Authorized Exceptions to "Or Equal" Contracting Requirement

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Committee of the Whole
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Ask

That Council confirm the continued use and delegation to staff for maintenance of the Exclusive Standard Specification List.

Introduction

What Are We Talking About Today?

- **Public Construction Rule**
  Cannot require specific brands to be used, unless an exception applies

- **Most common exception**
  To match other products already in use

- **City Practice**
  In 2013, Council authorized staff to maintain exclusive list

- **Goal for Today**
  Bring Council up to speed that: 1) this exists, and 2) confirm continued use

“Or Equal” Contracting Requirement

Public Contract Code § 3400

- ✓ Cannot require a designated material, product, thing, or service by specific brand or trade name unless an “equal” is allowed (e.g. must specify “Jones Fixture or equal”
- ✓ Must allow time for bidder to prove-up “or equal” product
- ✓ Purpose = encourage the development of things that function as well at less $

OR =

“Or Equal” Requirement
Exceptions

There Are 4 Exceptions:

- ✓ Match other products in use on a particular public improvement either completed or in the course of completion
- ✓ Test
- ✓ Only 1 source
- ✓ Emergencies

City's Use of "Match" Exception – Exclusive Standard Specifications

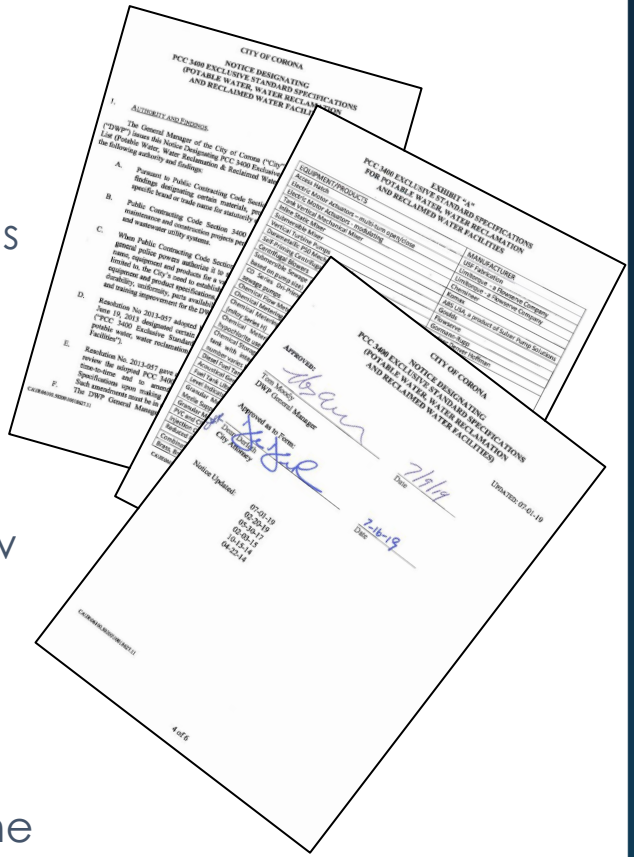
Reso 2013-057: Designated Exclusive Standard Specifications for

- Potable Water
- Water Reclamation
- Reclaimed Water Facilities

Delegated Authority

- **PCC 3400**
  - ✓ PCC 3400 allows staff to utilize exceptions

- **Reso 2013-057**
  - ✓ Delegates authority to the DWP General Manager (now Utilities Director) to review the adopted Exclusive Standard Specifications from time-to-time, and to amend the list if the findings required by applicable law are made.
  - ✓ List maintained in a form approved by the City Attorney



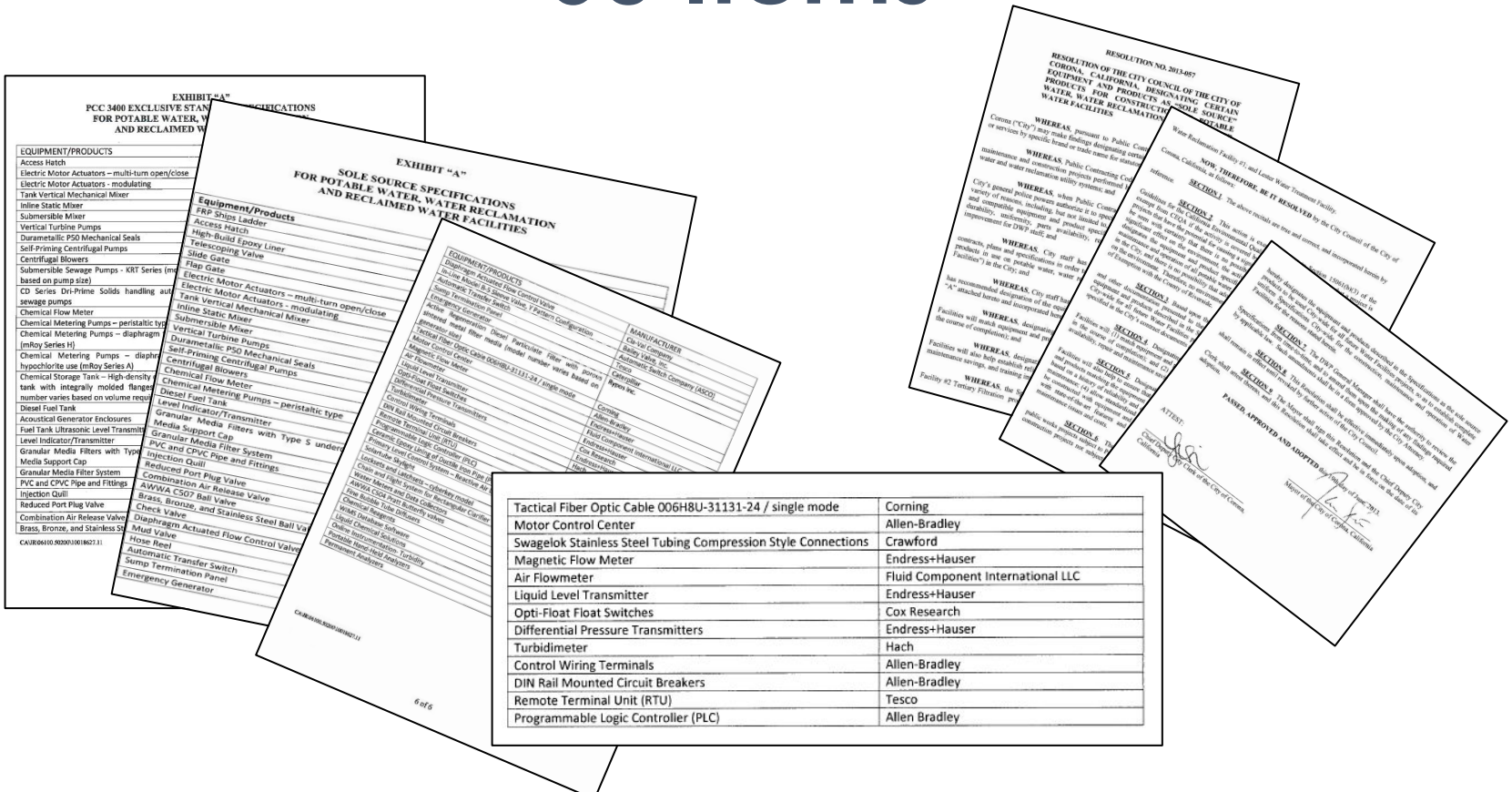
Other City Exclusive Lists

None Updated by Staff Since Council Adoption

- **Reso 2014-001 (FD – Plymovent Station Exhaust)**
  - ✓ Number of Items = 4
- **Reso 2016-009 (Parks – Musco Lighting)**
  - ✓ Number of Items = 1
- **Reso 2018-049 (PD – Action Target Range Equipment)**
  - ✓ Number of Items = 5
- **Reso 2018-113 (Library – Bibliotheca Material Handling Equipment)**
  - ✓ Number of Items = 3

What's on the Exclusive Standard Specification List?

60 Items



Tactical Fiber Optic Cable 006H8U-31131-24 / single mode	Corning
Motor Control Center	Allen-Bradley
Swagelok Stainless Steel Tubing Compression Style Connections	Crawford
Magnetic Flow Meter	Endress+Hauser
Air Flowmeter	Fluid Component International LLC
Liquid Level Transmitter	Endress+Hauser
Opti-Float Float Switches	Cox Research
Differential Pressure Transmitters	Endress+Hauser
Turbidimeter	Hach
Control Wiring Terminals	Allen-Bradley
DIN Rail Mounted Circuit Breakers	Allen-Bradley
Remote Terminal Unit (RTU)	Tesco
Programmable Logic Controller (PLC)	Allen Bradley

Pros & Cons

Of Using Exclusive Standard Specifications Lists

Pros	Cons
✓ Supports uniform, compatible equipment and product use. ✓ Helps ensure reliability and durability when repairing equipment. ✓ Lower carrying costs for warehouse (fewer parts need to be stocked) ✓ Improved parts availability ✓ Reduced downtime ✓ Streamlined training ✓ Improved expertise on products ✓ Exclusive pricing available	✓ Fewer suppliers to choose from

Direction Sought…

That Council confirm the continued use and delegation to staff for maintenance of the Exclusive Standard Specification List.

QUESTIONS?

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