7, "Preservation of Cultural and Natural Resources and the Environment."

Contract. The dollar amount specified in the Contract will be deducted from any money due or to become due the Contractor for each calendar day the Project remains incomplete. This amount will be assessed not as a penalty but as liquidated damages.

6.2. **Failure to Timely Complete Interim Milestone Work.** If the Contractor fails to complete the Interim Milestone Work, ~~which includes all work necessary to begin systems integration testing as defined in Technical Specifications Volume I-EP-000-SYS, and completion of the Maintenance and Storage Facility (MSF) including obtaining an occupancy permit from the City, within 709~~as defined in [Article 1.3.56, within 809](#) calendar days of the issuance of notice to proceed, then the Contractor shall pay to the CRRMA, as liquidated damages, the amount of \$5,000 per calendar day until Substantial Completion of the Interim Milestone Work is achieved, subject to a cap of \$1,500,000 on liquidated damages for failure to timely achieve Substantial Completion of the Interim Milestone Work.

6.3. **Timely Completion of the Project.** The Contractor shall achieve Substantial Completion of the Project, [as defined in Article 1.3.123](#), within 1,105 calendar days of the issuance of notice to proceed.

6.4. **Payment of Liquidated Damages.** The Contractor shall pay to CRRMA any liquidated damages owed on a monthly basis, or at the option of CRRMA, CRRMA may deduct any accrued and unpaid liquidated damages from Contractor's monthly draw request.

7. DEFAULT OF THE CONTRACT

7.1. **Declaration of Default.** The CRRMA may declare the Contractor to be in default of the Contract if the Contractor:

- fails to begin the work within the number of days specified,
- fails to prosecute the work to assure completion within the number of days specified,
- is uncooperative, disruptive or threatening,
- fails to perform the work in accordance with the Contract Documents requirements,
- neglects or refuses to remove and replace rejected materials or unacceptable work,
- discontinues the prosecution of the work without the CRRMA's approval,
- makes an unauthorized assignment,
- fails to resume work that has been discontinued within a reasonable number of days after notice to do so,
- fails to conduct the work in an acceptable manner, or
- commits fraud or other unfixable conduct as determined by the CRRMA,

If any of these conditions occur, the CRRMA will give notice in writing to the Contractor and the Surety of the intent to declare the Contractor in default. If the Contractor does not proceed as directed within 10 days after the notice, the CRRMA will provide written notice to the Contractor and the Surety to declare the Contractor to be in default of the Contract. If the Contractor provides the CRRMA written notice of voluntary default of the Contract, the CRRMA may waive the 10 day notice of intent to declare the Contractor in default and immediately provide written notice of default to the Contractor and the Surety. Calendar day charges will continue until completion of the Contract. The CRRMA may suspend work in accordance with Section 7.4., "Temporary Suspension of Work or Calendar Day Charges," to investigate apparent fraud or other unfixable conduct before defaulting the Contractor.

The CRRMA will determine the method used for the completion of the remaining work as follows: