

DOCUMENT 00 52 17

AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS

THIS AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS ("Agreement and Release"), made and entered into this ___ day of _____ 20___, by and between the City of San Bruno ("City"), and _____ ("Contractor"), whose place of business is at _____.

RECITALS

- A. City and Contractor entered into Contract Number (the "Contract") for construction of the City of San Bruno _____ Project located at _____, San Bruno, California.
- B. The Work under the Contract has been completed.

AGREEMENT

NOW THEREFORE, it is mutually agreed between City and Contractor as follows:

- 1. Contractor will not be assessed liquidated damages except as detailed below:

Original Contract Sum	\$ _____
Modified Contract Sum	\$ _____
Payment to Date	\$ _____
Liquidated Damages	\$ _____
Payment Due Contractor	\$ _____

- 2. Subject to the provisions of this Agreement and Release, City will forthwith pay to Contractor the sum of _____ Dollars and _____ Cents (\$_____) under the Contract, less any amounts withheld under the Contract or represented by any Notice to Withhold Funds on file with City as of the date of such payment.
- 3. Contractor acknowledges and hereby agrees that there are no unresolved or outstanding claims in dispute against City arising from the Contract, except for the claims described in Paragraph 4 of this Document. It is the intention of the parties in executing this Agreement and Release that this Agreement and Release shall be effective as a full, final and general release of all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities of Contractor against City, and all if its agents, employees, consultants, inspectors, representatives,

assignees and transferees, except for the Disputed Claims set forth in Paragraph 4 of this Document. Nothing in this Agreement and Release shall limit or modify Contractor's continuing obligations described in Paragraph 6 of this Document.

- 4. The following claims submitted under Document 00 72 00 (General Conditions), Article 12, are disputed (hereinafter, the "Disputed Claims") and are specifically excluded from the operation of this Agreement and Release.

Claim No.	Date Submitted	Description of Claim	Amount of Claim

- 5. Consistent with California Public Contract Code §7100, Contractor hereby agrees that, in consideration of the payment set forth in Paragraph 2 of this Document, Contractor hereby releases and forever discharges City, and all of its agents, employees, consultants, inspectors, assignees and transferees from any and all liability, claims, demands, actions or causes of action of whatever kind or nature arising out of or in any way concerned with the Work under the Contract.
- 6. Guarantees and warranties for the Work, and any other continuing obligation of Contractor, shall remain in full force and effect as specified in the Contract Documents.
- 7. Contractor shall immediately defend, indemnify and hold harmless City, any of the City's Representatives, Project Manager, and all of their agents, employees, consultants, inspectors, assignees and transferees, from any and all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities that may be asserted against them by any of Contractor's suppliers and/or Subcontractors of any tier and/or any suppliers to them for any and all labor, materials, supplies and equipment used, or contemplated to be used in the performance of the Contract, except for the Disputed Claims set forth in Paragraph 4 of this Document.
- 8. Contractor hereby waives the provisions of California Civil Code §1542, which provide as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

9. The provisions of this Agreement and Release are contractual in nature and not mere recitals and shall be considered independent and severable, and if any such provision or any part thereof shall be at any time held invalid in whole or in part under any federal, state, county, municipal or other law, ruling, or regulation, then such provision, or part thereof shall remain in force and effect only to the extent permitted by law, and the remaining provisions of this Agreement and Release shall also remain in full force and effect, and shall be enforceable.
10. Contractor represents and warrants that it is the true and lawful owner of all claims and other matters released pursuant to this Agreement and Release, and that it has full right, title and authority to enter into this instrument. Each party represents and warrants that it has been represented by counsel of its own choosing in connection with this Agreement and Release.
11. All rights of City shall survive completion of the Work or termination of the Contract, and execution of this Agreement and Release.

PROJECT TITLE
Project No.

***** CAUTION: THIS IS A RELEASE - READ BEFORE EXECUTING *****

CITY OF SAN BRUNO

By: _____
Signature

Name: _____
Print

Its: _____
Title

ATTEST:

City Clerk

Print

REVIEWED AS TO FORM:
By: _____
City Attorney

CONTRACTOR

By: _____
Signature

Name: _____
Print

Its: _____
Title

By: _____
Signature

Name: _____
Print

Its: _____
Title

Dated: _____, 20_____

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