

SECTION 01 25 13

PRODUCT SUBSTITUTION PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes administrative and procedural requirements for processing Contractor's Requests for Substitution of products or equipment made after the Award of the Contract.
- B. Related Sections:
 - 1. Section 00 49 18 – Request for Product Substitution
 - 2. Section 00 72 00 – General Conditions, Article 3.11
 - 3. Section 01 33 00 – Submittal Procedures
 - 4. Section 01 42 00 – References

1.02 DEFINITIONS

- A. Substitution: The proposed change by the Contractor after the Award of the Contract of a product, equipment, or service required by the Contract Documents is considered to be a Request for Substitution. The following are not considered to be Requests for Substitution:
 - 1. Substitutions requested during the Bid period, and accepted by Addendum prior to Award of the Contract.
 - 2. Revisions to the Contract Documents requested by the City Representative.
 - 3. Specified options of products and construction methods included in the Contract Documents.
 - 4. The Contractor's determination of and compliance with governing regulations and orders issued by governing authorities.
- B. Where the terms "or equal," or "or approved equal," or similar references are used, submittal of a Request for Product Substitution Section 00 49 18 is required for products or manufacturers not specifically indicated in the Specifications.

1.03 REQUIREMENTS

- A. The Contractor's Total Bid Price for the Work of this Contract shall be based on products, equipment and services listed by manufacturer's or supplier's name in the Technical Specifications.

- B. Substitution requests shall not be the basis for extra charges above the Contractor's Bid Price for the Work, nor shall they be the basis for an increase in Contract time.
- C. The Contractor shall bear the cost of making all mechanical, electrical, structural, utility, or other changes required to accommodate the proposed substitution, including the City Representative's costs required to review the substitution.
- D. Substitutions described in this Section shall not be construed as submittals as described in Section 01 33 00.
- E. Fifty (50) percent of any cost savings resulting from an accepted Substitution Request shall be credited to the City. The total cost savings shall be less any design costs required for substitution implementation.
- F. Unless substitutions are requested as provided herein, deviations from the Contract Documents will not be permitted.
- G. Contractor shall not proceed with any substitution until the City has accepted the substitution as satisfactory, in writing. Such acceptance shall not relieve Contractor from its responsibility for complying with the requirements of the Contract Documents.
- H. Failure to propose the substitution of any product in the time and procedure specified herein may be deemed sufficient cause for the denial of the request for substitution.
- I. Originally specified items shall be furnished, unless a request for substitution is submitted and accepted in accordance with the requirements specified herein.

1.04 SUBMITTALS

- A. The City Representative will consider Requests for Substitution if received within thirty-five (35) calendar days after the date of the Award of the Contract.
 - 1. Requests received more than thirty-five (35) days after Award of the Contract may be considered or rejected at the sole discretion of the City.
 - 2. The Contractor shall submit a completed Substitution Request Form (refer to Section 00 49 18).
- B. The Contractor shall provide complete supporting data identical to that required for the product, equipment, or service originally specified, including drawings, samples, literature or detailed information sufficient to demonstrate that the proposed substitution is equal, or greater, in quality and utility to the product, equipment, or service originally specified. The following additional information shall also be submitted:

1. Information regarding the effect of the substitution, if any, on the Construction Schedule.
 2. Name and address and Licensed Professional Engineer contact information of similar projects on which the substituted product, equipment, or service has been used, and date of installation.
 3. Signed statement that the proposed substitution is in full compliance with the Contract Documents; or, written direction of the City.
 4. List of other work, if any, which may be affected by the substitution.
 - a. Provide complete details regarding changes in requirements for power or other support facilities, auxiliary equipment or structural modifications.
 - b. The Contractor shall be responsible for the effect of a substitution upon related work, and pay the additional costs generated thereby to implement the substitution, including the engineering design services associated therewith.
 5. Information on availability of maintenance service and source of replacement materials.
 6. Sample of manufacturer's standard form of warranty or guarantee for the proposed substitution.
 7. Itemized comparison of proposed substitution with product, equipment, or service specified with significant variations identified.
 8. Include accurate cost data comparing proposed substitution with product, equipment, or service specified and amount of net change in Contract Sum.
 - a. Include costs to other contractors and subcontractors and costs for revisions to Drawings, Details or Specifications.
 - b. Indicate amount to be deducted from Contract Price if Substitution Request is accepted.
- C. Manufacturer's Product Modifications: The Contractor may submit a Request for Substitution in accordance with this Section if the specified product, equipment, or service has been modified or improved by the manufacturer. If approved, the substitution shall be at no additional cost to the City and shall be subject to the cost savings provisions specified herein.
- D. The City will receive and consider Contractor's Requests for Substitution only under the following conditions as determined by the City. If the following conditions are not satisfied, the City Representative will return the request without action except to record noncompliance with the requirements.
1. The burden of proof as to the type, function, and quality of proposed substitutions shall be upon the Contractor.

2. The City will determine the quality and utility of the Contractor's proposed substitutions. The City's decision shall be final.
 3. The City may require the Contractor to furnish at the Contractor's own expense, a special performance guarantee or other surety with respect to any substituted product, equipment, or service.
 4. Extensive revisions to the Contract Documents are not required.
 5. The substitution requested is consistent with the general intent of the Contract Documents.
 6. The request is timely, fully documented, and properly submitted.
- E. Substitutions will not be considered for acceptance when:
1. They are indicated or implied on submittals without a formal request from the Contractor, regardless of whether or not the said submittal is approved by the City.
 2. They are requested directly by a subcontractor or supplier.
- F. Substitutions required by inability to obtain products, equipment, or services specified will not be acceptable grounds for increase in Contract Sum or Contract Time.
- G. Substitute products, equipment or services shall not be ordered or released for fabrication without written acceptance by the City.

1.05 QUALITY ASSURANCE

- A. The Contractor shall certify with each Request for Substitution that it:
1. Has investigated the proposed substitution and determined that it is equal to, or superior to the product, equipment, or service specified;
 2. Will furnish the same warranty/guarantee or bond for the proposed substitution as for the product, equipment, or service specified;
 3. Will coordinate the installation of an accepted substitution into the Work and make such other changes as required to complete the Work in accordance with the Contract Documents and applicable regulatory requirements;
 4. Waives claims for additional costs and/or time extensions associated with the substitution, which may subsequently become apparent; and
 5. Will pay costs of changes to Contract Documents required by accepted substitutions.

1.06 CITY'S ACTIONS

- A. All substitutions shall require written approval by the City. The City will accept as satisfactory or reject Contractor's substitution request, and the City's decision shall be final.
- B. The City's approval of any substitution shall not relieve the Contractor from compliance with all other requirements of the Contract Documents and for adequacy of the substituted items.
- C. The City will review Requests for Substitution and notify the Contractor in writing within 30 days of receipt of a substitution request of acceptance or rejection of proposed substitutions. The following provisions shall apply:
 - 1. The City will determine whether or not a product, equipment, or service is equal for the purpose intended in quality and utility to that specified.
 - 2. The decision of the City on all such questions of equality and acceptability of proposed substitutions shall be final.
 - 3. No claim of any sort shall be made or allowed against the City as a result of any final decision to accept or reject any proposed substitute product, equipment, or service.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION