

## SECTION 5 – SPECIAL PROVISIONS

### TriMet Powell Garage – Gantry EV Charging Infrastructure

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## **SPECIAL PROVISIONS**

### **SP-01 TIME OF COMPLETION**

- A. Contractor shall commence performance of the Work immediately upon receipt of a Notice to Proceed (NTP) from TriMet.
- B. Contractor shall complete all Work in accordance with the Contract schedule milestones listed herein. Contractor shall work such hours including overtime operations and/or extra shifts, within the parameters of permitted working days and hours, as may be necessary to meet its performance obligations under the Contract at no additional cost to TriMet.
- C. As required by the RFP, Contractor shall cooperate with TriMet to minimize hindrance, impacts to on-going TriMet operations, and conflicts.
- D. Compliance with the requirements of local authorities shall not relieve the Contractor of any responsibility for meeting its obligations under the Contract. Unless TriMet makes changes to the Contract that are outside the original scope of work, there shall be no additional payment to the Contractor or extensions of the milestone completion times for Work that is required by local authorities in their administration of local codes, standards and/or permit conditions.
- E. Dates for completion of Contract milestones shall be adjusted if:
  - 1. An extension of time for completion of a milestone is granted, the extended date for completion of the milestone shall be calculated using the original date of completion plus the number of days extension of time.
  - 2. Any extension of time for completion of a milestone is granted subsequent to the first extension of time, the new extended date for completion of that milestone shall be calculated using the revised date of completion plus the current number of days granted for the previous extension of time.
  - 3. Any date so determined is a Saturday, Sunday or legal holiday, the time for completion shall run until and shall include the next day not a Saturday, Sunday or legal holiday.
  - 4. The Contractor shall not occupy staging areas or mobilize on site until all necessary permits have been received. Contractor shall notify TriMet's Construction Manager a minimum of two weeks prior to commencing mobilization at the site.
- F. The descriptions of the following Contract schedule milestones are necessarily abbreviated and shall be understood to include all work reasonably necessary to achieve their stated intent.
  - 1. As required by RFP, the contractor shall cooperate with TriMet to minimize hindrance, impacts to on-going TriMet operations, and conflicts.

2.

<b>Contract Schedule Milestone No.</b>	<b>Date</b>	<b>Calendar Days After NTP</b>	<b>Description</b>
1	July 31 <sup>st</sup> , 2025		Substantial Completion
2	September 3, 2025		Final Completion
3	November 5, 2025		Contract Closeout

- G. The Contractor shall develop and maintain a project schedule in accordance with Specification Section 01 32 16 Construction Progress Schedule. The Contractor shall update the schedule, keeping it realistic and accurate as a useful tool for project management, monitoring of work and processing progress payments. The schedule shall show major submittals and reviews, access constraints, permits, work sequencing, delivery of Owner Furnished Materials, long lead items, all construction, installation and testing activities, defined Owner inspection hold points, substantial completion date and final completion date. Critical items that are the responsibility of TriMet or any jurisdictions shall be identified.
- H. As part of each monthly invoice and CPM update, the Contractor shall provide a management report addressing the work accomplished during the previous month and anticipated work for the coming month. The purpose of the report is to recap progress and to proactively identify potential issues that could affect overall schedule and budget. Monthly reports will include: an overview, Summary of activities performed during the month, schedule and budget status, activities forecast for the upcoming months, and potential issues that may affect overall schedule and budget, with recommended solutions.

## **SP-02 LIQUIDATED DAMAGES**

- A. TriMet will sustain financial damages as a result of the Contractor's failure to complete the Work in accordance with Contract Schedule Milestones listed in SP-01 Time of Completion. These damages may include, but are not necessarily limited to the following:
1. Delays in TriMet's beneficial occupancy ('use') of the project leading to decreased efficiency in the operation of TriMet's transit system.
  2. Increased costs of Construction Contract administration.
  3. Cost resulting from delays to interfacing and follow-on contractors.
  4. Cost associated with delays to operation training and start-up.
  5. Increased facility lease and relocation costs.
- B. Because the actual amount of these damages is and will be difficult to accurately determine, the parties agree that the damages for failure to complete the Contract Schedule Milestones

within the time periods stated in SP-01 Time of Completion shall be as stated in Table SP-02, below.

- C. For delay in completion of any Contract Schedule Milestone listed in Table SP-02, the Contractor shall pay to TriMet as liquidated damages and not as a penalty, the following sums for each day of delay or any fraction thereof. The total liquidated damages will not exceed the total Contract price. If completion of more than one Contract Schedule Milestone is delayed, whether concurrently with other milestones or not, the total amount of liquidated damages due shall be the sum of the amounts due for each Contract Schedule Milestone.

**TABLE SP-02 LIQUIDATED DAMAGES**

<b>Contract Schedule Milestone No.</b>	<b>Description</b>	<b>Liquidated Damages per each Milestone</b>
1	See SP-01 above.	\$500/Calendar Day
2	See SP-01 above.	\$700/Calendar Day

- D. TriMet may deduct the sum of liquidated damages from any monies due or that may become due to the Contractor. If such monies—progress payment invoices, are insufficient to allow deduction of liquidated damage amounts, the Contractor or its surety shall pay to TriMet any outstanding balance after deduction.
- E. The remedies provided in this Special Provision are not exclusive, and are in addition to other rights and remedies provided by law or under this Contract.
1. Contractor and subcontractors shall be enrolled in the required insurance programs. The Contractor shall provide all bonds and insurance certificates, including those additions of named insureds, that are required by the applicable local jurisdiction in order to obtain permits.

**SP-03 PERMITS**

- A. Insurance
1. Contractor and subcontractors shall be enrolled in the required insurance programs. The Contractor shall provide all bonds and insurance certificates, including those additions of named insureds, that are required by the applicable local jurisdiction in order to obtain permits
- B. TriMet-Furnished Permits:
1. Notwithstanding the provisions of the General Provisions Section 00701, Permits, Fees, and Notices, and Section 00702, Compliance with Laws and Regulations, TriMet will furnish the following permits without cost to the Contractor:
    1. Commercial Building Permit
  - ii. The Contractor shall provide supplemental information as required for TriMet-furnished permits to fulfill permits terms and conditions.

- iii. Should the Contractor propose to perform work in a manner which varies from the limitations and/or requirements of a TriMet-furnished permit, the Contractor shall submit such proposed variations to TriMet with supporting documentation and basis for change. TriMet will evaluate and, if acceptable to TriMet, will forward each request to the jurisdiction for review and action. The Contractor is responsible for all changes in costs resulting from a deviation to TriMet-furnished permits. TriMet will not approve any proposed permit deviation which causes a delay in completion of the work.

C. Contractor-Obtained Permits

1. Contractor shall obtain all other permits required for the performance of the Work.
2. Contractor shall prepare Maintenance of Traffic plans.

D. Reimbursement

1. The Contractor shall comply with all permit requirements of local authorities, as though they were specified herein as costs incidental to the Contract Bid Items, at no additional cost to the Owner or said authorities.

E. The Contractor shall provide and prepare all materials, plans, data, and exhibits in form and quantity as required for permit applications.

F. Permit Requirements

1. The Contractor shall comply with all permit requirements of authorities having jurisdiction, as though they were specified herein, at no additional cost to the Owner or said authorities. In the event of a conflict between the Contract Documents and any permit requirements, the permit conditions shall prevail. The Contractor shall understand that local codes and permit conditions are incorporated by reference herein.
2. The Contractor shall provide TriMet with copies of all permit applications at the same time as they are submitted to jurisdictions. Contractor shall provide status reports to TriMet and copies of all approved permits as they are issued by the jurisdictions. Contractor shall obtain final approvals and final closeout actions for each permit as required by the jurisdictions. Contractor shall provide documents to TriMet evidencing that each permit has been finalized and closed out.
3. The Contractor shall obtain the Construction Manger's written approval prior to agreeing to any permit conditions that affect the cost to TriMet of the Work, time of completion of the Work, or which could affect future operational, maintenance, monitoring, or inspection obligations.

**SP-04 PREVAILING WAGE RATES**

- A. The Contract is for public work subject to Davis Bacon Act (40 U.S.C. 3141 et seq) Prevailing Wage Rate requirements and State of Oregon Prevailing Wage Rate requirements (ORS 279C.800 to 279C.870).
- B. The federal prevailing wages that apply are published under the wage determination General Decision Number OR20240059, Modification No. 9 dated July 19, 2024 for "Heavy Construction Project" classification in Multnomah County. The wage determination is attached to the RFP as Exhibit C.

- C. The Prevailing Wage Rate for Public Works Contracts in Oregon, dated July 5, 2024, are located at the following website: <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>
- D. Contractor and all subcontractors at every tier shall pay workers not less than the minimum hourly wage rates in effect on the above listed dates. Workers must be paid not less than the applicable state or federal prevailing wage rate in the job classification applicable to the work they perform, whichever is higher.
- E. The Contactor shall incorporate all prevailing wage requirements into all subcontracts.

**SP-05 NOT USED**

**SP-06 NOT USED**

**SP-07 DIVERSITY**

**Disadvantaged Business Enterprise (DBE) Reporting Requirements**

- A. The Contractor and any subcontractor with Disadvantaged Business Enterprise (DBE) utilization must maintain records of all subcontracts entered into with DBEs and records of materials purchased from any DBE suppliers. **Records of DBE utilization shall be entered into TriMet's Diversity Compliance Reporting System** developed by B2Gnow, which is an on-line database manager, more fully described below. DBE records must show the name and business address of each DBE subcontractor or vendor and the total dollar amount actually paid to each DBE subcontractor or vendor.
- B. The participation of a DBE subcontractor will not be considered part of the prime contractor's DBE achievements until progress payments, as well as any retainage held by the prime contractor, has been paid to the certified firm. Prime Contractor's payment applications will not be approved, until all monthly data is entered into the Diversity Compliance Reporting System.
- C. B2Gnow is an online, web based contract diversity compliance system intended to track DBE participation. This system addresses public project reporting and monitors requirements set forth by state and federal laws. It is intended to reduce the reporting burden on contractors and subcontractors while at the same time easing administrative efforts placed on public agencies to monitor these compliance issues. For more information, go to <https://trimet.diversitycompliance.com/>.
- D. For construction and maintenance contracts, **all Certified Payroll must be entered into LCP Tracker weekly**. LCP Tracker is cloud-based solutions for certified payroll, prevailing wage compliance, and workforce diversity reporting. For more information, go to <https://lcptracker.com>.
- E. TriMet will provide access to online training sessions at the start of the contract to introduce the online reporting systems to the Contractor's and subcontractors' administrative teams.
- F. Contractor shall provide this work at no additional cost to TriMet.

## **SP-08 TRIMET CONSTRUCTION SAFETY**

- A. The TriMet Construction Safety Program (CSP), included in this Contract as Appendix C, sets forth the minimum safety requirements and procedures for accident prevention, safety, and loss control for the Work. Failure to comply with these minimum requirements may be considered a material breach of Contract resulting in termination for default. Contractor shall develop and submit to TriMet a Project-Specific Safety Program that complies with the requirements of Appendix C.
- B. The Contractor shall develop and submit to TriMet a Project-Specific Safety and Security Program that complies with the requirements of the latest version of Appendix C within 14 days of NTP:
  - 1. That will apply to all work under this Contract including Subcontractors and Vendors performing services on site.
  - 2. An accepted Contractor Site Specific Safety and Security Plan (SSSP) must be in place before ANY physical site work begins.
  - 3. Modify the plan as needed as site conditions, identified hazards, number of employees and project site activities change during the project duration. For Contracts (projects) with a duration of more than one year, the Contractor's Safety Plan (Program) shall undergo review, update and resubmission to TriMet annually.
- C. It is not the intent of TriMet or their representatives to develop, manage, direct or administer the safety, security and health programs of the Contractor, its Subcontractors or Suppliers, or in any way assume the responsibility for the safety and health of their personnel and the conditions for all work sites under the contract scope of work.
- D. It is not the intent of TriMet to list and identify all applicable safety codes, standards and regulations requiring compliance by all Contractors, Subcontractors, Suppliers and Vendors. The Contractor shall identify and determine all safety codes, standards and regulations that are applicable.
- E. Failure to comply with these requirements may be considered a material breach of Contract resulting in termination for default. Observed safety or security deficiencies will require immediate corrective actions with written response to TriMet within 24 hours of verbal or written notice. Lack of corrective action or sufficient response may result in a Stop-Work Order. The Contractor shall be responsible for the cost and time of such stoppage. Any resulting impact to Contract Price and Contract Time will not be recoverable under the Contract.
- F. TriMet reserves the right to remove employees or require the Contractor to document disciplinary actions for employees, Subcontractors, or Supplier employees performing the work that fail or refuse to adhere to all safety requirements and regulations established by regulatory agencies, TriMet safety policies or the Contractor's SSSP.
- G. All safety and security related records and documents must be accessible to TriMet upon request.

## **SP-09 QUALITY**

- A. The Contractor shall develop and submit to TriMet a Construction Quality Control Plan (CQCP) that provides for systematic, consistent and authoritative control of the quality of work produced by the Contractor and any Subcontractors/Suppliers. The CQCP shall be submitted to TriMet

within the twenty-one (21) days after issuance of Notice to Proceed. Following TriMet's approval of the CQCP, the Contractor shall execute the plan.

- B. The CQCP shall address the following items, as applicable to the scope of the Contract:
1. Management Responsibility and Staffing, to include:
    - a. The identification and assignment of one individual as a QC Manager (QCM) with appropriate qualifications and authority who is responsible for managing the Contractor's Quality Control Plan who will be on site when all work is being performed
    - b. An Organization Chart showing the relationship between the QCM, Project Management, Inspection Staff, Materials Testing Laboratory and the Subcontractors
  2. Quality Program and Documentation, to include:
    - a. Daily Inspection Report (DIR) content (See Item SP-09.3 below.)
    - b. Design Control, including ongoing management of as-built documents
    - c. Document Control, providing a clear-cut audit trail
    - d. Purchasing, Equipment Procurement and Construction including list of Suppliers/Subcontractors and their scopes of work
    - e. Control of Materials, Product Identification and Traceability including Material Receiving Form/Register, identification/separation of unacceptable items, etc.
    - f. Control of Special Quality Processes, such as on-site welding, brazing, post-tensioning, etc.
    - g. Inspection and Testing Plan (ITP), based upon requirements delineated in the Contract specifications
    - h. Control of Work through Checklists, based upon requirements delineated in the Contract specifications
    - i. Inspection and Test Status, including pass/fail status (See ITP)
    - j. Non-Conforming Work including definitions, documentation, disposition and remediation process
    - k. Corrective Action, for repetitive non-conformances
    - l. Quality Records, such as DIRs, material test reports
    - m. Quality Audits - Internal and External
    - n. Training of project staff in the requirements of the CQCP
    - o. Training/orientation to crews for work to be done and attention to Contract and permit requirements
    - p. Certification of Payment Requests and Completion of Work
    - q. Procedures for performing the requirements of permitting and governing agencies including providing the necessary evidence to document compliance with permit requirements.
    - r. Providing final as-built drawings/report
  3. The Quality Control Daily Inspection Report that includes:
    - a. List of quantities of materials received on site
    - b. Work performed (incl. utility work)
    - c. Equipment on site
    - d. Tests and inspections performed and/or witnessed
    - e. Potential problems
    - f. Summary of any discussions or instructions given or received that are relevant to the work being performed
    - g. List of visitors to the job site



- C. TriMet may conduct audits of the Contractor and any Subcontractors during the performance of the Work. The Contractor shall provide access and assistance to TriMet's auditor as necessary.
- D. Upon request by the Contractor, TriMet will provide a sample Construction Quality Control Plan for amendment by the Contractor, to be submitted for review/comment to TriMet as a project CQCP.
- E. Failure to Perform
  - 1. In the event the Contractor fails to adequately perform any or all of the requirements of this Special Provision, TriMet, at its sole discretion, reserves the right to have the TriMet Construction Manager or a designee perform any or all of the requirements of this Special Provision and back charge the Contractor for the actual cost to TriMet of such services. This remedy for Contractor's failure to perform shall be in addition to any other right or remedy available to TriMet under this Contract.
- F. Payment for Work covered under this Special Provision will be paid for at the Contract lump sum amount listed in the Contract bid form for Quality Control in accordance with the approved schedule of values.

#### **SP-10 RIGHTS-OF-WAY, EASEMENTS, AND PREMISES**

- A. Unless Contractor receives written permission from private property owners, or as otherwise identified in this Contract through definition of approved Limits of Work, the Contractor shall confine its construction activities to TriMet's property or TriMet's area of Continuing Control within other governmental entities right-of-way, as permitted by the controlling jurisdiction, and to construction staging areas provided by TriMet.
- B. Contractor shall notify TriMet's Construction Manager in advance of, and prior to, Contractor's negotiations with any property owner(s) for any proposed use of private property outside the right-of-way and not otherwise provided through TriMet agreements. Prior to use, the Contractor shall file with TriMet's Construction Manager written permission from the property owner(s).
- C. The Contractor shall coordinate with TriMet's Construction Manager to define anticipated impacts and to assist in the communications and coordination with property owners and residents.

#### **SP-11 CONTRACTOR STAGING**

- A. TriMet will provide a limited amount of designated parking and staging area(s) for construction related activities only.
- B. Contractor shall install temporary security lighting and temporary fencing and access gates at perimeter of all staging areas. Contractor shall restore all staging, access, and construction impacted areas to pre-use condition or better, or as required elsewhere in this Contract.
- C. Contractor shall seek to minimize the duration of use of staging and access areas to minimize construction impacts.
- D. All Contractor and subcontractor vehicles shall be identified with company name and/or logo. No personal unmarked vehicles will be allowed.

- E. Contractor shall prevent Contractor and subcontractor employees from parking in public areas. Contractor shall prevent Contractor and subcontractor employees from parking in TriMet employee parking lots.
- F. Contractor shall communicate parking requirements to all subcontractors. Contractor parking will not be permitted in private parking lots of businesses without the expressed written consent of property owner.
- G. Develop and submit for approval a staging and access plan for all work 21 days prior to any mobilization on site.

## **SP-12 NOISE AND WORK HOUR RESTRICTIONS**

- A. In addition to the requirements of General Provisions Article 00715, Noise and Vibration Control the following requirements apply to the work:
- B. The effective control of construction related noise is important to the successful completion of this project. General restrictions are set forth in Specification Section 01 14 00 Work Restrictions. The Contractor shall request TriMet's Construction Manager approval prior to applying for variances from the applicable local jurisdiction that would allow construction activities at noise levels higher than those normally allowed and/or occurring outside of the specified work hours. TriMet's Construction Manager may reject Contractor's request for noise or work hour variances in certain areas.
- C. The Contractor is advised that there are residential housing adjacent to the site and other noise sensitive sites adjacent to the work sites. The Contractor shall implement all reasonable precautions to minimize noise impact to these sensitive areas at no additional cost or time to TriMet.
- D. The Contractor shall perform all Work in compliance with the applicable local jurisdiction's Noise Ordinance, including, but not limited to,
  - 1. City of Portland, Chapter 18.04 from the City of Portland Nuisance Abatement and Noise Control document,
  - 2. O.R.S. Chapter 468, Department of Environmental Quality requirements,
  - 3. Regulations of other Federal, State, and local agencies regarding construction operation noise.
  - 4. Wherever conflicts exist between this Special Provision and the local ordinances, the more restrictive requirements apply.
- E. TriMet's Construction Manager, another person authorized by TriMet, and/or the applicable local jurisdiction representatives, may conduct monitoring of construction noise. Upon notification by TriMet's Construction Manager, or the applicable local jurisdiction that a violation of the Noise Control Code exists or has occurred, the Contractor shall use all means necessary to comply with the Noise Control Code. The Contractor shall pay for the costs necessary to reduce noise levels to those specified in the Noise Control Code or to obtain a variance from the specified levels.
- F. The Contractor shall schedule noisy operations to minimize their duration.

- G. The Contractor shall provide the following noise abatement equipment at its own expense, or operate construction equipment in the following manner to avoid exceeding noise limitations:
1. Each internal combustion engine used for any purpose on the job or related to the job shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.
  2. Equipment that cannot meet the noise levels specified under the local jurisdiction Noise Control Ordinance or those set forth by the EPA for construction equipment shall be quieted by use of improved exhaust mufflers or other means.
  3. Noisy portable equipment, such as generators or compressors, shall be located as far away from sensitive areas as practicable.
  4. Noise barriers shall be constructed around stationary construction equipment that must be used near the property line.
  5. Equipment idling but not in active use shall be shut off.
  6. In accordance with applicable permits, nearby residents and businesses shall be given advance notification of the time periods when extremely noisy work will be occurring. Contractor will provide the notification. The basis for such notification shall be provided by the Contractor to TriMet's Construction Manager through the project schedule.
  7. Trucks are prohibited from using un-muffled compression brakes.
  8. All loose equipment on every truck shall be secured to prevent such equipment from generating noise when the truck is in motion. This requirement applies to cargo being transported, tie-down equipment, parts of the truck, and any other item that could be anticipated to generate noise during truck movement.
- H. Notification of special circumstances or emergency conditions that require work beyond the hours specified above shall be provided as follows:
1. The Contractor shall request preauthorization from TriMet's Construction Manager in advance of any proposed extended work hours. To the extent possible by the nature of the special circumstance, Contractor shall provide this notice 24 hours in advance of the proposed work.
  2. Notification shall include a written request for authorization to perform the specified work and the circumstances that warrant this request. Notification shall also include the approval of the local jurisdiction and any additional measures to mitigate noise generated by this construction activity.
  3. If an emergency situation that warrants extended hours occurs, the Contractor shall notify TriMet's Construction Manager immediately upon determining the need for this work.

### **SP-13 ACCESS AND OTHER RESTRICTIONS**

- A. The Contractor is required to accommodate and cooperate with construction performed by other contractors, utilities, and other agencies. Refer to SP-31 Other Contractors Advisory.

- B. Contractor shall mark Work limits with traffic barriers, orange safety fencing or other pre-approved methods prior to beginning work. Contractor shall confine all work to these limits except as provided herein, or as approved by TriMet. If work limits are not established by permit or Contract Documents, said limits shall be determined by TriMet's Construction Manager and shall be suitably marked by the Contractor, prior to beginning work.
- C. The Contractor will be responsible for preparing any necessary temporary traffic control plans (TCP) and obtaining the applicable jurisdiction's approval of those plans. The Contractor shall submit the TCP to applicable stakeholders, (10) workdays before work commences, or earlier if otherwise required by TriMet Operational staff or CM. Once approved and prior to beginning work, the Contractor shall submit to TriMet a copy of the TCP and related documents that clearly demonstrates that the submitted plans have been approved by the applicable jurisdiction. The Contractor shall not begin operations that require traffic control until the setup of traffic control devices is completed in accordance the jurisdiction's approved traffic control plans. All Traffic Control Devices (TCDs) supplied by the Contractor must be maintained in good, clean condition and the installation of TCDs, materials and procedures shall conform to the Manual of Uniform Traffic Control Devices.
- D. The Contractor is advised to take into consideration existing overhead clearances relative to power lines for the type of construction equipment to be used. If the contractor requires shut down of power to accommodate construction activities, the Contractor shall coordinate with and shall pay all the fees imposed by the applicable utility company.
- E. During construction, Contractor shall erect and maintain all necessary barricades, bridges, and temporary means of pedestrian access to properties and along public rights-of way. These access ways shall be skid resistant, a minimum of 4 feet wide, and shall minimize out of direction travel to the extent practical. The Contractor shall clean on a daily basis and as needed, public pedestrian and bicycle areas in order to eliminate accumulation of dirt, mud, and other debris. Ramps shall be constructed with a slip-resistant surface. Use of plywood sheets or boards without a supporting structure is unacceptable. Contractor shall provide wayfinding signage to ensure pedestrians have information to select established 'detour' routes well in advance and at decision points upstream of the temporarily affected route.
- F. Driveway access will be maintained at all times except while driveway entrances are being constructed.
- G. Demolition and reconstruction work in front of business or commercial land uses shall be done in a manner that does not interrupt continual access to that land use. If work cannot be done without disruption to continual access, the Contractor shall reschedule that work during the adjacent land use's non-work hours. This rescheduling of work may require the Contractor to work at night or Saturdays or Sundays, provided the conditions of this Contract such as Project Noise and Vibration Criteria can be met.
- H. Contractor shall schedule the work to accommodate TriMet's continuous occupancy and/or customer use requirements during the construction period and shall coordinate the construction schedule with the operation needs of TriMet. TriMet will occupy the site during the entire period of the work and will require clear access to all buildings on the site. Contractor shall cooperate with TriMet's Construction Manager in pre-planning, communicating, and implementing the planning that will minimize conflicts and facilitate TriMet's operations.

- I. Adjacent to roadway excavations, where paved shoulders adjacent to excavations are less than four feet wide, the Contractor shall protect traffic at the end of each working day by back-filling pavement edge excavations to the elevation of the existing pavement with base material at a maximum 4:1 slope or to protect the edge with temporary fences or barriers approved by TriMet's Construction Manager.

#### **SP-14 PROTECTION OF PROPERTY AND RESTORATION**

The Contractor shall:

- A. Protect all public and private property, insofar as it may be endangered by Contractor's operations, and take every reasonable precaution to avoid damage to such property. Immediately notify TriMet in the event that damage occurs due to Contractor actions.
- B. Protect in place all trees, lawns and planted areas within or adjacent to the right-of-way or construction limits unless specifically identified for demolition in the Contract Documents. Restore all disturbed areas.
- C. Review with TriMet's Construction Manager the locations, limits and methods to be used prior to clearing work. Clearing and grubbing shall be performed in compliance with all local, State and Federal laws and requirements pertaining to clearing and burning, particularly in conformity with the provisions of ORS Chapter 477, and all subsequent amendments. Obtain the required permit from the State and/or local jurisdiction before performing clearing work in conformance with the permit.
- D. Give a minimum two weeks' notice to occupants of buildings on property adjacent to the Work to permit the occupants to remove vehicles, trailers, and other possessions as well as salvage or relocate plant, trees, fences, sprinkler systems, or other improvements in the right-of-way which are designated for removal or which might be destroyed or damaged by work operations.
- E. Restore and bear the cost of restoration of any public or private improvement, facility, structure, land or landscaping which is damaged or injured directly or indirectly by or on account of any act or omission of Contractor in the execution of any Work under this Contract, or by neglect by Contractor in the execution of any Work under this Contract.
- F. Restoration will be to a condition substantially equivalent to that existing before such damage or injury occurred, by repairing, replacing, rebuilding, or otherwise affecting restoration thereof, or if this is not feasible, make a suitable settlement with the owner of the damaged property. All restoration shall be governed by the requirements of local authorities, including but not limited to local codes and standards.

#### **SP-15 CONSTRUCTION DEBRIS RECYCLING**

- A. The Contractor will recycle, salvage, and/or reuse construction debris and the items to be demolished whenever practical. Recycling and salvaging of materials shall be in accordance with the construction specifications of the applicable jurisdiction.
- B. Contractor shall submit a Recycling, Reuse and Salvage Plan (RRSP). This RRSP shall include specific recycling, reuse and salvage opportunities, proposed approaches to tracking and documenting these activities, and estimated cost effectiveness for each opportunity. The RRSP shall include a Construction Waste Management Plan as required by Section 01 74 19 Construction Waste Management and Disposal.

## **SP-16 ALTERNATIVE DISPUTE RESOLUTION**

- A. Should any dispute arise between the parties concerning this Contract that is not satisfactorily resolved through the disputes review process (General Provision 00511 Disputes), it is agreed that the dispute shall be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this contract agree to participate in good faith in an impartial and non-binding mediation process as follows:
1. The parties will first attempt to utilize the mediation services of a neutral mediator selected by mutual agreement of the parties.
  2. In the absence of such mutual agreement, then each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator.
  3. In any event, all costs of mediation shall be borne equally by the parties.
- B. Once undertaken, non-binding mediation is a voluntary procedure, facilitated by an independent third party, in which a dispute resolution process is undertaken which may result in settlement of an issue or issues in mediated negotiation, but only through mutual agreement.
- C. The mediation process shall be considered confidential and privileged (as settlement negotiation and/or offers of compromise), and no information revealed therein, including statements and admissions or any written material of any nature whatsoever, may be utilized in any subsequent legal proceeding unless that information is obtained outside of the mediation process. Further, neither party shall call the mediator as a witness in any subsequent legal proceeding regarding the above matter, and the mediator shall not be compelled to attend any such proceeding.
- D. The disposition of any issue or issues resolved to the mutual satisfaction of the parties in the mediation process shall be reduced to writing, and the parties shall execute a settlement agreement reflecting that resolution.
- E. Notwithstanding the above mediation process, the parties may by mutual agreement only substitute any other alternative disputes resolution process that may be appropriate in resolving a particular dispute.

## **SP-17 CLEAN AIR CONSTRUCTION REQUIREMENTS**

- A. Clean Air Construction – Construction Vehicle and Equipment Registration and Compliance
1. In July 2022, TriMet adopted the Clean Air Construction (CAC) Standard. All diesel non-road equipment over 25hp and all diesel concrete mixers and dump trucks used on this project shall meet the CAC requirements according to the phase-in schedule summarized below and detailed more fully in Appendix [B] Clean Air Construction Program.

Clean Air Construction Standard Phase-in Schedule Summary:

- January 1, 2022: No nonroad Tier 0 engines allowed unless retrofit.
- January 1, 2023: No nonroad Tier 0-1 engines allowed unless retrofit.
- January 1, 2024: No nonroad Tier 0-3 engines allowed unless retrofit.
  - DOC retrofits only allowed if installed prior to 2024.
  - No on-road pre-2007 engines allowed unless retrofit with a DPF or equivalent.

- COBID (Certification Office for Business Inclusion and Diversity) certified firms may use a DOC installed prior to 2024.
  - January 1, 2025: No nonroad Tier 0-3 engines or on-road pre-2007 engines allowed unless
    - Retrofit with a DPF or equivalent.
    - COBID firms may use a DOC installed prior to 2024.
2. Prior to the bid submission deadline, all Contractors are highly encouraged to register their CAC-applicable construction nonroad equipment and on-road vehicles in 'The Yard', which is the CAC equipment registration and compliance portal. Details on how to register can be found online at: [www.portland.gov/cac/TheYard](http://www.portland.gov/cac/TheYard). Registration requires providing following information about each piece of equipment/vehicle in your fleet where the CAC standard applies:
- a. Equipment type (e.g. excavator, dozer, loader)
  - b. Fuel type (diesel, electric, gasoline, hybrid electric, propane, etc.)
  - c. On-road or nonroad
  - d. Engine manufacturer
  - e. Engine model year
  - f. Engine family name
  - g. Horsepower
  - h. For diesel engines: Are there any aftermarket emissions control devices installed? (if yes, indicate type of control device, e.g., DOC, DPF, etc.).

After the Notice of Intent to Award is posted, the successful Contractor will be required to register their CAC-applicable construction nonroad equipment and on-road vehicles and to assign all applicable subcontractors and suppliers construction nonroad equipment and on-road vehicles (including any equipment rental firms) to the project through 'The Yard'. At that time, subcontractors and suppliers will be required to register the equipment and vehicles from their fleets in 'The Yard' as well. All CAC-applicable construction nonroad equipment and on-road vehicles shall be registered in 'The Yard' within 14 days of NTP.

### 3. Continual Compliance, On-Site Inspections, and Violations

The Contractor shall ensure applicable equipment and vehicles used on the project are in compliance with the requirements throughout the duration of the project.

The Contractor shall obtain, affix and maintain CAC compliance decals on its equipment and vehicles at all times in a way to facilitate confirmation of compliance.

During the course of the project, TriMet may conduct an on-site inspection of CAC-applicable equipment and vehicles to confirm accuracy of fleet information submitted to The Yard, the CAC Compliance Portal, and that compliance decals are properly displayed on equipment and vehicles.

Should TriMet discover, during the course of the project, that the Contractor, Subcontractor, or Supplier is violating the CAC engine requirements, it may issue a Notice to Cure to the Contractor. The Notice to Cure will state the specifics of the violation and the timeframe within which the Contractor has to remedy the violation.

If the Contractor fails to remedy the violation per the Notice to Cure, TriMet may deduct up to \$250.00/day for each item of equipment not in compliance with the CAC Notice to Cure

from progress payments or may issue a Stop Work notice requiring the stoppage of work until the violation is remedied.

TriMet's issuance of a Stop Work notice due to a CAC violation following failure to respond to a Notice to Cure shall not be considered a reason to adjust Schedule Milestones or Liquidated Damages.

## **SP 18-29 NOT USED**

## **SP-30 NOTIFICATION OF UTILITIES AND AGENCIES**

In addition to the relevant requirements of the General Provisions 00507 Cooperation by the Contractor, 00719 Excavation by the Contractor, and the Specifications, the following shall apply:

- A. The Contractor shall obtain prior approval from the applicable local jurisdiction for detours, closing, or partial closing of any street. Contractor shall give at least ten (10) days advance notice of any full street closure to all agencies providing emergency services, including without limitation, police, fire, and ambulance services. Contractor shall give at least two (2) working days advance notice of any partial street closure to all agencies providing emergency services, including without limitation, police, fire, and ambulance services. Notification shall include, but not limited to, the dates and times of commencement and completion of the work, names of streets or locations of alleys to be closed, partially closed, schedule of operations and routes of detours where applicable.
- B. When performing work in streets and easements, the Contractor shall notify all affected utilities and local agencies of its proposed operations and properly coordinate and expedite the work in such a manner as to cause the least amount of conflict and interference between the work and operations of other agencies.
- C. Utilities may not be located as indicated in the Contract Documents. Contractor is responsible for verifying the location of utilities before commencing construction. Contractor shall verify exact on-site utility locations by telephone conversation with owners and confirm by written letter. Contractor shall notify utilities and agencies in writing at least two (2) business days but not more than 10 business days before commencing any work in the area of their utilities.
- D. It shall be prima facie evidence of notification to the Contractor of the presence of a utility if a valve box or utility meter is visible under ordinary conditions, marked by a stake, paint, or a reference stake or is field identified to the Contractor or its representative. The staking, painting, or field identification by an employee of the utility will have the same legal effect as if TriMet's Construction Manager performed it.
- E. Notices required by ORS 757.551 to be given by Contractor to owners of utilities may be satisfied by giving timely notice to "One Call", telephone number (503) 246-6699, for participating members of that organization only. Some utility owners may not be participating members of "One Call". For utility owners not members of "One Call", timely notice as required by ORS 757.551, must be given by Contractor to the utility owner.
- F. The right is reserved to jurisdictions and the owners of utilities, or their authorized agents, to enter upon the street right-of-way for the purpose of making changes necessary for the rearrangement of their facilities or for making necessary connections or repairs. The Contractor shall cooperate with forces engaged in this work and shall conduct its operations in such a



manner to avoid any unnecessary delay or hindrance to the work being performed by other forces.

### **SP-31 NOT USED**

### **SP-32 PUBLIC SAFETY AND CONVENIENCE**

In addition to the requirements of the TriMet's Construction Safety Program and other provisions of the Contract, the Contractor shall comply with the following:

- A. Conduct the Work with due regard for the protection of public and private property and the health, welfare, mobility, safety and convenience of the public, with particular attention to planning the work to minimize impacts to disabled persons, bicyclists, and pedestrians. When the Work involves use of public right of ways, provide necessary flaggers and traffic control devices, all as required by the local authorities, and install and maintain means of reasonable access to all property, including fire hydrants, service stations, warehouses, stores, houses, garages, bus stops, and other property.
- B. Contractors are to provide flaggers that are courteous and professional as this will be a key interface with the public and adjacent businesses and tenants.
- C. The Contractor shall verify all local jurisdictionally mandated "No Work" windows and moratoriums, and shall comply with these requirements, or seek variances through the jurisdiction's process.
- D. Private residential driveways shall be closed only with the specific approval of TriMet's Construction Manager or written permission of the affected property owner(s).
- E. The Contractor shall not interfere with the normal operation of public transit vehicles unless otherwise authorized, nor obstruct or interfere with the public's travel over any public street or sidewalk without specific approval of TriMet's Construction Manager.
- F. The Contractor shall not obstruct vehicle or pedestrian traffic, vehicle or pedestrian traffic visibility, parking spaces, or driveways without providing traffic control measures in conformance with local codes and standards, and/or as delineated on any jurisdictionally approved traffic control plans or permits obtained by the Contractor.
- G. The Contractor shall not obstruct drainage in streets, whether natural or constructed drainage ways.
- H. The Contractor shall provide open trenches and excavations with secured and adequate barricades or fences of an approved type that can be seen from a reasonable distance at all times.
- I. The Contractor shall close up or plate over all open excavations at the end of each working day in all street areas unless approved otherwise by TriMet's Construction Manager and in all other areas where reasonably required for public safety or as directed by TriMet's Construction Manager. Plates shall be securely anchored to the pavement and temporarily edged with hot- or cold- mix asphalt to minimize noise levels, prevent exposure of sharp plate or fastener edges to traffic, and to prevent steel plate movement under traffic.

- J. At night the Contractor shall mark all open work and obstructions with lights and shall install and maintain all necessary signs, lights, flares, barricades, railings, runways, stairs, bridges and facilities.
- K. The Contractor shall comply with all instructions received from TriMet's Construction Manager or local authorities regarding protection of public and private property, and shall ensure the health, welfare, mobility, public safety, and convenience of the public, particularly with regard to disabled persons and pedestrians.
- L. Temporary roadway lighting will be installed on all public streets on which existing permanent street lighting is removed for construction purposes. Existing streetlights will not be disconnected until all required temporary street lights are installed and properly functioning.
- M. The Contractor shall at all times enforce strict discipline, work person-like attire, business-like and courteous behavior, and good order among its employees, subcontractors, and suppliers and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to them. Any person employed on the project by the Contractor or any of its Subcontractors who, in the opinion of TriMet's Construction Manager, does not perform their work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of TriMet's Construction Manager, be removed forthwith by their employer, and shall not again be employed on the Project without the approval of TriMet's Construction Manager.
- N. When working dump trucks and/or other equipment on paved streets and roadways, the Contractor will be required to clean said streets at the conclusion of each day's operation or at any other time that the cleanliness of the streets unduly impacts vehicular or pedestrian movements as determined by TriMet's Construction Manager. Contractor shall comply with all applicable laws and codes regarding these activities.

### **SP-33 NOT USED**

### **SP-34 EROSION CONTROL**

- A. Bidder shall incorporate all applicable provisions of the City of Portland "Erosion Control Manual" (Latest Revision and other jurisdictional erosion and sediment control provisions, into the bid proposal. All Erosion Control work done and material used shall be as set forth in said manuals and documents.
- B. Contractor shall review and implement the requirements of the DEQ 1200-C permit. A certified erosion control inspector must be provided for erosion control inspections as needed.

### **SP-35 TESTING AND INSPECTION OF CONSTRUCTION**

- A. The Contractor shall maintain a complete Quality Control program for construction, compliant with Section 01 40 00 Quality Requirements, with sufficient resources necessary to ensure that work in progress is being performed according to the Contract Documents. The Contractor shall maintain complete inspection records and make them available to TriMet. Quality Control shall be independent of production.
- B. At TriMet's option, all work is subject to TriMet inspections and tests at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract. Inspections and tests conducted by TriMet are for the sole benefit of TriMet and do not 1) relieve the Contractor of responsibility for providing adequate quality assurance or control

measures; 2) relieve the Contractor of responsibility for damage to or loss of the material before acceptance; 3) constitute or imply acceptance; or 4) affect the continuing rights of TriMet after acceptance of the completed work.

- C. The Contractor shall, without charge, replace or correct work found not to conform to Contract requirements, unless TriMet consents to accept the work with an appropriate adjustment in Contract price. Contractor shall promptly segregate and remove rejected material from the premises.
- D. If the Contractor does not promptly replace or correct rejected work, TriMet may 1) replace or correct the work and charge the cost to the Contractor or 2) terminate for default the Contractor's right to proceed.
- E. If, before acceptance of the entire work, TriMet decides to examine already completed work by removing it or tearing it out, Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall pay expenses related to the examination and satisfactory reconstruction. However, if the work is found to meet Contract requirements, TriMet shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- F. Unless otherwise specified in the Contract, TriMet shall accept, as promptly as practicable after completion and inspection, all work required by the Contract or that portion of the work that TriMet determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or TriMet's rights under any warranty or guarantee.
- G. Special Inspections, inspections, and testing of all materials incorporated into the Work shall be performed by an independent Inspection and Material Testing Laboratory (IMTL) hired and paid for by the Contractor, and approved by TriMet. All testing and inspection services shall comply with Section 01 40 00 Quality Requirements and with the requirements of other Specification Sections. The IMTL shall send all inspection and test reports to the Contractor, and shall also send concurrent copies directly to TriMet's Construction Manager

All testing and inspection services shall comply with Section 01 40 00 Quality Requirements and with the requirements of other Specification Sections.

NOTE: Special inspections and testing are required for materials, installation, fabrication, erection or placement of components and connections requiring special expertise to ensure compliance with approved construction documents and referenced standards. Examples may include:

- Specialized work (on-site welding/brazing, full penetration welds, etc.)
- The feature of work has an inherent safety risk associated with a material/installation failure
- The Owner has integrated work
- Special inspection is mandated by the FTA guidelines

- H. TriMet may, at its sole discretion and expense, perform or cause to be performed 'confidence' tests and inspections of the Work in addition to those tests and inspections performed by the Contractor-retained IMTL. Before placement and installation of work subject to tests by testing

laboratory retained by TriMet, the Contractor shall notify TriMet's Construction Manager in sufficient time to enable testing laboratory personnel to be present at the site in time for proper sampling and testing of specimens and field inspection. Such prior notice shall not be less than three (3) workdays unless otherwise designated by TriMet's Construction Manager. The Contractor shall provide suitable access, space, and working conditions for testing laboratory personnel to perform on site duties. Manufacturers and suppliers of materials fabricated off-site and subject to specified testing shall provide the same prior notices and shall provide suitable working conditions at their facilities.

## **SP 36-37 NOT USED**

## **SP-38 TRIMET FACILITIES SECURITY**

- A. In accordance with TriMet policy, all persons inside the perimeter of TriMet buildings and yards must display TriMet-issued badges upon their person. Contractor employees who are required to access TriMet buildings or yards to perform the requirements of this Contract shall comply with this requirement. If such access shall be occasional and during regular business hours, badges shall be "Visitor Pass" type, for which Contractor's employees shall check in and out at the site's reception desk for each visit to a site. Photo identification shall be required at check in. If Contractor's employees shall need access frequently over an extended period, and/or consistently at times other than regular business hours, badges shall be "Contractor Badge" type, which TriMet's Construction Manager shall obtain for Contractor's employees. Contractor shall coordinate TriMet-issued badge requirements with TriMet's Construction Manager within 10 days of Contract award. Contractor is responsible for compliance by each of Contractor's employees with all TriMet facility security access control procedures. Contractor is responsible for the return of all "Contractor Badges" at the time of Contract expiration or termination. Contractor Badges are initially provided at no charge; however, any badges not returned as required will result in a \$100 per badge charge to Contractor. This charge will be deducted from the final payment invoice.
- B. Contractor Badges are for identification and building/yard access only. If Contractor employees are required to ride transit as part of the contractual requirements, TriMet's Construction Manager will obtain tickets or passes for this purpose.
- C. Contractors that require vehicular access to TriMet operations facilities shall comply with vehicle access control procedures in effect at the site. Any vehicular access to a TriMet operations facility by a non-TriMet vehicle is by permission only, and via designated gates and roadways only. Contractor's vehicle drivers shall comply with site-specific vehicle access control procedures, including the Visitor Pass procedure (described in paragraph A of this section) or display of TriMet-issued Contractor Badges, for all vehicle occupants.
- D. All Contractor employees not displaying a TriMet-issued Visitor Pass or Contractor Badge while inside a TriMet building or yard will be requested to leave the premises and obtain a Visitor pass. Non-compliance by Contractor employees with these requirements may result in being barred from performing work on TriMet premises and removal of Contractor employees from TriMet buildings/yards.
- E. Before TriMet grants Contractor employees access to TriMet property under this Agreement or at any time thereafter, in accordance with applicable laws and TriMet requirements, TriMet reserves the right to: (1) conduct or obtain, or require Contractor to conduct or obtain, background checks on Contractor's employees; (2) have Contractor require its subcontractors to conduct or obtain background checks on their respective employees; and (3) require

Contractor to provide written certification and documentation as determined by TriMet evidencing compliance with these requirements. Criminal background information shall be evaluated to determine whether Contractor's employee will be granted building access. Convictions for crimes that impact public safety, property or life, and crimes against persons may be cause for denial of access to TriMet properties.

- F. If performance of this Contract requires access to Sensitive Security Information (SSI) that is controlled under 49 CFR Part 15, only persons who have a "need to know" as defined in 49 CFR § 15.11 may access SSI. In addition, persons in possession of SSI have duties as described in 49 CFR § 15.9, including:
1. Take reasonable steps to safeguard SSI in that person's possession or control from unauthorized disclosure;
  2. Secure SSI, such as in a locked desk or file cabinet or in a locked room;
  3. Only disclose, or provide access to SSI, to persons who have a "need to know";
  4. Report any unauthorized disclosure of SSI to a proper government agency, at the time of becoming aware of such improper disclosure;
  5. Refer requests by other persons for SSI, to a proper government agency;
  6. Mark SSI, as specified in 49 CFR § 15.13; this includes taking steps to properly mark SSI upon receipt of it, if it was not properly so marked when received, and informing the sender of SSI marking responsibilities;
  7. When disposing of SSI, do so as specified in 49 CFR § 15.19.

### **SP-39 OVERSTOCK ITEMS**

- A. Specification Sections may require that the Contractor deliver the "Overstock Items" and/or Spare Parts to TriMet as part of this Contract.
- B. TriMet's Construction Manager will, following receipt of the material submittals from the Contractor, identify a TriMet part number for the Contractor's use in developing an Overstock Parts List. The Overstock Parts List will include the following for each item:
1. Generic description including reference to the applicable Specification Section
  2. Quantity
  3. Anticipated delivery dates
  4. Delivery location
  5. Manufacturer (including manufacturer's Brand Name, Model number, original manufacturer, supplier, or Distributor (including contact name, address, FAX number and phone number), and
  6. TriMet part number (Stores will create a new symbol number for new parts)
  7. In addition, this list shall indicate any parts, which are custom manufactured only upon request.

C. TriMet's Stores department will:

1. Receive the Overstock Items delivered by the Contractor between the hours of 7 am and 2 pm, Monday – Friday;
2. Verify the part numbers on the Bill of Lading and the received part match; and
3. Sign for delivery and make copies of receiving document.

#### **SP-40 ARC FLASH ANALYSIS AND LABELING**

- A. Contractor shall perform an arc flash hazard analysis in accordance with NFPA 70E requirements for electrical distribution equipment including transformers, switchboards, panel boards, and control centers to determine the flash protection boundary and the personal protective equipment (PPE) that personnel within the flash protection boundary shall use.
- B. Contractor shall provide and install field marking on transformers, switchboards, panel boards, and control panels in accordance with NFPA 70E requirements to warn qualified personnel of potential arc flash hazards. The marking shall be located so as to be clearly visible to qualified personnel before servicing or maintenance of the equipment.

#### **SP 41-70 NOT USED**

#### **SP-71 BRAND NAMES AND EQUIVALENTS**

- A. Some products may be specified using a single vendor or brand name because of the design time required to adapt to multiple vendors. Unless otherwise stated, this is not meant to exclude other potential products. Vendors and model numbers are named to help potential bidders define a product and not meant to exclude any other products. Other vendors are encouraged to request more information and submit Product Options per General Provisions 00204A Product Option Proposals During Bidding and 00603 Product Option Proposals After Award of Contract.

**- END OF SECTION -**