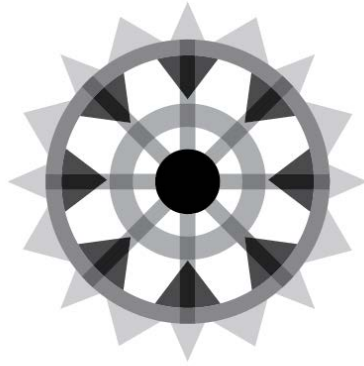


# **PROJECT MANUAL**

## **SIMI VALLEY UNIFIED SCHOOL DISTRICT**



**SimiValleySchools**

**SIMI VALLEY UNIFIED SCHOOL DISTRICT**

**Dedicated to Quality Education**

### **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**

**Bid #21E5BX361**

**MANDATORY JOB WALK: APRIL 14, 2021 10:30 a.m.**

*Meet at:*

**Simi Elementary School – Bond Management Field Office  
2956 School Street, Simi Valley, Ca 93065**

**Simi Valley U.S.D.  
Attn: Purchasing Department  
101 W. Cochran St.  
Simi Valley, Ca 93065  
(805) 306-4500 ext. 4602**

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Various	Technical Specifications (Refer to the Table of Contents at the beginning of the technical sections).
Set of Drawings Provided separately from this Project Manual	Contract Drawings for the Garden Grove ES Kindergarten Area Landscape Improvements Landscape Improvements Project

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## NOTICE CALLING FOR BIDS

DISTRICT	SIMI VALLEY UNIFIED SCHOOL DISTRICT
PROJECT DESCRIPTION	GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS BID NO. 21E5BX361
LATEST TIME/DATE FOR SUBMISSION OF BID PROPOSALS	10:00 A.M. Wednesday, May 05, 2021
LOCATION FOR SUBMISSION OF BID PROPOSALS	PURCHASING DEPARTMENT SIMI VALLEY UNIFIED SCHOOL DISTRICT 101 WEST COCHRAN STREET SIMI VALLEY, CA 93065
BID AND CONTRACT DOCUMENTS AVAILABLE ON APRIL 14, 2021 AT:	SVUSD BOND MANAGEMENT FIELD OFFICE, 2956 SCHOOL STREET, SIMI VALLEY CA 93065 TEL (805) 306-4500 EXT. 4462

**NOTICE IS HEREBY GIVEN** that the SIMI VALLEY UNIFIED SCHOOL DISTRICT (District), acting by and through its Board of Education, will receive up to, but not later than the above-stated date and time, sealed Bid Proposals from Prequalified Bidders for the Contract for the Work generally described as **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**.

1. Submittal of Bid Proposals. All Bid Proposals must be submitted on forms furnished by the District prior to the last time for submission of Bid Proposals and the District's public opening and reading of Bid Proposals.
2. The Project. The Project involves landscape, hardscape, and drainage improvements in the vicinity of the Kindergarten Building.
3. Funding Amount. The amount of funding for the Project, as that term is used at California Public Contract Code §20103.8(c), is Two-Hundred Thousand Dollars (\$200,000.00).
4. Prequalification to Bid. The District has determined that regardless of the Bid Proposal Amount, each bidder on this project must be prequalified under the Application for Prequalification included in the Project Manual. In accordance with Public Contract Code section 20111.5, each bidder must:
  - a) submit a Prequalification Application in accordance with the Instructions for Bidders at least seven (7) business days prior to the last date for the submission of Bid Proposals set forth above, and be prequalified for at least one (1) business day prior to that date.
5. Documents Accompanying Bid Proposal. Each Bid Proposal shall be accompanied by: (a) Bid Security; (b) Subcontractors List; (c) Non-Collusion Declaration; (d) Certification of Contractor and Subcontractor(s) DIR Registration, and (e) Certification of Prevailing Wage & Related Labor Requirements. The Bidder acknowledges that if this Bid Proposal and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, the Instructions for Bidders and in each of the foregoing documents, the Bid Proposal may be rejected as non-responsive.
6. Contractors' License Classification. Bidders must possess the following classification(s) of California Contractors License at the time that the Bid Proposal is submitted and at time the Contract for the Work is awarded: **A - General Engineering or B - General Building**. The Bid Proposal of a Bidder who does not possess a valid and in good standing Contractors' License in the classification(s) set forth above will be rejected for non-responsiveness.



7. Bidder and Subcontractors DIR Registered Contractor Status. Each Bidder must be a DIR Registered Contractor when submitting a Bid Proposal. The Bid Proposal of a Bidder who is not a DIR Registered Contractor when the Bid Proposal is submitted will be rejected for non-responsiveness. All Subcontractors identified in a Bidder's Subcontractors' List must be DIR Registered contractors at the time the Bid Proposal is submitted. The foregoing notwithstanding, a Bid Proposal is not subject to rejection for non-responsiveness for listing Subcontractor the Subcontractors List who is/are not DIR Registered contractors if such Subcontractor(s) complete DIR Registration pursuant to Labor Code §1771.1(c)(1) or (2). Further, a Bid Proposal is not subject to rejection if the Bidder submitting the Bid Proposal listed any Subcontractor(s) who is/are not DIR Registered contractors and such Subcontractor(s) do not become DIR Registered pursuant to Labor Code §1771.1(c)(1) or (2), but the Bidder, if awarded the Contract, must request consent of the District to substitute a DIR Registered Subcontractor for the non-DIR Registered Subcontractor pursuant to Labor Code §1771.1(c)(3), without adjustment of the Contract Price or the Contract Time.
8. Prevailing Wage Rates. Pursuant to California Labor Code §1773, the Director of the Department of Industrial Relations of the State of California has determined the generally prevailing rates of wages in the locality in which the Work is to be performed. Copies of these determinations, entitled "PREVAILING WAGE SCALE" are maintained at the District's Administrative Offices at 101 West Cochran Street, Simi Valley, California 93065 and are available as a quick link at [http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html). The Contractor awarded the Contract for the Work shall post a copy of all applicable prevailing wage rates for the Work at conspicuous locations at the Site of the Work. The Contractor and all Subcontractors performing any portion of the Work shall pay not less than the applicable prevailing wage rate for the classification of labor provide by their respective workers in execution of the Work.
9. Contract Time. Substantial Completion of the Work and of each Phase shall be achieved within the time set forth in Contract Documents. Failure to achieve Substantial Completion within the Contract Time will result in the assessment of Liquidated Damages as set forth in the Contract.
10. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in an amount equal to TEN PERCENT (10%) of the maximum amount of the Bid Proposal, inclusive of any additive Alternate Bid Item(s). Failure of any Bid Proposal to be accompanied by Bid Security in the form and in the amount required shall render such Bid Proposal to be non-responsive and rejected by the District.
11. No Withdrawal of Bid Proposals. Bid Proposals shall not be withdrawn by any Bidder for a period of sixty (60) days after the opening of Bid Proposals. During this time, all Bidders shall guarantee prices quoted in their respective Bid Proposals.
12. Job-Walk. The District will conduct a Mandatory Job Walk on Wednesday, April 14, 2021, beginning at 10:30 AM. Bidders are to meet at the District's Bond Management Field Office located at 2956 School Street, Simi Valley, California 93065 for the Job Walk. All job walk attendees are required to wear face masks, and to practice social distancing during the Job Walk.
13. Waiver of Irregularities. The District reserves the right to reject any or all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.
14. Award of Contract. The award of a contract for the Work, if awarded, will be by action of the District's Board of Education to the responsible Bidder submitting the lowest priced responsive Bid Proposal.

**[END OF SECTION]**

## INSTRUCTIONS FOR BIDDERS

1. Preparation and Submittal of Bid Proposal.
  - 1.1. Bid Proposal Preparation. All information required by the bid forms must be completely and accurately provided. Numbers shall be stated in both words and figures where so indicated in the bid forms; conflicts between a number stated in words and in figures are governed by the words. Partially completed Bid Proposals or Bid Proposals submitted on other than the bid forms included herein are non-responsive and will be rejected. Bid Proposals not conforming to these Instructions for Bidders and the Notice to Contractors Calling for Bids ("Call for Bids") may be deemed non-responsive and rejected.
  - 1.2. Bid Proposal Submittal. Bid Proposals shall be submitted at the place designated in the Call for Bids in sealed envelopes bearing on the outside the Bidder's name and address along with an identification of the Work for which the Bid Proposal is submitted. Bidders are solely responsible for timely submission of Bid Proposals to the District at the place designated in the Call for Bids.
  - 1.3. Date and Time of Bid Proposal Submittal. A Bid Proposal is submitted only if the outer envelope containing the Bid Proposal is marked with the Project title and is received by a District Purchasing Department representative for logging-in at (or before) the latest date and time for submittal of Bid Proposals. All bids will be time stamped immediately upon receipt by the District using time stamp machine located in the District Purchasing Office and such time stamp shall be controlling and determinative as to the time of the Bidder's submittal of the Bid Proposal. If Bidder challenges the time stamp at the time the Bid is received and time stamped, the District shall immediately verify the time using the official U.S. time-clock website: <http://www.time.gov>.
2. Bid and Contract Documents. The Bid and Contract Documents will be available at the mandatory job walk at the location identified on the Notice Calling for Bids.
3. Project Planholder List. The District's Project Planholder List will be compiled exclusively from the sign-in sheet at the Mandatory Job Walk. Any Bidder failing to sign-in at the Mandatory Job Walk will be excluded from Project Planholder List and their Bid Proposal will be rejected by the District as being non-responsive. All Project Planholders will receive e-mails from the District advising of any and all Project Addenda.
4. Bidder's Prequalification. As a precondition of bidding and in accordance with the provisions of Section 20111.5 of the California Public Contract Code, Simi Valley Unified School District requires that all prospective bidders on public works projects that involve a projected expenditure of more than One Hundred Seventy Five Thousand Dollars (\$175,000.00) and less than One Million Dollars (\$1,000,000.00), submit a completed Application for Prequalification on the forms supplied by the District.
  - 4.1. Time for Submission. To submit a bid on a District project, the prospective bidder must submit a completed Application for Prequalification to the District no less than seven (7) business days prior to the bid opening date for a particular project or other date established by and at the discretion of the District and must be prequalified at least one (1) business days prior to the date fixed for the public opening of sealed bids. The District will notify the applicant if, in the District's opinion, the applicant meets the prequalification requirements and may bid the project(s).
  - 4.2. Previously Pre-Qualified Bidders. A Bidder previously deemed a "Qualified Bidder" by the District but who is required, by the terms of the District's Pre-Qualification Questionnaire to submit updated or revised information relating to its Pre-Qualification Application must submit all such updated or revised information to the District not less than seven (7) business days prior to the latest date for submission of Bid Proposal; failure of such a Bidder to submit such

information within the time set forth above will result in rejection of the Bidder's Bid Proposal for non-responsiveness. Prior to the last day for submitting Bid Proposals, the District will notify such a Bidder of whether the updated or revised information has resulted in retention of the Bidder's "Qualified Bidder" status or renders the Bidder not to be a "Qualified Bidder."

- 4.3. Further Information. See Prequalification Application for further information and direction regarding completion and submission of the Prequalification Application.
5. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in the form of: (i) cash, (ii) a certified or cashier's check made payable to the District or (iii) a Bid Bond, in the form and content attached hereto, in favor of the District executed by the Bidder as a principal and a Surety as surety (the "Bid Security") in an amount equal to Ten Percent (10%) of the Bid Proposal amount, inclusive of the price(s) proposed for additive Alternate Bid Items, if any. A Bid Proposal submitted without the required Bid Security is non-responsive and will be rejected. If the Bid Security is in the form of a Bid Bond, the Bidder's Bid Proposal shall be deemed responsive only if the Bid Bond is in the form and content included herein, duly completed and executed (with notary acknowledgements) on behalf of the Bidder and Surety, and the Surety is an Admitted Surety Insurer under Code of Civil Procedure §995.120.
6. Documents Accompanying Bid Proposal; Signatures. Documents which must be submitted with each Bid Proposal are identified in the Call for Bids. Any document submitted with a Bid Proposal which is not complete, accurate and executed, as required by each document, will result in the Bid Proposal being deemed non-responsive.
7. Bidder Modifications; Withdrawal or Modification of Submitted Bid Proposal.
  - 7.1. Bidder Modifications to Bid Forms Prohibited. Modifications by a Bidder to the bid forms which are not specifically called for or permitted may result in the Bidder's Bid Proposal being deemed non-responsive and rejected.
  - 7.2. Erasures; Inconsistent or Illegible Bid Proposals. Bid Proposals must not contain any erasures, interlineations or other corrections unless the same are suitably authenticated by affixing in the margin immediately opposite such erasure, interlineations or correction the initials of the person(s) signing the Bid Proposal. Any Bid Proposal not conforming to the foregoing may be deemed by the District to be non-responsive. If any Bid Proposal or portions thereof, is determined by the District to be illegible, ambiguous or inconsistent, whether by virtue of any erasures, interlineations, corrections or otherwise, the District may reject such a Bid Proposal as being non-responsive.
  - 7.3. Withdrawal or Modification of Submitted Bid Proposal. A Bidder may not withdraw or modify a Bid Proposal submitted to the District except in strict conformity to the following. Bid Proposals may be withdrawn or modified only if: (i) the Bidder submitting the Bid Proposal submits a request for withdrawal or modification in writing to the District; and (ii) the written withdrawal or modification request is actually received by the District prior to the latest date/time for submittal of Bid Proposals. Requests for withdrawal of a Bid Proposal after the public opening of Bid Proposals pursuant to Public Contract Code §5100, et seq. will be considered only if in strict conformity with requirements of Public Contract Code §5100, et seq.
8. Examination of Site and Contract Documents. Each Bidder shall, at its sole cost and expense, inspect the Site and to become fully acquainted with the Contract Documents and conditions affecting the Work. Failure of a Bidder to receive or examine any of the Contract Documents or to inspect the Site shall not relieve such Bidder from any obligation with respect to the Bid Proposal, or the Work required under the Contract Documents. The District assumes no responsibility or liability to any Bidder for, nor shall the District be bound by, any understandings, representations or agreements of the District's agents, employees or officers concerning the Contract Documents or the Work made prior to execution of the Contract which are not in the form of Bid Addenda duly

issued by the District. The submission of a Bid Proposal shall be deemed prima facie evidence of the Bidder's full compliance with the requirements of this section.

9. Job-Walk.

9.1. Mandatory and Non-Mandatory Job Walk. The District will conduct a Job-Walk at the time(s) and place(s) designated in the Call for Bids. If attendance at the Job Walk is indicated in the Call for Bids as being mandatory, the failure of any Bidder to have its authorized representative present at the entirety of the Job-Walk will render the Bid Proposal of such Bidder to be non-responsive. The attendance by representatives of the Bidder's Subcontractors at a Mandatory Job Walk without attendance by a representative of the Bidder shall not be sufficient to meet the Bidder's obligations hereunder and will render the Bid Proposal of such Bidder to be non-responsive. If a Job Walk is indicated in the Call for Bids as being Non-Mandatory, the Bid Proposal of a Bidder who does not attend the Non-Mandatory Job Walk will not be rejected for non-responsiveness. Notwithstanding the non-compulsory attendance of Bidders at a Non-Mandatory Job Walk, all Bidders are encouraged to attend Non-Mandatory Job Walks.

9.2. District Additional Job Walk. The District may, in its sole and exclusive discretion, elect to conduct one or more Job-Walk(s) in addition to that set forth in the Call for Bids, in which event the District shall notify all Bidders who have attended a Job Walk. If the District elects to conduct any Job-Walk in addition to that set forth in the Call for Bids, the District shall, in its notice of any such additional Job-Walk(s), indicate whether Bidders' attendance at such additional Job-Walk(s) is/are mandatory.

9.3. Bidder Requested Additional Job Walk. Any Bidder who has obtained the Bid Documents pursuant to the Call for Bids may, by written request to the District, request an additional Job Walk if the District has designated a Job Walk in the Call for Bids or a Job Walk if the District has not designated a Job Walk in the Call for Bids. The District may, in its sole and exclusive discretion, conduct such requested Job-Walk taking into consideration factors such as the time remaining prior to the scheduled opening of Bid Proposals. Any such requested Job Walk will be conducted only upon the requesting Bidder's agreement to reimburse the District for the actual and/or reasonable costs for the District's staff and its agents and representatives in arranging for and conducting such additional Job-Walk.

10. Agreement and Bonds. The Agreement which the successful Bidder, as Contractor, will be required to execute along with the forms Payment Bond, Performance Bond and other documents and instruments which are required to be furnished are included in the Contract Documents and shall be carefully examined by the Bidder. The required number of executed copies of the Agreement and the form and content of the Performance Bond and the Payment Bond and other documents or instruments required at the time of execution of the Agreement are specified in the Contract Documents.

11. Pre-Bid Questions; Contract Document Interpretation and Modifications.

Bidder Pre-Bid Questions. Any Bidder in doubt as to the true meaning of any part of the Contract Documents; finds discrepancies, errors or omissions therein; or finds variances in any of the Contract Documents with the Laws ("Pre-Bid Questions"), shall submit a request for an clarification, interpretation or correction thereof using the form of Pre-Bid Inquiry included with the Contract Documents. Bidders are solely and exclusively responsible for submitting such inquiries or clarification requests not less than SEVEN (7) business days prior to the scheduled closing date for the receipt of Bid Proposals. The District will not respond to any bidder inquiries or clarification requests, unless such inquiries or clarification requests are timely submitted, in writing via email **to all the following District representatives: [Anthony.joseph@simivalleyusd.org](mailto:Anthony.joseph@simivalleyusd.org), [Jeffery.kipp@simivalleyusd.org](mailto:Jeffery.kipp@simivalleyusd.org); [Marc.cunningham](mailto:Marc.cunningham@simivalleyusd.org).** Responses to Pre-Bid Questions will be by written addendum issued by, or on behalf of, the District.

- 11.1. Addenda. A copy of any issued addenda will be e-mailed to each Bidder attending the mandatory Job Walk provided that, each Bidder who attended the mandatory job walk, provided their e-mail address on the sign-in sheet at the mandatory job walk. Bidders shall request inclusion of any other e-mail addresses from the District by email request to: [anthony.joseph@simivalleyusd.org](mailto:anthony.joseph@simivalleyusd.org). The District will also post a copy of any addenda at the same location on the District's web site where the plans and specifications will be posted under [www.simivalleyusd.org](http://www.simivalleyusd.org) under DISTRICT/ BUSINESS & FACILITIES/ WELCOME TO PURCHASING/ BIDS/ RFQ/RFP. Failure to request interpretation or clarification of any portion of the Contract Documents pursuant to the foregoing is a waiver of any discrepancy, defect or conflict therein.
- 11.2. No Oral Interpretations. No person is authorized to: (i) render an oral interpretation or correction of any portion of the Contract Documents; or (ii) provide oral responses to Pre-Bid Questions. No Bidder is authorized to rely on any such oral interpretation, correction or response.
12. District's Right to Modify Contract Documents. Before the public opening and reading of Bid Proposals, the District may modify the Work, the Contract Documents, or any portion(s) thereof by the issuance of written addenda disseminated to all Bidders who have obtained a copy of the Specifications, Drawings and Contract Documents pursuant to the Call for Bids and/or attending the mandatory Job Walk. If the District issues any addenda during the bidding, the failure of any Bidder to acknowledge such addenda in its Bid Proposal will render the Bid Proposal non-responsive and rejected.
13. Bidder's Assumptions. The District is not responsible for any assumptions made or used by the Bidder in calculating its Bid Proposal Amount including, without limitation, assumptions regarding costs of labor, materials, equipment or substitutions/alternatives for any material, equipment, product, item or system incorporated into or forming a part of the Work which have not been previously expressly approved and accepted by the District. The successful Bidder, upon award of the Contract by the District, if any, will be required to complete the Work for the amount bid in the Bid Proposal within the Contract Time and in accordance with the Contract Documents.
14. Bidders Interested in More Than One Bid Proposal; Non-Collusion Affidavit. No person, firm, corporation or other entity shall submit or be interested in more than one Bid Proposal for the same Work; provided, however, that a person, firm or corporation that has submitted a sub-proposal to a Bidder or who has quoted prices for materials to a Bidder is not disqualified from submitting a sub-proposal, quoting prices to other Bidders or submitting a Bid Proposal for the proposed Work to the District. The form of Non-Collusion Affidavit included in the Contract Documents must be completed and duly executed on behalf of the Bidder; failure of a Bidder to submit a completed and executed Non-Collusion Affidavit with its Bid Proposal will render the Bid Proposal non-responsive.
15. Workers' Compensation Insurance. Pursuant to California Labor Code §3700, the successful Bidder shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The successful Bidder shall execute and deliver to the District the form of Workers Compensation Certification included in the Contract Documents concurrently with such Bidder's delivery of the executed Agreement to the District.
16. Determination of Lowest Responsive Responsible Bid/Award of Contract.
- 16.1. Waiver of Irregularities or Informalities. The District reserves the right to reject any and all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.

- 16.2. Award to Lowest Responsive Responsible Bidder. The award of the Contract for each Bid Package, if made by the District through action of its Board of Education, will be to the responsible Bidder submitting the lowest priced responsive Bid Proposal in accordance with these Instructions for Bidders.
- 16.3. Alternate Bid Items Proposal. **Contractors shall include the amount for Alternate Bid Item #1 in the Bid Proposal Amount. The District has determined that Alternate Bid Item #1 is required, and shall be included in the Bid Proposal Amount. Part 1.1 of the Bid Proposal includes Alternate Bid Item #1. Alternate Bid Item #1 is further described on the plans at Contract Drawing L2.2, Detail 8, and consists of new cast-in-place concrete steps, railing, and incidentals.**
- 16.4. Determination of Lowest Responsive Bid. The lowest responsive bid for the Work shall be determined as follows:  
**The lowest bid shall be the lowest bid price, based on the lowest responsive Bid Proposal Amount.**
- 16.5. Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form attached hereto within Seven (7) calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages the Bidder and its Subcontractors are required to obtain under the Contract Documents; (ii) Performance Bond; (iii) Labor and Material Payment Bond; (iv) Certificate of Workers' Compensation Insurance; (v) Drug-Free Workplace Certificate; (vi) Fingerprint Certificates and (vii) if a Project involves roof work the Roof Project Financial Disclosure Certificate. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescinding award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest priced Bid Proposal or to reject all Bid Proposals.
- 16.6. Alternate Bid Items Not Included in Award of Contract. **(The District requires the Alternate Bid Item be included in the Award of Contract. The amount for the Alternate Bid Item shall be included in the Bid Proposal Amount).**
- 16.7. Responsive Bid Proposal. A responsive Bid Proposal shall mean a Bid Proposal which conforms to and complies with requirements of the Bid and Contract Documents. A Bid Proposal that does not conform to material bidding requirements, as reasonably determined by the District, is subject to rejection for non-responsiveness.
- 16.8. Hearing re Rejected Bid. If a Bidder's bid is rejected by the District for responsiveness, but the Bidder contends that the basis of rejection is for responsibility, not responsiveness, the Bidder may request a responsibility hearing on that rejection: (i) if the District issues a notice of intent to award a contract to a Bidder whose bid is higher than the bid that was rejected; and (ii) the Bidder strictly complies with the following provisions relating to time limitations for requesting a responsibility hearing. To be considered by the District, such a request for a responsibility hearing must be in writing and submitted to the District's Assistant Superintendent, Business Services Division, and must be actually received by the District's Assistant Superintendent, Business Services Division by the earlier of: (i) 5:00 PM one (1) business day after the District's notice to the Bidder of the District's rejection of the Bidder's Bid Proposal; or (ii) 5:00 PM one (1) business day after the date of the District's notice of intent to award a contract. If a Bidder does not request a responsibility hearing in strict conformity with

the foregoing, such Bidder shall be deemed to have knowingly and voluntarily waive rights to a hearing. The District will grant or deny such request for a hearing based on the holding of the California Court of Appeal in *Great West Contractors, Inc. v. Irvine Unified School District* (2010) 187 Cal. App. 4th 1425. If a Bidder timely requests a hearing pursuant to the foregoing, the District will notify such Bidder in writing by 5:00 PM two (2) business days after the date of the Bidder's request for hearing is submitted of the District grant or denial of such a hearing. If the District grants a hearing, the District will schedule the hearing for a date not less than three (3) business days after the date of such notice to the Bidder requesting a hearing. If the District holds such a hearing, any Bidder may at its own expense: i) be represented at the hearing by legal counsel; ii) record the proceedings by court reporter; iii) present oral and/or written statements and/or other documents.

16.9. Responsible Bidder.

- 16.9.1. Bidder Capacity. Factors affecting the Bidder's capacity to perform and complete the Work will be assessed, including: (i) Bidder's access to labor, materials and other resources necessary to complete the Work; (ii) Bidder's ability to complete the Work within the time established for completion of the Work, or portions thereof; and (iii) Bidder's ability to complete warranty obligations.
- 16.9.2. Bidder Character, Integrity. Factors reflecting the character and integrity of the Bidder, including: (i) other public agency finding/determination, within the past five (5) years, that the Bidder is not responsible; (ii) currently debarred from bidding public works projects or debarment from bidding within past five (5) years; and (iii) false claims liability within the past five (5) years under local, state or federal laws.
- 16.9.3. Bidder Financial Capability. Factors considered include: (i) sufficiency of the Bidder's financial resources; (ii) whether the Bidder is current in payment of debts and performance of other financial obligations; and (iii) bankruptcy or insolvency proceedings have been instituted within the past five (5) years.
- 16.9.4. Bidder Prior Performance. The Bidder's prior performance on prior public works contracts, including without limitation: (i) cost overruns; (ii) compliance with general conditions and other contractual requirements, including schedule development, schedule updates and coordination of labor, material/equipment procurements and subcontractors; (iii) completion within allocated time; (iv) submittal of unsubstantiated, unsupported or excessive cost proposals, claims or contract adjustment requests; (v) completion of a project by a surety; (vi) owner's exercise of default remedies; and (vii) finding or determination by any public agency that the Bidder is not a responsible bidder.
- 16.9.5. Safety. Factors include: (i) findings of serious or willful safety violations of safety laws, regulations or requirements by any local, state or federal agency within the past five (5) years; (ii) adequacy and implementation of safety plans, programs for on-site and off-site construction and construction related activities; and (iii) Workers Compensation Insurance EMR rating exceeding 1.25.

17. Subcontractors.

- 17.1. Designation of Subcontractors; Subcontractors List. In accordance with Public Contract Code §4104, the Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100 et seq.), each Bidder shall submit, on the form of Subcontractors List included with the Contract Documents, a list of its proposed Subcontractors for the proposed Work, including any Alternate Bid Items, who will perform/provide portions of the Work valued at or more than one-half (1/2) of one percent (1%) of the amount proposed by the Bidder for the Work. The Subcontractors List consists of five (5) columns, each of which requires the Bidder's disclosure of information relating to each listed Subcontractor as follows:

Column A Name of Subcontractor  
Column B Subcontractor's Address

Column C Subcontractor's Portion of the Work  
 Column D Subcontractor's California Contractors' License  
 Column E Subcontractor DIR Registration

Columns A, B, C and D of the Subcontractors List must be completed by the Bidder for each Subcontractor identified by the Bidder in its Subcontractors List submitted concurrently with the Bidder's Bid Proposal. If Column E of the Subcontractors List is/are not completed on the form of Subcontractors List submitted by a Bidder concurrently with its Bid Proposal, such Bidder shall submit the information required by Column E, as applicable, of the Subcontractors List for each listed Subcontractor within twenty-four (24) hours after the latest date/time for submission of Bid Proposals. Failure of a Bidder to comply with the foregoing will render the Bidder's Bid Proposal non-responsive and rejected.

- 17.2. Work of Subcontractors. All Bidders are referred to the Contract Documents and the notation therein that all Contract Documents are intended to be complimentary and that the organization or arrangements of the Specifications and Drawings shall not limit the extent of the Work of the Contract Documents. Accordingly, all Bidders are encouraged to disseminate all of the Specifications, Drawings and other Contract Documents to all persons or entities submitting sub-bids to the Bidder. The omission of any portion or item of Work from the Bid Proposal or from the sub-bidders' sub-bids which is/are necessary to produce the intended results and/or which are reasonably inerrable from the Contract Documents is not a basis for adjustment of the Contract Price or the Contract Time. Dissemination of the Contract Documents to sub-bidders and dissemination of addenda issued during the bidding process is solely the responsibility of each Bidder.

- 17.3. Subcontractor Bonds. Pursuant to California Public Contract Code §4108, if a Bidder requires a bond or bonds of its Subcontractor(s), whether the expense of procuring such bond or bonds are to be borne by the Bidder or the Subcontractor(s), such requirements shall be specified in the Bidder's written or published request for sub-bids. Failure of the Bidder to comply with these requirements shall preclude the Bidder from imposing bonding requirements upon its Subcontractor(s) or rejection of a Subcontractor's bid under California Public Contract Code §4108(b).

18. Department of Justice. Except when there are no pupils present at the Site, no employee or independent contractor to the Contractor, nor any employee or independent contractor to any Subcontractor, of any tier, shall be permitted access to the Site nor to perform any Work at the Site until: (a) such person has submitted her/his fingerprints to the California Department of Justice ("DOJ") pursuant to Education Code § 45125.1; (b) the DOJ has ascertained, based upon the submitted fingerprints, that the individual has not been convicted of a felony defined in Education Code § 45122.1 and has no criminal felony proceedings (as defined in Education Code § 45122.1) pending against her/him; (c) the Contractor or Subcontractor engaging the individual for the Work has received written or electronic verification from the DOJ of the absence of felony convictions and pending felony criminal proceedings; and (d) the Contractor or Subcontractor engaging such individual as an employee or independent contractor has submitted a Fingerprint Certification to the District specifically identifying such individual as having been verified by the DOJ as not having been convicted of a felony and not having pending criminal felony proceeding pending against her/him.

19. Workers' Compensation Insurance. Pursuant to California Labor Code § 3700, the successful Bidder shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The successful Bidder shall execute and deliver to the District the form of Workers Compensation Certification included in the Contract Documents concurrently with such Bidder's delivery of the executed Agreement to the District.

20. Bid Security Return. The Bid Security of the Bidders submitting the three lowest priced Bid Proposals, the number being solely at the discretion of the District, will be held by the District for ten



(10) days after the period for which Bid Proposals must be held open (which is set forth in the Call for Bids) or until posting by the successful Bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever occurs later, at which time the Bid Security of such other Bidders will be returned to them.

21. Forfeiture of Bid Security. If the Bidder awarded the Contract fails or refuses to execute the Agreement within Seven (7) calendar days from the date of receiving notification that it is the Bidder to whom the Contract has been awarded, the District may declare the Bidder's Bid Security forfeited as damages caused by the failure of the Bidder to enter into the Contract and may thereupon award the Contract for the Work to the responsible Bidder submitting the next lowest Bid Proposal or may call for new bids, in its sole and exclusive discretion.
22. Contractors' License. No Bid Proposal will be considered from a Bidder who, at the time Bid Proposals are opened, is not licensed to perform the Work of the Contract Documents, in accordance with the Contractors' License Law, California Business & Professions Code §§7000, *et seq.* This requirement is not a mere formality and will not be waived by the District or its Board of Education. The required California Contractors' License classification(s) for the Work is set forth in the Call for Bids. Any Bidder not duly and properly licensed is subject to all penalties imposed by law. No payment shall be made for the Work unless and until the Registrar of Contractors verifies to the District that the Bidder awarded the Contract is properly and duly licensed for the Work.
23. Non-Discriminatory Employment Practices. It is the policy of the District that there be no discrimination against any prospective or active employee engaged in the Work because of race, color, ancestry, national origin, religious creed, sex, age, marital status or other legally protected classification. All Bidders agree to comply with the District's non-discrimination policy and all applicable Federal and California anti-discrimination laws including but not limited to the California Fair Employment & Housing Act beginning with California Government Code §§ 12940, *et seq.* and California Labor Code § 1735. In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.
24. Sexual Harassment. It is the policy of the District to ensure that everyone complies with Education Code, Government Code, Title V of the Administrative Code, and all other related statutes related to the prevention of Sexual Harassment. All Bidders agree to comply with the District's Sexual Harassment Prevention Program and all applicable Federal and California laws including but not limited to the California Fair Employment & Housing Act commencing with California Government Code §12950, *et seq.* In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.
25. Public Records. Bid Proposals and other documents responding to the Call for Bids become the exclusive property of the District upon submittal to the District. At such time as the District issues the Notice of Intent to award the Contract pursuant to these Instructions for Bidders, all Bid Proposals and other documents submitted in response to the Call for Bids become a matter of public record and shall be thereupon be considered public records, except for information contained in such Bid Proposals deemed to be Trade Secrets (as defined in California Civil Code § 3426.1) and information provided in response to the Statement of Qualifications. A Bidder that indiscriminately marks all or most of its Bid Proposal as exempt from disclosure as a public record, whether by the notations of "Trade Secret," "Confidential," "Proprietary," or other similar notations, may result in, or render, the Bid Proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Bid Proposals are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded

access for inspection and/or copying of such Bid Proposals, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Bid Proposal deemed exempt from disclosure hereunder, the Bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

26. Drug Free Workplace Certificate. In accordance with California Government Code §§ 8350 et seq., the Drug Free Workplace Act of 1990, the successful Bidder will be required to execute a Drug Free Workplace Certificate concurrently with execution of the Agreement. The successful Bidder will be required to implement and take the affirmative measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. Failure of the successful Bidder to comply with the measures outlined in the Drug Free Workplace Certificate and in California Government Code §§ 8350 et seq. may result in penalties, including without limitation, the termination of the Agreement, the suspension of any payment of the Contract Price otherwise due under the Contract Documents and/or debarment of the successful Bidder.
27. Roof Projects Certification Re Financial Relationships Disclosure. (Not Used)
28. Compliance with Immigration Reform and Control Act of 1986. The Bidder is solely and exclusively responsible for employment of individuals for the Work of the Contract in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§1101, et seq. (the "IRCA"); the successful Bidder shall also require that any person or entity employing labor in connection with any of the Work of the Contract shall so similarly comply with the IRCA.
29. Notice of Intent to Award Contract. Following the public opening and reading of Bid Proposals, the District will issue a Notice of Intent to Award the Contract, identifying the Bidder to whom the District intends to award the Contract and the date/time/place of the District's Board of Education meeting at which award of the Contract will be considered.
30. Substitute Security. The successful Bidder may request substitution of eligible and equivalent securities for any monies withheld by the District to ensure the Contractor's performance under the Contract pursuant to California Public Contract Code §22300. The foregoing notwithstanding, the Bidder to whom the Contract is awarded shall make its written request to the District for substitute security not later than the date of the submission of the first Application for Progress Payment; failure to request substitute security on or prior to such date shall be deemed a waiver of rights under Public Contract Code §22300.
31. Bid Protest.
  - 31.1. Submittal of Bid Protest. Any Bidder submitting a Bid Proposal to the District may file a protest of the District's intent to award the Contract provided that all of the following are complied with: (i) the bid protest is in writing; (ii) the bid protest is filed and received by the District's Assistant Superintendent, Business Services Division, not more than five (5) calendar days after the date of issuance of the District's Notice of Intent to Award the Contract; and (iii) the written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed

waived. All factual contentions must be supported by competent, admissible and creditable evidence. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid.

- 31.2. District Review and Disposition of Bid Protest. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Assistant Superintendent, Business Services Division, or such individual(s) as may be designated by him/her ("Designee") will review and evaluate the basis of the bid protest. The District's Assistant Superintendent, Business Services Division, or Designee shall provide the Bidder submitting the bid protest with a written statement concurring with or denying the bid protest ("Bid Protest Response"). The Bid Protest Response is deemed the final action of the District and not subject to appeal or reconsideration by any other employee or officer of the District or the Board of Education of the District. The issuance of the Bid Protest Response by the District's Assistant Superintendent, Business Services Division, or the Designee is an express condition precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals. If any such legal or equitable proceedings are instituted and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. Each Bidder shall acknowledge in the Bid Proposal that the foregoing is a binding attorneys' fee agreement pursuant to Civil Code §1717 and shall be enforceable against the Bidder and the District.

**[End of Section]**

**BID PROPOSAL**

**Project: GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**  
**Bid No. 21E5BX361**

Bidder Name			
Bidder Representative(s)	Name and Title		
	Name and Title		
Bidder Representative(s) Contact Information	Email Address(es)	Phone/Fax	
		( ) Telephone	
		( ) Fax	
Bidder Mailing Address	Address		
	City/State/Zip Code		
California Contractors' License	Number		
	Classification(s) and Expiration Date		

1. Bid Proposal.

- 1.1 **Bid Proposal Amount.** The undersigned Bidder proposes and agrees to furnish and install the Work including, without limitation, providing and furnishing any and all labor, materials, tools, equipment and services necessary to complete, in a workmanlike manner in accordance with the Contract Documents, all of the Work described as: **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361 including BID ALTERNATE #1 concrete steps, railing and incidentals**, for the sum of:

\$   ,    ,    .

Dollars

(in words; printed or typed)

**The Bid Proposal Amount includes the Allowance Amount set forth in Paragraph 1.2, below, and BID ALTERNATE #1 concrete stairs and railing shown on Contract Drawing L2.2, Detail 8.** The Bidder confirms that it has checked all of the above figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any assumptions, errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid Proposal.

- 1.2 **Allowance.** The Bidder and District acknowledge that the **Bid Proposal Price set forth above includes an Allowance Amount in the aggregate amount of Fifteen-Thousand Dollars (\$15,000.00) for items described in in the Allowances section of the Special Conditions.**

Although included in the Bid Proposal Price, Allowances belong solely to the District

and shall be expended only upon written direction by the District, to be granted or denied in its sole discretion. Any Allowance Amount not fully consumed shall belong solely to the District and shall be refunded to the District by a deductive change order. By submitting this Bid Proposal, the Bidder confirms that the Bid Price proposed in Paragraph 1.1 is inclusive of the Allowance Amount.

- 1.3 Acknowledgment of Bid Addenda. The Bidder confirms that this Bid Proposal incorporates and is inclusive of, all items or other matters contained in Bid Addenda, if any, issued by or on behalf of the District.

\_\_\_\_\_  
(initial) **Addenda Nos.** \_\_\_\_\_ received, acknowledged  
and incorporated into this Bid Proposal.

2. Documents Accompanying Bid Proposal. (a) Bid Security; (b) Subcontractors List; (c) Non-Collusion Declaration; (d) Certification of Contractor and Subcontractor(s) DIR Registration, and (e) Certification of Prevailing Wage & Related Labor Requirements. The Bidder acknowledges that if this Bid Proposal and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, the Instructions for Bidders and in each of the foregoing documents, the Bid Proposal may be rejected as non-responsive.
3. Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form attached hereto within Seven (7) calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages required under the Contract Documents; (ii) Performance Bond; (iii) Labor and Material Payment Bond; (iv) Certificate of Workers' Compensation Insurance; and (v) Drug-Free Workplace Certificate. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescinding award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest priced Bid Proposal or to reject all Bid Proposals.
4. Contractors' License. The Bidder certifies that: (i) it possesses a valid and in good standing Contractors' License, in the necessary class(es), for performing the Work as set for in the Call for Bids; (ii) that such license shall be in full force and effect throughout the duration of the performance of the Work; and (iii) that all Subcontractors providing or performing any portion of the Work are properly licensed to perform their respective portions of the Work at the time of submitting this Bid Proposal and will remain so properly licensed at all times during their performance of the Work.
5. Agreement to Bidding Requirements and Attorney's Fees. The undersigned Bidder acknowledges and confirms its receipt, review and agreement with, the contractual requirements set forth in this Bid Proposal and the Contract Documents. By executing this Bid Proposal hereinbelow, the Bidder expressly acknowledges and agrees that if the Bidder institutes any legal or equitable proceedings in connection with this Bid Proposal and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. This provision shall constitute a binding attorneys' fee agreement in accordance with and pursuant to California Civil Code §1717 which shall be enforceable against

the Bidder and the District. This attorneys' fee provision shall be solely limited to legal or equitable proceedings arising out of a bid protest or the bidding process and shall not extend to or have any force and effect on the Contract for the Work or to modify the terms of the Contract Documents for the Work.

6. Acknowledgment and Confirmation. The undersigned Bidder acknowledges its receipt, review and understanding of the Drawings, the Specifications and other Contract Documents pertaining to the proposed Work. The undersigned Bidder certifies that the Contract Documents are, in its opinion, adequate, feasible and complete for providing, performing and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned Bidder certifies that it has, or has available, all necessary equipment, personnel, materials, facilities and technical and financial ability to complete the Work for the amount bid herein within the Contract Time and in accordance with the Contract Documents.

By: \_\_\_\_\_

(Signature of Bidder's Authorized Officer  
or Representative)

\_\_\_\_\_  
(Typed or Printed Name)

Title: \_\_\_\_\_

(FOR PRE-BID USE ONLY)  
**PRE-BID REQUEST FOR INFORMATION**  
**SIMI VALLEY UNIFIED SCHOOL DISTRICT**

Date of Pre-Bid RFI: \_\_\_\_\_  
 Project Name:  
**GARDEN GROVE ES KINDERGARTEN AREA  
 LANDSCAPE IMPROVEMENTS**  
**Bid No. 21E5BX361**  
 Project No: \_\_\_\_\_

Bidder Name: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Bidder's Pre-Bid Request for Information (Include references to Drawing Sheet Numbers  
 and/or Sections of the Specifications)**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Additional pages attached by Bidder: \_\_\_\_ Yes \_\_\_\_ No  
 Number of additional pages attached by Bidder: \_\_\_\_\_

**Response to Bidder's Pre-Bid Request for Information**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Additional pages of RFI Response attached: \_\_\_\_ Yes \_\_\_\_ No  
 Number of additional RFI Response pages attached: \_\_\_\_\_

Date of RFI Response: \_\_\_\_\_

Submitted By:

\_\_\_\_\_  
 (Bidder Name)

\_\_\_\_\_  
 (Signature of Bidder's Authorized Employee, Officer or  
 Representative)

Submittal Date: \_\_\_\_\_

Bidder Contact Information:

\_\_\_\_\_  
 (Bidder Contact Name)

\_\_\_\_\_  
 (Phone and Fax)

\_\_\_\_\_  
 (Email Address)

**SUBCONTRACTORS LIST**

**Project**      **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**  
**Bid No. 21E5BX361**

**Name of Bidder:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

(A) Licensed Name of Subcontractor	(B) Subcontractor Office, Mill or Shop Address	(C) Subcontractor Trade or Portion of Work	(D) Subcontractor Contractors' License No.	(E) Subcontractor DIR Registration [Submit within 24 hours of Bid Opening per Paragraph 17.1 of Instructions For Bidders]

*Copy this form as needed for additional page(s)*



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**SIMI VALLEY UNIFIED SCHOOL DISTRICT**

**CERTIFICATION OF PREVAILING WAGE AND  
RELATED LABOR REQUIREMENTS**

PROJECT: **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**  
**Bid No. 21E5BX361**

CONTRACTOR: \_\_\_\_\_  
(company name)

I hereby certify that the firm identified above will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

I hereby certify that I will also conform to the Federal Labor Standards Provisions regarding minimum wages, withholding, payrolls and basic records, apprentice and trainee employment requirements, equal employment opportunity requirements, Copeland Act requirements, Davis-Bacon and Related Act requirements, Contract Work Hours and Safety Standards Act requirements, and any and all other applicable requirements for federal funding for all Work on the above Project.

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contractor Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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## **SIMI VALLEY UNIFIED SCHOOL DISTRICT**

### **PUBLIC WORKS**

#### **APPLICATION FOR PRE-QUALIFICATION**

**[Projects over \$175,000 and less than \$1,000,000]**

#### **1. Introduction**

- 1.1. Simi Valley Unified School District, "District" will be soliciting bids for modernization, reconstruction, technology, and new construction projects. As a precondition of bidding and in accordance with the provisions of Section 20111.5 of the California Public Contract Code, Simi Valley Unified School District requires that all prospective bidders on public works projects that involve a projected expenditure of more than One Hundred Seventy-Five Thousand Dollars (\$175,000.00) and less than One Million Dollars (\$1,000,000.00), submit a completed Application for Prequalification on the forms supplied by the District.
- 1.2. To submit a bid on a District project, the prospective bidder must submit a completed Application for Prequalification to the District no less than at least seven (7) business days prior to the bid opening date for a particular project or other date established by and at the discretion of the District and must be prequalified at least one (1) business day prior to the date fixed for the public opening of sealed bids. The District will notify the applicant if, in the District's opinion, the applicant meets the prequalification requirements and may bid the project(s).
- 1.3. Prequalification by the District is valid for one (1) year from the date that the District notifies the Applicant of same and shall be limited to public works projects that involve a projected expenditure of more than One Hundred Seventy-Five Thousand Dollars (\$175,000.00) and less than One Million Dollars (\$1,000,000.00).

#### **2. Submission of Completed Application**

An original and one (1) copy of the fully completed Prequalification Application with all required documentation should be submitted to the District in a sealed envelope labeled in the lower left-hand corner "CONFIDENTIAL– Prequalification Application" and submitted to:

**Simi Valley Unified School District  
Bond Management Office  
101 West Cochran Street  
Simi Valley, CA 93065**

3. Bids for projects requiring prequalification will not be accepted from prospective bidders who do not have a prequalification statement on file with the District.

## PREQUALIFICATION APPLICATION

Simi Valley Unified School District ("District") has determined that all prospective bidders must be pre-qualified prior to submitting bids for all public works projects with a Project Contract Price of more than One Hundred Seventy-Five Thousand Dollars (\$175,000.00) and less than One Million Dollars (\$1,000,000.00). If a Contractor does not already have a current and valid prequalification letter on file with the District, it is mandatory that all licensed Contractors who intend to submit bids complete this Prequalification Application, provide all materials requested herein, and be approved by the District to be on the Prequalified Bidder's list. No Bid will be accepted from a prospective bidder that has failed to comply with these requirements. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint venture, each entity within the Joint Venture must be separately qualified to bid. Contractors are encouraged to submit prequalification packages as soon as possible, so that they may be notified of omissions of information to be remedied or of their prequalification status well in advance of the bid advertisement for any given project.

### 1. Contents of Prequalification Application; Responsiveness.

A Prequalification Application consists of the following:

- Prequalification Application
- DIR Registration Verification
- Construction Projects Completed
- Construction Projects in Progress
- Reference Evaluations
- Financial Statement and Accountant's Release Letter
- Notarized Statement of Bondability
- Notarized Statement of Insurability

Any Prequalification Application not containing the above-referenced requisite documents completed with all information required and bearing the signature of the Bidder's duly authorized representative under penalty of perjury may render the Prequalification Application non-responsive. All information or responses of a prospective Bidder in its Prequalification Application and other documents accompanying the Prequalification Application shall be complete, accurate and true. Any statement which is proven to be false shall be grounds for immediate disqualification.

### 2. Questions Regarding Prequalification Application.

All questions regarding the Prequalification Application or Prequalification process must be submitted no later than seven business days prior to the latest date for submission of bid proposals. Questions will only be accepted in writing and sent via email to the SVUSD Bond Program Manager, Anthony Joseph to [anthony.joseph@simivalleyusd.org](mailto:anthony.joseph@simivalleyusd.org).

**3. Prequalification Application.**

The District requires all prospective bidders to answer the questions contained in this Prequalification Application and submit the requisite documentation. These documents will be the basis of rating bidders to determine whether a bidder is qualified to bid on District Projects. The District reserves the right to determine qualification on the basis of additional information secured from any source. The District's decision will be based on objective evaluation criteria and scorable questions. Not all questions in the questionnaire are scorable; some questions simply ask for information about the contractor firm's structure, officers and history. Omission of requested information may result the Prequalification Application being deemed non-responsive.

**4. DIR Registration Verification.**

To qualify as a Prequalified Bidder, each Contractor must be a DIR Registered Contractor and complete and submit the DIR Registration Verification, attached to the Prequalification Application as Attachment 1. The Pre-Qualification Application of a Bidder who is not a DIR Registered Contractor will be rejected as non-qualified.

**5. Construction Projects Completed; Construction Projects in Progress Forms; Reference Evaluations.**

Using the forms attached as Attachments 2, 2A and 3 to this Prequalification Application, Applicant shall provide the required information for: (i) its six (6) most recently completed public works projects and its three (3) largest completed private projects within the last five (5) years; and (ii) all construction projects Applicant's organization currently has in progress. Names and references must be current and verifiable. For its three (3) largest completed public works projects within the last five years, Applicant shall send a copy of the completed Attachment 2, together with Attachment 2A Reference Questionnaire, to each Project Owner for Owner's verification and submission of all pages to the District.

**6. Financial Statement and Accountant's Release Letter.**

The certificate of a licensed Certified Public Accountant will be required in all cases. A suggested form of a certificate for both an audit and a review is attached hereto. One of these may be used if appropriate. It will be acceptable for the accountant to submit a certificate in the accountant's own words. However, such qualifications shall not be so extensive as to nullify the value of the statement or its usefulness to the District. Accountant's Release Letter will also be required. The District will verify financial statement validity with responsible accountant.

**7. Notarized Statement of Bondability.**

The prospective bidder must attach a notarized statement from an admitted surety insurer authorized to issue bonds in the State of California that has an A.M. Best rating of A- or better which states the bidder's current available bonding capacity, bonding capacity for a single contract, and total bonding capacity. Bonding capacity for a single contract must be at least One Million Dollars (\$1,000,000), and total bonding capacity must be at least Two Million Dollars (\$2,000,000).

**8. Notarized Statement of Insurability.**

The prospective bidder must attach a notarized statement from a qualified insurer which states the current insurability of Applicant. The Applicant must show insurability of at least \$2,000,000 per occurrence/\$2,000,000 aggregate in Comprehensive General Liability Insurance. Notarized Statement of Insurability will be accepted by the District only if the insurer is: (i) A.M. Best rated A- or better; (ii) A.M. Best Financial Size Category VII or higher; and (iii) authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California.

**9. Waiver of Irregularities.**

The District reserves the right to waive minor irregularities and omissions in the information contained in the Prequalification Application submitted, to make all final determinations.

**10. Late Applications.**

The District may refuse to grant prequalification where the requested information and materials are not provided by the specified date and time. There is no appeal from a failure to submit a complete application or from submission of a late application. The closing time for prequalification will not be changed to accommodate supplementation of an incomplete submission of an application, or a late submission of an application.

**11. Confidentiality.**

The completed Prequalification Applications submitted by Applicants are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. However, the contents may be disclosed to third parties for purpose of verification, or investigation of substantial allegations, or in the appeal process. State law requires, however, that the names of Applicants applying for prequalification status shall be subject to disclosure, and the first page of the questionnaire will be used for that purpose.

**12. Notification of Prequalification Results.**

Applicants will be notified by fax or e-mail of their prequalification rating. Prequalification approval will remain valid for 1-year (365 calendar days) from the date that the District notifies the Applicant, except that the District reserves the right during the calendar year to adjust, increase, limit, suspend or rescind the prequalification ratings based on subsequently learned information and after giving notice of the proposed action to the prequalified Bidder and affording the prequalified Bidder an opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the District as to why the prequalified Bidder's prequalification status should not be altered or rescinded.

**13. Post-Bid Determination of Responsibility.**

While it is the intent of this Prequalification Application to assist the District in determining bidder responsibility prior to bid, neither the fact of prequalification, nor any prequalification rating, will preclude the District from a post-bid consideration and determination of whether a bidder is responsible and has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

**14. Prequalification Requirements/Scoring.**

To prequalify, each prospective bidder must meet or exceed the requirements outlined in the sections below:

**i) Pass/Fail Section**

Part IV, Section I – Essential Requirements for Qualification. The questions within this section are evaluated utilizing pass or fail approach. Bidders that do not meet all requirements in this section will not be qualified to bid. Bidders receiving a fail score in this section will not be evaluated any further.

**ii) Scoring Sections.**

Part III: Reference Evaluations. The Reference Evaluations will be used to evaluate the Applicants past performance. The Applicant shall send this questionnaire to the owner references listed for each of Contractor's three largest public works projects completed within the last five years and shall ensure that the three (3) completed questionnaires are sent directly from the references to Simi Valley Unified School District. If more than three responses are received by the District the three (3) lowest scored questionnaires will be utilized in calculating the points from this section. A score of zero will be assigned for any questionnaires less than three (3) not received by the District, and a maximum score of ten (10) for each received questionnaire. The highest possible score for this part is thirty (30) Points. *Please be advised that all references are subject to verification.*

Part IV, Section II - Evaluation Criteria. The questions in this section are evaluated utilizing a points system. The points from this section will be added to the points from section III. There are 167 possible points in this section.

Total Scoring - Parts III and IV. Bidders must achieve a minimum score of 147 out of 197 possible on questions that are scored and the reference questionnaires contained in parts II and III. Note that meeting the minimum score on the scored sections does not guarantee prequalification as there are non-scored questions that will also be objectively evaluated.

**15. Disqualification.**

Failure or refusal to complete all questions and provide all information requested within this prequalification application form shall be a basis for disqualification. Further, any statement which is proven to be false shall be grounds for immediate disqualification.

**16. Appeal of Prequalification Rating.**

Where a timely and completed Prequalification Application results in a rating below that necessary to prequalify or an Applicant is deemed disqualified based upon the essential elements, an appeal can be made. An appeal is begun by the Applicant delivering notice to Director of Purchasing, Simi Valley Unified School District of its appeal of the decision with respect to its prequalification rating, no later than two (2) business days after the District provides notice to the Applicant of the Applicant prequalification status for District Projects. The written appeal shall set forth in detail all grounds for the appeal, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the appeal. Any matters not set forth in the written appeal may be deemed invalid. All factual contentions must



be supported by competent, admissible and credible evidence.

Unless the Applicant submits a timely appeal, the Applicant waives any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

Upon receipt of a timely written appeal from Applicant, the District shall have five (5) business days within which to prepare and forward to Applicant a written response to Applicant's Appeal which advises Applicant of the basis for the District's prequalification determination. If Applicant disputes the District's response, Applicant may submit to the District a written request for an appeal hearing, provided such request is made no later than two (2) business days after the District serves its written response on Applicant. Applicant's failure to submit a written request for an appeal hearing within the two (2) working day period shall be deemed to have waived its right to an appeal hearing and shall also waive any and all rights to challenge the decision of the District, whether by administrative process, judicial process or any other legal process or proceeding.

If the Applicant gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than five business days after Public Entity's receipt of the notice of appeal. The hearing shall be an informal process conducted by a panel to whom the District's Board of Education has delegated responsibility to hear such appeals (the "Appeals Panel"). The Applicant will be given the opportunity to present information and present reasons in opposition to the rating. After the conclusion of the hearing, a decision will be rendered and the Applicant shall be notified in writing of the decision. It is the intention of the District that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

An Applicant may be found not pre-qualified for bidding on a specific public works contract to be let by the District, or on all contracts to be let by the District until the Applicant meets the District's requirements. In addition, an Applicant may be found not pre-qualified for either: (1) omission of requested information or (2) falsification of information.

Any appeal not conforming to the foregoing may be rejected by the District as invalid. The foregoing notwithstanding, Applicant's waiver of an appeal hearing shall not render this appeal process invalid.



**more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.**

Person's Name	Construction Firm	Dates of Person's Participation with Firm

**For Firms That Are Partnerships:**

- 1a. Date of formation: \_\_\_\_\_
- 1b. Under the laws of what state: \_\_\_\_\_
- 1c. Provide all the following information for each partner who owns ten percent (10%) or more of the firm.

Name	Position	Years with Co.	% Ownership	Social Security #

- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

**NOTE: For this question, "owner" and "partner" refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.**

Person's Name	Construction Company	Dates of Person's Participation with Company

**For Firms That Are Sole Proprietorships:**

- 1a. Date of commencement of business. \_\_\_\_\_
- 1b. Social security number of company owner. \_\_\_\_\_
- 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.
- NOTE: For this question, "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.**

Person's Name	Construction Company	Dates of Person's Participation with Company

**For Firms That Intend to Make a Bid as Part of a Joint Venture:**

- 1a. Date of commencement of joint venture. \_\_\_\_\_
- 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

(i) Name of firm	% Ownership of Joint Venture

**B. History of the Business and Organizational Performance**

2. Has there been any change in ownership of the firm at any time during the last three years?  
**NOTE: A corporation whose shares are publicly traded is not required to answer this question.**  
☐ Yes      ☐ No  
 If "yes," explain on a separate signed page.
3. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?  
**NOTE: Include information about other firms if one firm owns fifty percent(50%) or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.**  
☐ Yes      ☐ No  
 If "yes," explain on a separate signed page.
4. Are any corporate officers, partners or owners connected to any other construction firms?  
**NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.**  
☐ Yes      ☐ No  
 If "yes," explain on a separate signed page.
5. If your organization has conducted business under a name or name style different than your organization's present name, identify all prior name(s) or name style(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

6. How many years has your organization been in business in California as a contractor under your present business name and license number? \_\_\_\_\_ years
7. Was your firm in bankruptcy at any time during the last five years?  
☐ Yes ☐ No  
 If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.
8. Your organization's Federal Tax Identification Number: \_\_\_\_\_
9. State your firm's gross revenues for each of the last three years:  
 \_\_\_\_\_
10. State your firm's net revenues for each of the last three years:  
 \_\_\_\_\_
11. The Contractor has the following net worth, computed as total assets minus current liabilities:
- |                                   |           |
|-----------------------------------|-----------|
| Contractor's Total Assets:        | \$ _____  |
| Contractor's Current Liabilities: | < _____ > |
| Contractor's Net Worth:           | \$ _____  |
12. Bonding capacity: Provide documentation from your surety confirming your firm has sufficient bonding capacity for this Project and identifying the following:  
 Name of bonding company/surety: \_\_\_\_\_  
 Name of surety agent, address and telephone number:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Total bonding capacity: \_\_\_\_\_
13. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
14. In what type of construction does your firm specialize?  
 \_\_\_\_\_

**Licenses**

9. List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
10. If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
11. Has your firm changed names or license number in the past five years?
- ☐ Yes ☐ No
- If "yes," explain the reason for the change on a separate signed page.
12. Has any owner, partner or (for corporations) officer of your firm operated a construction firm under any other name in the last five years?
- ☐ Yes ☐ No
- If "yes," explain the reason for the change on a separate signed page.
13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
- ☐ Yes ☐ No
- If "yes," please explain on a separate signed sheet.

**DIR Registration**

14. **DIR Registration Verification Form.** Each Contractor and Subcontractor must complete and submit with its Pre-Qualification Application the form of DIR Registration Verification included with the Contract Documents. A Pre-Qualification Application submitted without the DIR Registration Verification duly completed and executed by the Contractor/Subcontractor will result in rejection of the Pre-Qualification Application as non-qualified.

**PART III. CONTRACTOR'S PERFORMANCE/EXPERIENCE AND REFERENCE EVALUATION**

Using the forms attached hereto (Attachments 2 and 3), Contractor shall provide the information regarding its completed construction projects and construction projects in progress:

- Attachment 2: Completed Construction Projects.** Contractor shall identify and provide information about its six most recently completed public works projects and its three largest completed private projects within the last five (5) years. Names and references must be current

and verifiable.

2. **Attachment 2A: Reference Evaluation.** Contractor shall send a copy of the completed Attachment 2, together with Attachment 2A Reference Questionnaire, to each Project Owner for its three (3) largest completed public works projects within the last five years for Owner's verification and submission of all pages to the District. District will verify all Reference Questionnaires submitted. Each Reference Questionnaire submitted to District shall be valued at up to 10 points. No more than three (3) Reference Questionnaires shall be permitted or evaluated.
3. **Attachment 3: Construction Projects in Progress.** Contractor shall identify and provide information about all construction projects your organization currently has in progress.

**ATTACHMENT 1 TO PREQUALIFICATION APPLICATION****DIR REGISTRATION VERIFICATION**

I am the \_\_\_\_\_ of \_\_\_\_\_ ("Bidder")  
 submitting the \_\_\_\_\_  
(Title/Position) (Bidder Name)  
 accompanying Bid Proposal for the Work described as \_\_\_\_\_.

1. The Bidder is currently registered as a contractor with the Department of Industrial Relations ("DIR").
2. The Bidder's DIR Registration Number is: \_\_\_\_\_. The expiration date of the Bidder's DIR Registration is \_\_\_\_\_, 20\_\_\_\_.
3. If the Bidder is awarded the Contract for the Work and the expiration date of the Bidder's DIR Registration will occur: (i) prior to expiration of the Contract Time for the Work; or (ii) prior to the Bidder completing all obligations under the Contract for the Work, the Bidder will take all measures necessary to renew the Bidder's DIR Registration so that there is no lapse in the Bidder's DIR Registration while performing Work under the Contract.
4. The Bidder, if awarded the Contract for the Work will remain a DIR registered contractor for the entire duration of the Work.
5. The Bidder has independently verified that each Subcontractor identified in the Subcontractors List submitted with the Bid Proposal of the Bidder is currently a DIR registered contractor.
6. The Bidder has provided the DIR Registration Number for each subcontractor identified in the Bidder's Subcontractors' List or within twenty-four (24) hours of the opening of Bid Proposals for the Work, the Bidder will provide the District with the DIR Registration Number for each subcontractor identified in the Bidder's Subcontractors List.
7. The Bidder's solicitation of subcontractor bids included notice to prospective subcontractors that: (i) all sub-tier subcontractors must be DIR registered contractors at all times during performance of the Work; and (ii) prospective subcontractors may only solicit sub-bids from and contract with lower-tier subcontractors who are DIR registered contractors.
8. If any of the statements herein are false or omit material facts rendering a statement to be false or misleading, the Bidder's Bid Proposal is subject to rejection for non-responsiveness.

I have personal first hand-knowledge of all of the foregoing. I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_  
(City and State)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Name, typed or printed)



## ATTACHMENT 2 TO PREQUALIFICATION APPLICATION CONSTRUCTION PROJECTS COMPLETED

**Contractor Name:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Owner:** \_\_\_\_\_

**Owner Contact** (name, title, address, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Project Type:** DSA: ☐ Yes ☐ No

☐ New Construction ☐ Modernization ☐ Classroom Modernization ☐ Infrastructure

**Procurement:** ☐ General Contractor ☐ Multi-Prime ☐ Lease/Leaseback ☐ Design-Build

**Contractor's Role:** ☐ General/Prime Contractor, License Classification(s): \_\_\_\_\_  
☐ Subcontractor. Trade \_\_\_\_\_; License Classification: \_\_\_\_\_

**Architect or Engineer** (name, company name, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Construction Manager** (name, company name, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Description of Project, Scope of Work Performed:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Completed Projects	
Original Contract Price:	
Total Adjusted Contract Price:	
Dollar Value of Work Performed by Contractor:	
Original Duration:	
Date of Completion and Actual Duration	/
Time Extensions Granted (no. of days):	

**ATTACHMENT 2A TO PREQUALIFICATION APPLICATION  
REFERENCE QUESTIONNAIRE**

**Contractor Name:** \_\_\_\_\_

**Reference:** Please confirm Project information identified on preceding page and then rate the contractor from 0 to 10, with 0 being the least and 10 being the highest, using the following questions. Once completed please sign and send all pages directly to Simi Valley Unified School District, Attention: Director of Purchasing, via fax at (805) 520-6679 or e-mail [derrick.hoffman@simivalleyusd.org](mailto:derrick.hoffman@simivalleyusd.org).

1. How did the contractor perform in preventing or resolving any stop notices or liens?  
0 1 2 3 4 5 6 7 8 9 10
2. Did the contractor provide adequate personnel?  
0 1 2 3 4 5 6 7 8 9 10
3. How was the contractor's performance in adequately planning, coordinating, and implementing the work?  
0 1 2 3 4 5 6 7 8 9 10
4. How cooperative was the contractor in working with the Owner?  
0 1 2 3 4 5 6 7 8 9 10
5. Rate the contractor's timeliness in providing reports and paperwork, including change order paperwork?  
0 1 2 3 4 5 6 7 8 9 10
6. Was the contractor timely in completing the project?  
0 1 2 3 4 5 6 7 8 9 10
7. How did the contractor perform in mitigating or preventing change orders on the job?  
0 1 2 3 4 5 6 7 8 9 10
8. How fair was the contractor in pricing changes?  
0 1 2 3 4 5 6 7 8 9 10
9. How has the contractor been in taking care of warranty items?  
0 1 2 3 4 5 6 7 8 9 10
10. How fair was the contractor when dealing with claims?  
0 1 2 3 4 5 6 7 8 9 10
11. Rate the effectiveness of the safety program provided by the contractor.  
0 1 2 3 4 5 6 7 8 9 10
12. Rate the contractor's timeliness in paying their suppliers/subcontractors.  
0 1 2 3 4 5 6 7 8 9 10

13. How proactive was the contractor in resolving problems?

0 1 2 3 4 5 6 7 8 9 10

14. How would you rate the contractor's overall performance?

0 1 2 3 4 5 6 7 8 9 10

15. Would you work with this contractor again?

0 1 2 3 4 5 6 7 8 9 10

\* \* \* \* \*

Dated: \_\_\_\_\_

Printed Name of Reference: \_\_\_\_\_

Title of Reference: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Reference)

## ATTACHMENT 2 TO PREQUALIFICATION APPLICATION CONSTRUCTION PROJECTS IN PROGRESS

**Contractor Name:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Owner:** \_\_\_\_\_

**Owner Contact** (name, address, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Project Type:** DSA: ☐ Yes ☐ No

☐ New Construction ☐ Modernization ☐ Classroom Modernization ☐ Infrastructure

**Procurement:** ☐ General Contractor ☐ Multi-Prime ☐ Lease/Leaseback ☐ Design-Build

**Contractor's Role:** ☐ General/Prime Contractor, License Classification(s): \_\_\_\_\_  
☐ Subcontractor. Trade \_\_\_\_\_; License Classification: \_\_\_\_\_

**Architect or Engineer** (name, company name, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Construction Manager** (name, company name, current phone number and e-mail address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Description of Project, Scope of Work Performed:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Projects in Progress	
Original Contract Price:	
Value of Change Orders to date:	
Value of Work to be Performed by Contractor:	
Planned Completion Date:	
Current Scheduled Completion Date:	
Time Extensions Granted (no. of days):	
Percent Complete:	

**PART IV, SECTION I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION**

Contractor will be immediately disqualified if the answer to any of questions 1 through 9 is "no."

Contractor will be immediately disqualified if the answer to any of questions 10 through 18 is "yes."

**NOTE: ESSENTIAL REQUIREMENTS 1 AND 2 APPLY TO GENERAL CONTRACTORS ONLY.**

1. Contractor is a DIR Registered Contractor.  
☐ Yes      ☐ No, not qualified
2. Has your firm completed two (2) public works projects with a contract price of at least Five Hundred Thousand Dollars (\$500,000.00) that were subject to review, approval, and inspection by the California Department of the General Services, Division of State Architect within the last five (5) years?  
☐ Yes      ☐ No, not qualified
3. Does your firm have a minimum of three (3) years experience in public school/community college construction as a prime general contractor?  
☐ Yes      ☐ No, not qualified
4. Contractor possesses a valid and current California Contractor's license for the Project for which it intends to submit a bid?  
☐ Yes      ☐ No, not qualified
5. Contractor has a liability insurance policy with a policy limit of at least \$2,000,000 per occurrence and \$2,000,000 aggregate from an insurer with an A.M. Best rated A- or better; A.M. Best Financial Size Category VII or higher; authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California?  
☐ Yes      ☐ No, not qualified
6. Contractor has current workers' compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700, et. seq.?  
☐ Yes      ☐ No, not qualified  
☐ Contractor is exempt from this requirement, it has no employees
7. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) authorized to issue bonds in the State of California having an A.M. Best rating of A- or better which states: (a) current available bonding capacity (b) bonding capacity for a single contract of at least One Million Dollars (\$1,000,000), and (c) total bonding capacity of at least Two Million Dollars (\$2,000,000)?

**NOTE: Notarized statement must be from the surety company, not an agent or broker.**

☐ Yes      ☐ No, not qualified

8. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information?  
☐ Yes ☐ No, not qualified
9. Is the Contractor's current Workers Compensation Insurance EMR 1.25 or higher?  
☐ Yes ☐ No, not qualified
10. Has your contractor's license been revoked at any time in the last five years?  
☐ Yes, not qualified ☐ No
11. Has a surety firm completed a contract on your behalf, or paid for completion because your firm was terminated for cause or default by the project owner within the last five (5) years?  
☐ Yes, not qualified ☐ No
12. At the time of submitting this Prequalification form, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?  
☐ Yes, not qualified ☐ No
13. At any time during the last five years, has your firm or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?  
☐ Yes, not qualified ☐ No
14. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?  
☐ Yes, not qualified ☐ No
15. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on any government agency or public works project for any reason?  
**NOTE: "Associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.**  
☐ Yes, not qualified ☐ No
16. Is your firm currently the debtor in a bankruptcy case?  
☐ Yes, not qualified ☐ No
17. At any time during the last five years, has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?  
☐ Yes, not qualified ☐ No

18. Applicant's Net Worth, calculated as the difference between Applicant's Total Assets and Current Liabilities, is less than Four-Hundred Thousand Dollars (\$400,000.00).  
☐ Yes, not qualified ☐ No

## SECTION II: EVALUATION CRITERIA

1. How many years has your organization been in business in California as a contractor under your present business name and license number? \_\_\_\_\_ years  
**5 points for 6 years or more**                      **4 points for 5 years**  
**3 points for 4 years**                                **2 points for 3 years or less**
  
2. Was your firm or any predecessor to your firm, or any of its owners, officers or partners at any time during the last five years in bankruptcy? (This question refers only to a bankruptcy action that was not described in answer to question 7, above)  
☐ Yes      ☐ No  
 If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.  
**10 points for "No"**  
**0 points for "Yes"**
  
3. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?  
☐ Yes      ☐ No  
**5 points for "No"**  
**0 points for "Yes"**
  
4. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?  
☐ Yes      ☐ No  
 If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.  
**10 points for "No"**  
**4 points for "Yes" indicating one project with liquidated damages of more than \$50,000**  
**0 points for "Yes" indicating two projects or more projects with liquidated damages of more than \$50,000**  
**0 points for any other answer**
  
5. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?  
**NOTE: "Associated with" refers to another construction firm in which an owner, partner or**

officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.

☐ Yes ☐ No

**5 points for "No"**

**0 points for "Yes"**

6. In the last five years, has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

☐ Yes ☐ No

**10 points for "No"**

**0 points for "Yes"**

7. Has your organization ever refused to sign a construction contract awarded to it?

☐ Yes ☐ No

If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your refusal to sign such contract.

**10 points for "No"**

**0 points for "Yes"**

8. Has your organization ever failed to complete or been precluded from completing a construction contract or been terminated for convenience?

☐ Yes ☐ No

If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your failure to complete such contract.

**10 Points for "No"**

**7 points for "Yes" if termination for convenience or if precluded due to events beyond Contractor's control**

**0 Points for "Yes" indicating any other reason**

\* \* \* \* \*

**NOTE:** The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

If the firm's average gross revenue for the last three years was less than \$50 million, scoring is as follows:

**10 points for either "No" or "Yes" indicating 1 such instance.**

**5 points for "Yes" indicating 2 such instances.**



0 points for "Yes" if more than 2 such instances.

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

10 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.

5 points for "Yes" indicating either 4 or 5 such instances.

0 points for "Yes" if more than 5 such instances.

9. In the past five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?

☐ Yes      Number of instances: \_\_\_\_ ☐ No

10. In the past five years has any claim **against** your firm concerning your firm's work on a construction project been **filed in court or arbitration**?

☐ Yes      Number of instances: \_\_\_\_ ☐ No

11. At any time during the past five years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf in connection with a construction project, either public or private?

☐ Yes      ☐ No

**5 points for either "No" or "Yes" indicating 1 such claim.**

**3 points for "Yes" indicating no more than 2 such claims**

**Subtract five points for "Yes" if more than 2 such claims**

12. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes      ☐ No

**5 points for "No"**

**3 points for "Yes" indicating 1 such instance**

**0 points for "Yes" or if 2 or more such instances**

13. Are there any judgments, orders, decrees or arbitration awards pending, outstanding against your organization or any of the officers, directors, employees or principals of your organization?

☐ Yes      ☐ No

If so, describe each such judgment, order, decree or arbitration award and the present status of the satisfaction or discharge thereof.

**10 points for "No"**

**0 points for "Yes"**

14. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes      ☐ No

**5 points for "No"**

**0 points for "Yes"**

15. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

**5 points for "No"**

**0 points for "Yes"**

16. Was your firm required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay.

☐ Yes Bond Premium Paid: \_\_\_\_\_ ☐ No

**3 points if the rate is no more than one percent**

**0 points if the rate is more than one percent**

17. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes ☐ No

**5 points for "No"**

**0 points for "Yes"**

18. During the last five years, has a claim or other demand been made against your organization's California Contractors License Bond?

☐ Yes ☐ No

**5 points for "No"**

**0 points for "Yes"**

19. During the last five years, has a complaint been filed against your organization's California Contractors License with the California Contractors State License Board?

☐ Yes ☐ No

**5 points for "No"**

**0 points for "Yes"**

20. Within the last five years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

**5 points for "No"**

**3 points for "Yes" indicating 1 such instance**

**0 points for "Yes" if 2 or more such instances**

21. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **state's** prevailing wage laws or with the **federal** Davis-Bacon prevailing wage requirements?

**NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.**

☐ Yes ☐ No

If "yes," attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

**5 points for "No"**

**3 points for "Yes" indicating no more than 3 such instances**

**0 points for "Yes" indicating 4 or more such instances**

\* \* \* \* \*

**NOTE: The scoring for the following four (4) questions shall be as follows:**

***If the firm's average gross revenues for the last three years was less than \$50 million, scoring is as follows:***

***5 points for either "No" or "Yes" indicating 1 such instance.***

***3 points for "Yes" indicating 2 such instances.***

***0 points for "Yes" if more than 2 such instances.***

***If the firm's average gross revenues for the last three years was more than \$50 million, scoring is as follows:***

***5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances.***

***3 points for "Yes" indicating either 4 or 5 such instances.***

***0 points for "Yes" if more than 5 such instances.***

22. Has CAL OSHA cited and assessed penalties against your firm for any "serious," "willful" or "repeat" violations of its safety or health regulations in the past five years?

**Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.**

☐ Yes ☐ No

23. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

**Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.**

☐ Yes ☐ No

If yes, attach a separate signed page describing each citation.

24. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

**NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

☐ Yes ☐ No

If "yes," attach a separate signed page describing each citation.

25. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

☐ Yes ☐ No

If yes, provide the date(s) of such findings, and attach copies of the Department's final decision(s).

26. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:

**NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.**

Current year: \_\_\_\_\_

Previous year: \_\_\_\_\_

Year prior to previous year: \_\_\_\_\_

**4 points for three-year average EMR of .95 or less**

**3 points for three-year average of EMR of more than .95 but no more than 1.10**

**2 points for three-year average of EMR of more than 1.10 but no more than 1.25**

**0 points for any other EMR**

\* \* \* \* \*

The individual executing this Prequalification Application on behalf of the Contractor is duly and fully authorized to execute this Prequalification Application and hereby certifies and declares:

I have read all of the responses to this Prequalification Application and the supporting documentation attached hereto and know their contents. The matters stated in the Prequalification Application responses and supporting documentation are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

Dated: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**PART V: FINANCIAL STATEMENT / ACCOUNTANT'S RELEASE LETTER**

The certificate of a licensed Certified Public Accountant will be required in all cases. A suggested form of a certificate for both an audit and a review is attached hereto. One of these may be used if appropriate. It will be acceptable for the accountant to submit a certificate in the accountant's own words. However, such qualifications shall not be so extensive as to nullify the value of the statement or its usefulness to the District.

Accountant's Release Letter will be required. Simi Valley Unified School District will verify financial statement validity with responsible accountant.

Term of Financial Statements. A Contractor's financial information shall be valid until the date shown is more than one year old from the time the prequalification application is approved. Statements will be held on file until the financial information is fifteen (15) months old at which time it will be destroyed. All applicable portions of the form should be completed with schedules attached if the space provided does not suffice.

**FINANCIAL INFORMATION****COMPLETE THIS CERTIFICATE FOR AN AUDIT OF FINANCIAL STATEMENT:**

STATE OF: \_\_\_\_\_

We have examined the Financial Statement of \_\_\_\_\_ as of \_\_\_\_\_, a copy of which is attached hereto. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying financial statement included on pages \_\_\_\_ to \_\_\_\_ inclusive, sets forth fairly the financial condition of \_\_\_\_\_ as of \_\_\_\_\_, in conformity with generally accepted accounting principles.

\_\_\_\_\_  
**Type Name of Firm**\_\_\_\_\_  
**Accountant must sign here**\_\_\_\_\_  
**Telephone No.**\_\_\_\_\_  
**License No.****COMPLETE THIS CERTIFICATE FOR A REVIEW ONLY OF FINANCIAL STATEMENT:**

I (we) have reviewed the accompanying financial statement of \_\_\_\_\_ as of \_\_\_\_\_, a copy of which is attached hereto. The information included in the financial statement is the representation of the management of the above firm.

Based on my (our) review with the exception of the matter(s) described in the following paragraphs(s), I am (we are) not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

\_\_\_\_\_  
**Type Name of Firm**\_\_\_\_\_  
**Accountant must sign here**\_\_\_\_\_  
**Telephone No.**\_\_\_\_\_  
**License No.**

(Note this review consists principally of inquiries of management and appropriate analytical procedures applied to this financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of opinion regarding the financial statements taken as a whole. Accordingly, we have not expressed such an opinion.)

Special note to Accountant:

The above Certificates of Accountant shall not be made by any individual who is in the regular employ of the individual, partnership or corporation submitting the statement; nor by any individual who is a member of the firm with more than a ten percent financial interest.

**ACCOUNTANT'S RELEASE LETTER**

By signing the form below, I authorize Simi Valley Unified School District to contact our company's licensed accounting firm to verify our most recent audited **or reviewed** financial statement. I understand the financial statement is confidential information and is not open to public inspection.

---

**Name**

---

**Title**

---

**Company Name**

---

**Date**

**Verified by Simi Valley Unified School District**

---

**Name**

---

**Date**

**END OF APPLICATION**

**NON-COLLUSION DECLARATION****PROJECT: GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**

The undersigned declares:

I am \_\_\_\_\_,

(Insert "Sole Owner", "Partner", "President, "Secretary", or other proper title)

of \_\_\_\_\_

(Insert name of bidder)

As the party submitting a Bid Proposal for the above-identified Project, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. The Bid Proposal is genuine and not collusive or sham.
3. The Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any other bidder or anyone else to put in sham bid, or to refrain from bidding.
4. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.
5. All statements contained in the Bid Proposal and related documents are true.
6. The Bidder has not, directly or indirectly, submitted the bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

(City, County and State)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
(City, County and State)

(\_\_\_\_\_) \_\_\_\_\_  
(Area Code and Telephone Number)



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**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

**PROJECT: GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**

I, \_\_\_\_\_ the \_\_\_\_\_ of  
(Name) (Title)  
\_\_\_\_\_, declare, state and certify that:  
(Contractor Name)

1. I am aware that California Labor Code § 3700(a) and (b) provides:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

6. (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees."

2. I am aware that the provisions of California Labor Code §3700 require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this Contract.

\_\_\_\_\_  
(Contractor Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

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I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_  
 (Print Name) (Title) (Contractor Name)

that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.

4. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(City and State)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed Name)

**FINGERPRINT CERTIFICATE**

I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_  
 (Print Name) (Title)

\_\_\_\_\_. I declare, state, and certify all of the following:  
 (Entity/Contractor Name)

1. I am aware of the provisions and requirements of California Education Code §45125.1 and §45125.2, regarding fingerprinting of persons providing services to school districts. As such, I understand that as a public works contractor, California Education Code §45125.2 details three (3) methods for ensuring the safety of pupils as described below.
  - A. Installation of a physical barrier.
  - B. Continual supervision and monitoring of all of contractor's employees by an employee of the contractor whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.**
  - C. Surveillance of contractor's employees by school personnel.

**The District requires Entity/Contractor to be able to comply with method (B) above.** As such, Entity/Contractor must have a California Department of Justice issued ORI number under which Entity's/Contractor's employees have been fingerprinted, allowing the California Department of Justice to notify Entity/Contractor upon ascertaining that an individual whose fingerprints were submitted to it has been convicted of a violent or serious felony. Upon such notification, Entity/Contractor shall immediately remove individual identified from District sites.

**Additional Fingerprint Certificates shall be provided to District as Entity's/Contractor's supervisory staff changes.**

Entity/Contractor  
DOJ issued ORI

← If your entity does not have an ORI #, STOP and contact the School District's Purchasing Director at 805-306-4500 x4601.

As an alternative to Entity/Contractor having an ORI number, the District may allow Entity's/Contractor's supervisory employees to be fingerprinted under the District's ORI number. Contact the District's Purchasing Director at 805-306-4500 x4601.

2. I have personal knowledge of and/or have made due and diligent inquiry with respect to the following, and based on said knowledge and/or inquiry I certify that:
  - A. The fingerprints of each person identified on Attachment B-1, providing continual supervision and monitoring of all of Entity's/Contractor's staff, including subcontractors of all tiers, while Entity/Contractor/subcontractor(s) are on District Sites, have been submitted to the California Department of Justice under the ORI number provided above pursuant to Education Code §45125.1 and §45125.2; and,
  - B. The California Department of Justice has issued written or electronic verification that each person identified on Attachment B-1 has not been convicted of a felony, as defined in Education Code §45122.1, and has no criminal felony proceedings, as defined in Education Code §45122.1, pending against him or her.
3. Entity/Contractor and I understand that if the District determines that Entity/Contractor has either: (a) made a false certification herein, or (b) violates this certification by failing to carry out and to implement the requirements of California Education Code §45125.1, the Contract is subject to termination, suspension of payments, or both.
4. I am authorized to execute this Fingerprint Certificate on behalf of the Entity/Contractor. All of the statements set forth above and all of the information provided in Attachment B-1 are true, correct, complete, and accurate. Further, there are no omissions or misstatements of material fact in the foregoing statements or in the information set forth in Attachment B-1 which would render such statements and/or information to be false or misleading.

Unsupervised Contact with students means contact that provides the person opportunity and probability for personal communication or touch with students when not under direct District supervision. Entity/Contractor shall ensure that Entity/Contractor, any subcontractors of all tiers, and their officers, employees, and agents will have no Unsupervised Contact with students while on District property. Entity/Contractor will work with the District and with Entity's/Contractor's subcontractors to ensure compliance with this requirement and shall take all measures necessary to ensure compliance with this requirement, without compromising the day-to-day educational operations at each school site where Entity/Contractor is performing work. If Entity/Contractor is unable to ensure through a security plan (which includes but is not limited to provision of an on-site Superintendent who has passed DOJ fingerprinting, and is present at the work areas whenever work is being performed, installation of temporary barriers and fencing, isolation of the work areas or rooms from the rest of the campus or building, provision of separate sanitation and break areas for the workers, and provision of a separate path or supervised escort to and from the work for construction employees) that prevention of unsupervised contact with students in a particular circumstance, cannot be achieved, then Entity/Contractor shall immediately notify the District before commencing or continuing any work that could result in Unsupervised Contact, and shall refrain from commencing or continuing the work until Entity/Contractor has remedied the issues which may lead to Unsupervised Contact with students.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
 (City and State)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Handwritten or Typed Name)

**(ATTACHMENT B-1 MUST BE COMPLETED IN ACCORDANCE WITH THE FINGERPRINT CERTIFICATE)**

# FINGERPRINT CERTIFICATE

**ATTACHMENT B-1**

The fingerprints of each person identified below, providing continual supervision and monitoring of all of Entity's/Contractor's staff, including subcontractors of all tiers, while Entity/Contractor/subcontractor(s) are on District Sites, have been submitted to the California Department of Justice under the Entity's/Contractor's ORI number pursuant to Education Code §45125.1 and §45125.2; and,

The California Department of Justice has issued written or electronic verification that each person identified has not been convicted of a felony, as defined in Education Code §45122.1, and has no criminal felony proceedings, as defined in Education Code §45122.1, pending against him or her.

LIST OF FINGERPRINTED PERSONNEL

[illegible]

## AGREEMENT

**THIS AGREEMENT** is entered into May 19, 2021 in the City of Simi Valley, County of Ventura, State of California, by and between **SIMI VALLEY UNIFIED SCHOOL DISTRICT**, a California Unified School District hereinafter "District" and **CONTRACTOR COMPANY NAME** ("Contractor").

**WITNESSETH**, that the District and the Contractor in consideration of the mutual covenants contained herein agree as follows:

1. The Work. Within the Contract Time and for the Contract Price, subject to adjustments thereto pursuant to the Contract Documents, the Contractor shall perform and provide all necessary labor, materials, tools, equipment, utilities, services and transportation to complete in a workmanlike manner all of the Work required in connection with the work of improvement commonly referred to as **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**. Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications prepared by Jordan, Gilbert & Bain, and other Contract Documents enumerated in Article 8 below, along with all modifications and addenda thereto issued in accordance with the Contract Documents.

2. Contract Time. The Contractor shall achieve Substantial Completion the Work within the Contract Time, which is **Fifty-Five (55)** calendar days after the date established in the Notice to Proceed issued by or on behalf of the District for commencement of the Work.

3. Contract Price. The District shall pay the Contractor as full consideration for the Contractor's full, complete and faithful performance of the Contractor's obligations under the Contract Documents, subject to adjustments of the Contract Price in accordance with the Contract Documents, the Contract Price of **Dollars (\$00)**. The District's payment of the Contract Price shall be in accordance with the Contract Documents. The Contract Price is based upon the Contractor's Base Bid Proposal, authorized allowances and the following Alternate Bid Items, **Bid Alternate #1 Concrete Stairs and Railing shown on Contract Drawing L2.2 Detail 8**.

4. Allowances. The Contractor and District acknowledge that the Contract Price set forth above includes an Allowance Amount in the aggregate amount of REFER TO THE SPECIAL CONDITIONS (\$), which is allocated for additional work as set forth in the Special Conditions. Although included in the Contract Price, Allowances belong solely to the District and shall be expended only upon written direction by the District, to be granted or denied in its sole discretion. Any Allowance amount not fully consumed shall belong solely to the District and shall be refunded to the District by a deductive change order.

5. Unit Price Items. (Not Used)

6. Liquidated Damages. The Contractor shall be subject to assessment of Liquidated Damages set forth in the Special Conditions if the Contractor: (i) fails to submit each Submittal required by the Contract Documents in accordance with the Submittal Schedule incorporated into the Contractor's Construction Schedule; or (ii) fails to achieve Substantial Completion of the Work within the Contract Time, subject to adjustments thereto in accordance with the Contract Documents; and/or (iii) fails to complete all Punchlist items within the time established pursuant to the Contract Documents.

7. Limitation on Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by said breach or default of the District and shall exclude any and all special or consequential damages, if any, suffered by the Contractor. By executing this Agreement,



the Contractor expressly acknowledges the foregoing limitation to the recovery only of general damages from the District if the District is in breach or default of its obligations under the Contract Documents. The Contractor expressly waives any right to and foregoes the recovery of any special or consequential damages from the District including, without limitation, damages for: i) lost or impaired bonding capacity; and/or, ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents.

8. The Contract Documents. The documents forming a part of the Contract Documents consist of the following:

00 11 13	Notice Calling for Bids, including Bid Addendum No(s).	00 61 13	Performance Bond
00 21 13	Instructions for Bidders	00 61 14	Labor and Material Payment Bond
00 41 00	Bid Proposal	00 62 90	Verification of Certified Payroll Form to Labor Commissioner
00 43 24	Pre-Bid Inquiry Form	00 65 36	Guarantee Form
00 45 00	Subcontractors List	00 72 00	General Conditions
00 45 10	DIR Registration Verification	00 73 00	Special Conditions and Attachments
00 45 11	Prevailing Wages Certification		Rules of Conduct
00 45 19	Non-Collusion Affidavit		Certification of Non-Asbestos, Non-Lead
00 45 26	Certificate of Workers Compensation		Construction Forms, Waivers and
00 45 27	Drug-Free Workplace Certification		Releasees, Owner's Assessment
00 45 46	Fingerprint Certificate		Summary
00 52 00	Agreement		Project Drawings and Specifications
00 61 10	Bid Bond		

9. Notices. Notices of the District and Contractor to the other shall be transmitted in accordance with the Contract Documents. The effective date of notices transmitted in accordance with the Contract Documents shall be as set forth in the Contract Documents. Notices under the Contract Documents shall be addressed as follows:

If to the District:

Ron Todo, Associate Superintendent, Business Services Division  
Simi Valley Unified School District  
101 West Cochran Street  
Simi Valley, CA 93065

If to the Contractor:

Name, President  
Company  
Address

10. Authority to Execute. The individual(s) executing this Agreement on behalf of the Contractor is/are duly and fully authorized to execute this Agreement on behalf of Contractor and to bind the Contractor to each and every term, condition and covenant of the Contract Documents.

**CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND  
REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD.  
QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED  
TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD,  
P.O. BOX 2600, SACRAMENTO, CALIFORNIA 95826**

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the District and the Contractor as of the date set forth above.

**"DISTRICT"**  
**SIMI VALLEY UNIFIED SCHOOL DISTRICT**

**"CONTRACTOR"**  
**COMPANY NAME**

By \_\_\_\_\_  
Ron Todo  
Title \_\_\_\_\_  
Associate Superintendent,  
Business & Facilities

By: \_\_\_\_\_  
Title: \_\_\_\_\_

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**BID BOND**

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_, as Surety and \_\_\_\_\_, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **SIMI VALLEY UNIFIED SCHOOL DISTRICT** ("the Oblige") for payment of the penal sum hereof in lawful money of the United States, as more particularly set forth herein.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

WHEREAS, the Principal has submitted the accompanying Bid Proposal to the Oblige for the Work commonly described as **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**.

WHEREAS, subject to the terms of this Bond, the Surety and the Principal are jointly and severally firmly bound unto the Oblige in the penal sum equal to Ten Percent (10%) of the maximum amount of the Bid Proposal submitted by the Principal to the Oblige, inclusive of amounts proposed for additive Alternate Bid Items, if any.

NOW THEREFORE, if the Principal shall not withdraw said Bid Proposal within the period specified therein after the opening of the same, or, if no period be specified, for sixty (60) days after opening of said Bid Proposal; and if the Principal is awarded the Contract, and shall within the period specified therefore, or if no period be specified, within five (5) days after the prescribed forms are presented to him for signature, enter into a written contract with the Oblige, in accordance with the Bid Proposal as accepted and give such bond(s) with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract and for the payment for labor and materials used for the performance of the Contract, or in the event of the withdrawal of said Bid Proposal within the period specified for the holding open of the Bid Proposal or the failure of the Principal to enter into such Contract and give such bonds within the time specified, if the Principal shall pay the Oblige the difference between the amount specified in said Bid Proposal and the amount for which the Oblige may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the Oblige in again calling for Bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or the Call for Bids, the Work to be performed there under, the Drawings or the Specifications accompanying the same, or any other portion of the Contract Documents shall in no way affect its obligations under this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said Contract, the Call for Bids, the Work, the Drawings or the Specifications, or any other portion of the Contract Documents.

In the event suit or other proceeding is brought upon this Bond by the Oblige, the Surety and Principal shall be jointly and severally liable for payment to the Oblige all costs, expenses and fees

**[CONTINUED NEXT PAGE]**

incurred by the Obligee in connection therewith, including without limitation, attorney's fees.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by their duly authorized agents or representatives.

_____	
(Bidder/Principal Name)	
By:	_____
	(Signature)
	_____
	(Typed or Printed Name)
Title:	_____
(Attach Notary Public Acknowledgement of Principal's Signature)	

_____	
(Surety Name)	
By:	_____
	(Signature of Attorney-In-Fact for Surety)
	_____
	(Typed or Printed Name of Attorney-In-Fact)
(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)	

<b>Contact name, address, telephone number and email address for notices to the Surety</b>	
_____	
(Contact Name)	
_____	
(Street Address)	
_____	
(City, State & Zip Code)	
(_____) _____	(_____) _____
Telephone	Fax
_____	
(Email address)	

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_, as Surety and \_\_\_\_\_, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **SIMI VALLEY UNIFIED SCHOOL DISTRICT** ("the Oblige") for payment of the penal sum the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

WHEREAS, the Oblige, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**.

WHEREAS, the Principal, has entered into an agreement with the Oblige for performance of the Work; the Agreement and all other Contract Documents set forth therein are incorporated herein and made a part hereof by this reference.

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond ensuring the Principal's prompt, full and faithful performance of the Work of the Contract Documents.

NOW THEREFORE, if the Principal shall promptly, fully and faithfully perform each and all of the obligations and things to be done and performed by the Principal in strict accordance with the terms of the Contract Documents as they may be modified or amended from time to time; and if the Principal shall indemnify and save harmless the Oblige and all of its officers, agents and employees from any and all losses, liability and damages, claims, judgments, liens, costs, and fees of every description, which may be incurred by the Oblige by reason of the failure or default on the part of the Principal in the performance of any or all of the terms or the obligations of the Contract Documents, including all modifications, and amendments, thereto, and any warranties or guarantees required thereunder; then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, adjustment of the Contract Time, adjustment of the Contract Price, alterations, deletions, additions, or any other modifications to the terms of the Contract Documents, the Work to be performed thereunder, or to the Specifications or the Drawings shall limit, restrict or otherwise impair Surety's obligations or Oblige's rights hereunder; Surety hereby waives notice from the Oblige of any such changes, adjustments of Contract Time, adjustments of Contract Price, alterations, deletions, additions or other modifications to the Contract Documents, the Work to be performed under the Contract Documents, or the Drawings or the Specifications.

In the event of the Oblige's termination of the Contract due to the Principal's breach or default of the Principal's obligations thereunder, within twenty (20) days after written notice from the Oblige to the Surety of the Principal's breach or default of the Contract Documents and Oblige's termination of the Contract, the Surety shall notify Oblige in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract Documents and complete the Work at its own expense ("the Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this

**[CONTINUED NEXT PAGE]**

Bond shall be subject to the advance written approval of the Obligee, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

In the event the Surety fails to issue its Notice of Election to Obligee within the time provided for hereinabove, the Obligee may thereafter cause the cure or remedy of the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be jointly and severally liable to the Obligee for all damages and costs sustained by the Obligee as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion of the Work exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligee upon the Principal's failure of performance or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes to the Work which increases the Contract Price.

In the event that suit or other proceeding is brought upon this Bond by the Obligee, the Surety and Principal shall be jointly and severally liable for payment to the Obligee of all costs, expenses and fees incurred by the Obligee therewith, including without limitation, attorneys' fees.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by their duly authorized agent or representative

_____ (Contractor-Principal Name)	
By:	_____ (Signature)
	_____ (Typed or Printed Name)
Title:	_____
(Attach Notary Public Acknowledgement of Principal's Signature)	

_____ (Surety Name)	
By:	_____ (Signature of Attorney-In-Fact for Surety)
	_____ (Typed or Printed Name of Attorney-In-Fact)
(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)	

<b>Contact name, address, telephone number and email address for notices to the Surety</b>	
_____ (Contact Name)	
_____ (Street Address)	
_____ (City, State & Zip Code)	
(_____) _____ Telephone	(_____) _____ Fax
_____ (Email address)	

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_, as Surety and \_\_\_\_\_, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **SIMI VALLEY UNIFIED SCHOOL DISTRICT** ("the Obligee") for payment of the penal sum the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

WHEREAS, the Obligee, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS Bid No. 21E5BX361**.

WHEREAS, the Principal, has entered into an Agreement with the Obligee for performance of the Work, the Agreement and all other Contract Documents set forth therein are incorporated herein by this reference and made a part hereof.

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond for the prompt, full and faithful payment to any Claimant, as hereinafter defined, for all labor materials or services used, or reasonably required for use, in the performance of the Work.

NOW THEREFORE, if the Principal shall promptly, fully and faithfully make payment: (i) to any Claimant for all labor, materials or services used or reasonably required for use in the performance of the Work; (ii) of amounts due under the Unemployment Insurance Code for work or labor performed under the Contract; and (iii) of amounts required to be deducted, withheld and paid to the Employment Development Department from wages of the employees of the Principal and its Subcontractors under Section 13020 of the Unemployment Insurance Code with respect to work and labor under the Contract then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The term "Claimant" shall refer to any person, corporation, partnership, proprietorship or other entity including without limitation, all persons and entities described in California Civil Code §1900, providing or furnishing labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard for whether such labor, materials or services were sold, leased or rented. This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

In the event that suit is brought on this Bond by any Claimant for amounts due such Claimant for labor, materials or services provided or furnished by such Claimant, the Surety shall pay for the same and reasonable attorney's fees pursuant to California Civil Code §9554.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the Contract Documents, shall in any way limit, restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Obligee of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract Documents, the Drawings or the Specifications of any other portion of the Contract Documents.



IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by their duly authorized agent or representative.

_____	
(Contractor-Principal Name)	
By:	_____
	(Signature)
	_____
	(Typed or Printed Name)
Title:	_____
(Attach Notary Public Acknowledgement of Principal's Signature)	

_____	
(Surety Name)	
By:	_____
	(Signature of Attorney-In-Fact for Surety)
	_____
	(Typed or Printed Name of Attorney-In-Fact)
(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature)	

<b>Contact name, address, telephone number and email address for notices to the Surety</b>	
_____	
(Contact Name)	
_____	
(Street Address)	
_____	
(City, State & Zip Code)	
( ) _____	( ) _____
Telephone	Fax
_____	
(Email address)	

## VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER

I am the \_\_\_\_\_ for \_\_\_\_\_ in  
(Superintendent/Project Manager) (Contractor)  
connection with \_\_\_\_\_.  
(Project Name)

1. This Verification is submitted to Simi Valley Unified School District concurrently with the Contractor's submittal of an Application for Progress Payment to the District, identified as Application For Progress Payment No. \_\_\_\_\_ ("the Pay Application").

2. The Pay Application requests the District's disbursement of a Progress Payment for the value of Work performed between \_\_\_\_\_, 20\_\_\_\_ and \_\_\_\_\_, 20\_\_\_\_.

3. The Contractor has submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees of the Contractor engaged in performance of Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

4. All Subcontractors who are entitled to any portion of payment to be disbursed pursuant to the Pay Application have submitted their CPRs to the Labor Commissioner for all of their employees performing Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

5.I have reviewed the Contractor's CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Contractor are complete and accurate for the period of time covered by the Pay Application.

6. I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Subcontractors are complete and accurate for the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the foregoing is true and correct. I executed this Certification on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.

(City and State)

By: \_\_\_\_\_

(Typed or Printed Name)

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**GUARANTEE**

**Project: GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS  
BID NO. 21E5BX361**

The Contractor hereby warrants and guarantees to the District that all work, materials, equipment and workmanship provided, furnished or installed by or on behalf of Contractor in connection with the above referenced Project (the "Work") have been provided, furnished and installed in strict conformity with the Contract Documents for the Work, including without limitation, the Drawings and the Specifications. Contractor further warrants and guarantees that all work, materials, equipment and workmanship as provided, furnished and/or installed are fit for use as specified and fulfill all applicable requirements of the Contract Documents including without limitation, the Drawings and the Specifications. Contractor shall, at its sole cost and expense, repair, correct and/or replace any or all of the work, materials, equipment and/or workmanship of the Work, together with any other items which may be affected by any such repairs, corrections or replacement, that may be unfit for use as specified or defective within **a period of two (2) years** from the date of the District's Final Acceptance of the Work, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of the Contractor's failure and/or refusal to comply with the provisions of this Guarantee, within the period of time set forth in the Contract Documents after the District's issuance of the Notice to the Contractor of any defect(s) in the Work, materials, equipment or workmanship, Contractor authorizes the District, without further notice to Contractor, to repair, correct and/or replace any such defective item at the expense of the Contractor. The Contractor shall reimburse the District for all costs, expenses or fees incurred by the District in providing or performing such repairs, corrections or replacements within ten (10) days of the District's presentation of a demand to the Contractor for the same.

The provisions of this Guarantee and the provisions of the Contract Documents for the Work relating to the Contractor's Guarantee(s) and warranty(ies) relating to the Work shall be binding upon the Contractor's Performance Bond Surety and all successors or assigns of Contractor and/or Contractor's Performance Bond Surety.

The provisions of this Guarantee are in addition to, and not in lieu of, any provisions of the Contract Documents for the Work relating to the Contractor's guarantee(s) and warranty(ies) or any guarantee(s) or warranty(ies) provided by any material supplier or manufacturer of any equipment, materials or other items forming a part of, or incorporated into the Work, or any other guarantee or warranty obligation of the Contractor, prescribed, implied or imposed by law.

The undersigned individual executing this Guarantee on behalf of Contractor warrants and represents that he/she is duly authorized to execute this Guarantee on behalf of Contractor and to bind Contractor to each and every provision hereof.

**Contractor**

\_\_\_\_\_  
(Contractor Name)

\_\_\_\_\_  
(Signature of Contractor's Authorized Employee, Officer  
Or Representative)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Date)

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- 16.5 Severability.
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## GENERAL CONDITIONS

### ARTICLE 1: DEFINITIONS

1.1 District. "District" refers to **SIMI VALLEY UNIFIED SCHOOL DISTRICT** and unless otherwise stated, includes the District's authorized representatives, including the Construction Manager, if a Construction Manager is designated, the District's Board of Education and the District's officers, employees, agents and representatives.

1.2 Contractor. The Contractor is the person or entity identified as such in the Agreement; references to "Contractor" include the Contractor's authorized representative.

1.3 Architect. The Architect is the person or entity identified as such in the Agreement; references to the "Architect" include, as required by context of usage, the Architect or Engineer of Record, the Architect's or Engineer's employees and authorized representative(s) and the Architect's or Engineer's Consultants and their employees and authorized representative(s).

1.4 The Work. The Work is the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment or services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract Documents. The Work may constitute the whole or a part of the Project.

1.5 The Project. The Project is the total construction of which the Work performed by the Contractor under the Contract Documents may be the whole or a part of the Project and which may include construction by the District or by separate contractors.

1.6 Surety. The Surety is the person or entity that executes, as surety, the Contractor's Labor and Material Payment Bond and/or Performance Bond.

1.7 Subcontractors; Sub-Subcontractors. A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work. "Subcontractor" does not include a separate contractor to the District or subcontractors of any separate contractor. A Sub-Subcontractor is a person or entity of any tier, who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site. References to "Subcontractor" shall include Sub-Subcontractors.

1.8 Material Supplier. A Material Supplier is any person or entity who only furnishes materials, equipment or supplies for the Work without fabricating, installing or consuming them in the Work.

1.9 Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing generally, the design, location and dimensions of the Work and may include without limitation, plans, elevations, sections, details, schedules or diagrams. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services. The Drawings and Specifications are intended to delineate and describe the Work and its component parts so as to permit skilled and competent contractors to bid upon the Work and prosecute the same to completion.

1.10 Special Conditions; Supplemental Conditions. Special Conditions and/or Supplemental Conditions, if any are special or supplemental provisions, not otherwise provided for in the

Agreement or the General Conditions.

1.11 Contract Documents. The Contract Documents consist of the Agreement between the District and the Contractor, Conditions of the Contract (whether General, Special, Supplemental or otherwise), Drawings, Specifications, including addenda thereto issued prior to execution of the Agreement and any other documents listed in the Agreement. The Contract Documents shall include modifications issued after execution of the Agreement. The Contract Documents form the Contract for Construction.

1.12 Intent and Correlation of Contract Documents.

1.12.1 Work of the Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable therefrom as being necessary to produce the intended results. Organization of the Specifications into divisions, sections or articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. Where any portion of the Contract Documents is silent and information appears elsewhere in the Contract Documents, such other portions of the Contract Documents shall control.

1.12.2 Technical Terms. Unless otherwise stated in the Contract Documents, words or terms which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.12.3 Conflict in Contract Documents. Conflicts, inconsistencies or ambiguities in the Contract Documents shall be resolved by the Architect in accordance with Article 3.1.9 of the General Conditions; where conflicts or inconsistencies arise between the Drawings and the Specifications, in resolving such conflicts or inconsistencies, the Architect will be governed generally by the following standards: the Drawings are intended to describe matters relating to placement, type, quantity and the like; the Specifications are intended to describe matters relating to quality, materials, compositions, manufacturers and the like. If conflicts exist between portions of the Contract Documents regarding the quality of any item, product, equipment or materials, unless otherwise directed or authorized by the District, the Contractor shall provide the item, product, equipment or material of the highest or more stringent quality.

1.13 Shop Drawings; Samples; Product Data ("Submittals"). Shop Drawings are diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Material Supplier, or others to illustrate some portion of the Work. Samples are physical examples of materials, equipment or workmanship forming a part of, or to be incorporated into the Work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work. Shop Drawings, Samples and Product Data prepared or furnished by the Contractor, Subcontractors or Material Suppliers are collectively referred to as "Submittals".

1.14 Division of State Architect ("DSA"). DSA is the California Division of the State Architect including without limitation the DSA's Office of Construction Services, Office of Design Services and the Office of Regulatory Services; references to the DSA in the Contract Documents shall mean the DSA, its offices and its authorized employees and agents. The authority of the DSA over the Work and the performance thereof shall be as set forth in the Contract Documents and Title 24 of the California Code of Regulations.

1.15 Project Inspector. The Project Inspector is the individual designated and employed by the District in accordance with the requirements of Title 24 of the California Code of Regulations. The Project Inspector shall be authorized to act on behalf of the District as provided for in the Contract Documents and in Title 24 of the California Code of Regulations, as the same may be amended from time to time.

1.16 Contract Document Terms. The term "provide" means "provide complete in place" or to "furnish and install" such item. Unless otherwise provided in the Contract Documents, the terms "approved;" "directed;" "satisfactory;" "accepted;" "acceptable;" "proper;" "required;" "necessary" and "equal" shall mean as approved, directed, satisfactory, accepted, acceptable, proper, required, necessary and equal, in the opinion of the Architect. The term "typical" as used in the Drawings shall require the installation or furnishing of such item(s) of the Work designated as "typical" in all other areas similarly marked as "typical"; Work in such other areas shall conform to that shown as "typical" or as reasonably inferable therefrom.

1.17 Contractor's Superintendent. The Contractor's Superintendent is the individual employed by the Contractor whose principal responsibility shall be the supervision and coordination of the Work; the Contractor's Superintendent shall not perform routine construction labor.

1.18 Record Drawings. The Record Drawings are a set of the Drawings marked by the Contractor during the performance of the Work to indicate completely and accurately the actual as-built condition of the Work. The Record Drawings shall be sufficient for a capable and qualified draftsman to modify the Drawings to reflect and indicate the Work actually in place at Final Completion of the Work.

1.19 Construction Manager. The Construction Manager, if any, is the individual or entity designated as such in the Special Conditions. The Construction Manager is an independent contractor retained by the District and shall be authorized and empowered to act on behalf of the District. In the event that a Construction Manager is not designated in the Special Conditions, the District reserves the right to designate a Construction Manager at any time during Contractor's performance of the Work. The District reserves the right to remove or replace the Construction Manager during Contractor's performance of the Work. The designation of a Construction Manager, if one has not been designated in the Special Conditions, or the removal or replacement of the designated Construction Manager shall not result in adjustment of the Contract Price or the Contract Time or otherwise affect, limit or restrict Contractor's obligations hereunder.

1.20 Construction Equipment. Construction Equipment is equipment utilized for the performance of any portion of the Work, but which is not incorporated into the Work.

1.21 Site. The Site is the physical area designated in the Contract Documents for Contractor's performance, construction and installation of the Work.

1.22 Field Clarifications. A written or graphic document consisting of supplementary details, instructions or information issued on behalf of the District which clarifies or supplements the Contract Documents and which becomes a part of the Contract Documents upon issuance. Field Clarifications do not constitute an adjustment of the Contract Time or the Contract Price, unless a Change Order relating to a Field Clarification is authorized and issued under the Contract Documents.

1.23 Defective or Non-Conforming Work. Defective or Non-Conforming Work is any Work



which is unsatisfactory, faulty or deficient by: (i) not conforming to the requirements of the Contract Documents; (ii) not conforming to the standards of workmanship of the applicable trade or industry; (iii) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (iv) damage occurring prior to Final Completion of all of the Work.

1.24 Delivery. Delivery used in conjunction with any equipment, materials or other items to be incorporated into the Work shall mean the unloading and storage in a protected condition at the Site pending incorporation into the Work.

1.25 Notice to Proceed. The Notice to Proceed is the written notice issued by or on behalf of the District to the Contractor authorizing the Contractor to proceed with commencement of the Work and which establishes the date for commencement of the Contract Time.

1.26 Project Substantial Completion. Substantial Completion is that stage in the progress of the Work when the Work or any designated portion thereof (whether described as milestones, phases, segments or other similar terms) is complete in accordance with the Contract Documents so the District can occupy or use the Work or designated portion thereof for its intended purpose.

1.27 Final Completion. The term "Final Completion" means the Work has been fully completed in accordance with the requirements of the Contract Documents.

1.28 Progress Reports; Verified Reports. Progress Reports, if required, are written reports prepared by the Contractor and periodically submitted to the District in the form and content as required by the Contract Documents. Verified Reports are periodic written reports prepared by the Contractor and submitted to the DSA; Verified Reports shall be in such form and content as required by the applicable provisions of Title 24 of the California Code of Regulations. A material obligation of the Contractor is the preparation of complete and accurate Progress Reports, if required, and Verified Reports as well as the timely submission of the same.

1.29 Laws. Laws refer to all laws, ordinances, codes, rules and/or regulations promulgated by any governmental or quasi-governmental agency with jurisdiction over any portion of the Work and which apply to any portion of the Work, including those in effect as of the execution of the Agreement, amendments thereto and subsequently enacted Laws that take effect during the performance of the Work. No adjustment of the Contract Time or the Contract Price shall be allowed for the Contractor's compliance with the Laws.

1.30 Construction Change Directive. A Construction Change Directive is a written instrument issued by or on behalf of the District to the Contractor directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. A material obligation of the Contractor is timely performance of Work noted in a Construction Change Directive.

## **ARTICLE 2: DISTRICT**

### **2.1 Information Required of District**

2.1.1 Surveys; Site Information. Information, if any, concerning physical characteristics of the Site, including without limitation, surveys, soils reports, and utility locations, to be provided by the District are set forth in the Contract Documents. Information not provided by the District or necessary information in addition to that provided by the District concerning physical characteristics of the Site which is required shall be obtained by Contractor without adjustment to the Contract Price or the Contract Time.

**2.1.2 Permits, Approvals.** Except as otherwise provided in the Contract Documents, the District shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities which relate to the Work. If permits, licenses, approvals or similar approvals relating to the Work, or the installation/construction thereof are designated as the responsibility of the Contractor under the Contract Documents, the Contractor shall obtain the same without adjustment of the Contract Price or the Contract Time.

**2.1.3 Drawings and Specifications.** Except as otherwise provided for in the Contract Documents, the District shall furnish the Contractor, free of charge, the number of copies of the Drawings and the Specifications as set forth in the Special Conditions. All of the Drawings and the Specifications provided by the District to the Contractor remain the property of the District; the Contractor shall not use the Drawings or the Specifications in connection with any other work of improvement other than the Work.

**2.1.4 Furnishing of Information.** Information or services to be provided by the District under the Contract Documents shall be furnished by the District with reasonable promptness to avoid delay in the orderly progress of the Work. Information about existing conditions furnished by the District under the Contract Documents is obtained from sources believed to be reliable, but the District neither guarantees nor warrants that such information is complete and accurate. The Contractor shall verify all information provided by the District. If the Contract Documents depict existing conditions on or about the Site, or the Work involves the renovation, removal or remodeling of existing improvements or the Work involves any tie-in or other connection with existing improvements, the conditions and/or existing improvements depicted in the Contract Documents are as they are believed to exist. The Contractor shall bear the risk of any variations between conditions or existing improvements depicted in the Contract Documents and those conditions or existing improvements actually encountered in the performance of the Work. The existence of any variations between conditions or existing improvements depicted in the Contract Documents and those actually encountered in the performance of the Work shall not result in any District liability therefor, nor shall any such variations result in an adjustment of the Contract Time or the Contract Price.

**2.2 District's Right to Stop the Work.** In addition to the District's right to suspend the Work or terminate the Contract pursuant to the Contract Documents, the District, may, by written order, direct the Contractor to stop the Work, or any portion thereof, until the cause for such stop work order has been eliminated if the Contractor: (i) fails to correct Work which is not in conformity and in accordance with the requirements of the Contract Documents, or (ii) otherwise fails to carry out the Work in conformity and accordance with the Contract Documents. The right of the District to stop the Work hereunder shall not be deemed a duty on the part of the District to exercise such right for the benefit of the Contractor or any other person or entity, nor shall the District's exercise of such right: (i) waive or limit the exercise of any other right or remedy of the District under the Contract Documents or the Laws; or (ii) result in adjustment of the Contract Time or Contract Price.

**2.3 Partial Occupancy or Use.**

**2.3.1 District's Right to Partial Occupancy.** The District may occupy or use any completed or partially completed portion of the Work, provided that: (i) the District has obtained the consent of, or is otherwise authorized by, public authorities with jurisdiction thereof, to so occupy or use such portion of the Work and (ii) the District and the Contractor have accepted, in writing, the responsibilities assigned to each of them for security, maintenance, utilities, damage to the Work, insurance, the period for correction of the Work and commencement of warranties required by the Contract Documents for

such portion of the Work partially used or occupied by the District. If the Contractor and the District are unable to agree upon the matters set forth in (ii) above, the District may nevertheless use or occupy any portion of the Work, with the responsibility for such matters subject to resolution in accordance with the Contract Documents. Immediately prior to such partial occupancy or use of the Work, or portions thereof, the District, the Project Inspector, the Construction Manager, the Contractor and the Architect shall jointly inspect the portions of the Work to be occupied or to be used to determine and record the condition of the Work. Repairs, replacements or other corrective action noted in such inspection shall be promptly performed and completed by the Contractor so that the portion of the Work to be occupied or used by the District is in conformity with the requirements of the Contract Documents and the District's occupancy or use thereof is not impaired. The District's use or occupancy of the Work or portions thereof pursuant to the preceding shall not be deemed "completion" of the Work as that term is used in Public Contract Code §7107.

**2.3.2 No Acceptance of Defective or Nonconforming Work.** The District's partial occupancy or use of the Work, or any portion thereof, shall not constitute the District's acceptance of the Work which is defective or non-conforming.

**2.4 The Project Inspector.**

**2.4.1 Authority of Project Inspector.** In addition to the authority and rights of the Project Inspector as provided for elsewhere in the Contract Documents and/or the Laws, all of the Work shall be performed under the observation of the Project Inspector. The foregoing notwithstanding, the Contractor shall not perform any Work deviating from the Contract Documents solely on the basis of direction by the Project Inspector; such deviations shall be deemed defective or non-conforming Work subject to correction or replacement at the sole cost of the Contractor and without adjustment of the Contract Time. The performance of the duties of the Project Inspector shall not relieve or limit the Contractor's performance of its obligations under the Contract Documents.

**2.4.2 Limitations on Project Inspector.** The Project Inspector does not have authority to interpret the Contract Documents or to modify the Work depicted in the Contract Documents. The Project Inspector has no authority relative to the content or scope of the Contractor's safety plan/program. The Contractor shall not perform any Work deviating from the Contract Documents solely on the basis of direction by the Project Inspector; such deviations shall be deemed Defective or Non-Conforming Work subject to correction or replacement at the sole cost of the Contractor and without adjustment of the Contract Time.

**2.4.3 Contractor Access for Project Inspector.** The Contractor shall provide the Project Inspector with access to all parts of the Work at any time, wherever located and whether partially or completely fabricated, manufactured, furnished or installed.

**2.4.4 Contractor and District Responsibilities for Costs and Fees of Project Inspector.** The District is responsible only for payment of the fees of the Project Inspector for standard eight (8) hour work day Mondays through Fridays, excepting holiday days ("Project Inspector Standard Workdays"). All services provided by the Project Inspector exceeding an eight (8) hour workday Mondays through Fridays and/or the first eight (8) hours on Saturday shall be at 1½ times the Project Inspector's basic hourly rate. All hours of service provided by the Project Inspector in excess of eight (8) hours on Saturdays, and all hours of service provided by the Project Inspector on holiday days or on Sundays are at two (2) times the Project Inspector's basic hourly rate. Fees for services provided by the Project Inspector beyond the Project Inspector Standard Workdays set forth above are the sole responsibility of the Contractor; the District may deduct fees for the Project Inspector which exceeds the Project Inspector Standard

Workdays from the Contract Price.

### **ARTICLE 3: ARCHITECT; CONSTRUCTION MANAGER**

#### **3.1 Architect's Administration of the Contract.**

**3.1.1 Role of the Architect and Construction Manager.** The Architect and the Construction Manager will provide administration of the Contract as described in the Contract Documents, and will be the District's representatives during construction until the time that Final Payment is due the Contractor under the Contract Documents. The Architect and Construction Manager will advise and consult with the District and the Project Inspector with respect to the administration of the Contract and the Work. The Architect is authorized to act on behalf of the District to the extent provided for in the Contract Documents; and shall have the responsibilities and powers established by the Laws, including Title 24 of the California Code of Regulations. The Architect and Construction Manager are authorized to stop the Work, direct/authorize takeover of the Contractor's Work or supplement the Contractor's labor, materials or equipment whenever deemed necessary in the sole discretion of the Architect or the Construction Manager to ensure that the Work is completed in accordance with the Contract Documents for the Contract Price and within the Contract Time. All fees, costs or expenses arising out of or associated in any manner with the take-over of the Work or to supplement the Contractor's labor, materials or equipment shall be at the sole cost and expense of the Contractor; the District may deduct such costs, fees or expenses from any portion of the Contract Price then or thereafter due the Contractor.

**3.1.2 Periodic Site Inspections.** The Architect will visit the Site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine, in general, if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. The Architect is not required to make exhaustive or continuous Site inspections to check quality or quantity of the Work. On the basis of Site observations as an architect, the Architect will keep the District informed of the progress of the Work, and will endeavor to guard the District against defects and deficiencies in the Work.

**3.1.3 Contractor Responsibility for Construction Means, Methods and Sequences.** Neither the District, Project Inspector, Architect nor the Construction Manager will have control over or charge of and be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, these being solely the Contractor's responsibility. Neither the District, Project Inspector, Architect nor Construction Manager will have control over or charge of and be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work. The Contractor shall be solely responsible for: (i) construction means, methods and sequences to perform and complete the Work; (ii) safety of persons and property at the Site; and (iii) the acts, omissions or other conduct of Subcontractors and the personnel of the Contractor and Subcontractors.

**3.1.4 Review of Applications for Payment.** Pursuant to Article 8 hereof, the Architect will review the Contractor's Payment Applications and for Application For Final Payment, evaluate the extent of Work performed and verify to the District the amount properly due the Contractor.

**3.1.5 Rejection of Work.** The Architect is authorized to reject Work which is defective or does not conform to the requirements of the Contract Documents. Whenever the Architect considers it necessary or advisable, for implementation of the intent of the Contract Documents, the Architect is authorized to require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed.

Neither this authority of the Architect nor a decision made in good faith by the Architect to exercise or not to exercise such authority shall modify requirements of the Contract Documents or any obligation of the Contractor under the Contract Documents.

3.1.6 Submittals.

3.1.6.1 Processing of Submittals. Submittals required by the Contract Documents shall be prepared by or on behalf of the Contractor in accordance with the requirements of the Contract Documents. If the District retains a Construction Manager for the Work, Submittals shall be transmitted by the Contractor to the Construction Manager for distribution by the Construction Manager to the Architect and the District. Upon completion of the Architect's review of a Submittal, the Construction Manager shall transmit the reviewed Submittal to the Contractor for the Contractor's distribution to its Subcontractor(s) and other affected parties. If the District does not retain a Construction Manager for the Work, Submittals shall be submitted by the Contractor to the Architect or such other party designated in the Contract Documents or by the Architect for review and processing.

3.1.6.2 Architect's Review. The Architect will review and approve or take other appropriate action upon the Contractor's Submittals, but only for the limited purpose of checking for general conformance with information given and the design concept expressed in the Contract Documents. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's Submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect's review of Submittals shall not constitute approval of safety measures, programs or precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item in a Submittal shall not indicate approval of an assembly of which the item is a component with the Submittal(s) required and relating to such assembly have been reviewed by the Architect.

3.1.6.3 Time for Architect's Review. The Architect's review of Submittals will be conducted promptly so as not to delay or hinder the progress of the Work or the activities of the Contractor, the District or the District's separate contractors while allowing sufficient time, in the Architect's reasonable professional judgment, to permit adequate review of Submittals. The foregoing notwithstanding, the Architect's review and return of Submittals will conform with the time limits and other conditions, if any, set forth in the Specifications or the Submittal Schedule if the Submittal Schedule is required by other provisions of the Contract Documents, but shall, under no circumstance, be less than fifteen (15) days.

3.1.7 Issuance of Construction Change Directive. The Architect is authorized to issue Construction Change Directives.

3.1.8 Changes to the Work; Change Orders. The Architect and Construction Manager will prepare Change Orders, and may authorize minor Changes in the Work which do not result in adjustment of the Contract Time or the Contract Price.

3.1.9 Completion. In conjunction with the District, Project Inspector, Construction Manager, if any, and the Contractor, the Architect will conduct observations of the Work to determine the date(s) of Substantial Completion and Final Completion. If the District does not designate a Construction Manager for the Work, the Architect shall: (i) be authorized to enforce the Contractor's close-out obligations; and (ii) receive from the

Contractor and the records, written warranties and related close-out materials assembled by the Contractor in accordance with the Contract Documents. The Architect, Project Inspector and Construction Manager will verify that the Contractor has complied with all requirements of the Contract Documents and is entitled to receipt of Final Payment.

**3.1.10 Interpretation of Contract Documents.** The Architect will interpret and decide matters concerning the requirements of the Contract Documents on written request of either the District or the Contractor. The Architect's response to such requests will be made with reasonable promptness and within the time limits agreed upon, if any. If no agreement is reached establishing the time for the Architect's review and response to requests under this Article 3.1.10, the Architect shall be afforded a fifteen (15) day period after receipt of such request to review and respond thereto. Interpretations and decisions of the Architect will: (i) be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions; (ii) endeavor to secure faithful performance by both the District and the Contractor; (iii) not show partiality to either the District or Contractor; and (iv) not result in liability for results of interpretations or decisions so rendered in good faith. The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**3.1.11 Request for Information.** If the Contractor encounters any condition which the Contractor believes, in good faith and with reasonable basis, is the result of an ambiguity, conflict, error or omission in the Contract Documents (collectively "the Conditions"), Contractor shall timely notify the Architect, in writing, of the Conditions encountered and to request information from the Architect necessary to address and resolve any such Conditions before proceeding with any portion of the Work affected or which may be affected by such Conditions. If the Contractor fails to timely notify the Architect in writing of any Conditions encountered and the Contractor proceeds to perform any portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting information of the Architect to address and resolve any Conditions the Contractor shall act with promptness in submitting any such written request so as to allow the Architect a reasonable period of time to review, evaluate and respond to any such request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any such Conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the Architect. The Architect's responses to any such Contractor request for information shall conform to the standards and time frame set forth in Article 3.1.10 of these General Conditions. The foregoing provisions notwithstanding, if the Architect reasonably determines that any of Contractor's request(s) for information: (i) does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; (ii) does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract Documents; or (iii) is not justified for any other reason, Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any such request for information, including without limitation, fees of the Architect. In responding to any of Contractor's request(s) for information, the Architect shall, in the response, indicate if the Architect has made the determination pursuant to the preceding sentence and, if so, the costs to be borne by the Contractor for the processing, review, evaluation and response to the request for information. Thereafter, the District is authorized to

deduct such costs from any portion of the Contract Price then or thereafter due the Contractor.

3.2 Communications; Role of Construction Manager and Architect. All communications regarding the Work, the performance thereof or the Contract Documents shall be in writing; verbal communications shall be reduced to writing. Communications between the Contractor and the District or the Architect shall be through the Construction Manager. Communications between separate contractors, if any, shall be through the Construction Manager. All written communications between the Contractor and any Subcontractor, Material Supplier or others directly or indirectly engaged by the Contractor to perform or provide any portion of the Work shall be available to the District, the Construction Manager and the Architect for review, inspection and reproduction as may be requested from time to time. If the District does not designate a Construction Manager for the Work, communications between the Contractor and the District shall be through the Architect, and communications between separate contractors, if any, shall be through the Architect. Failure or refusal of the Contractor to permit the District, the Construction Manager or Architect to review, inspect or reproduce such written communications may be deemed a default of Contractor hereunder.

3.3 Termination of Architect or Construction Manager; Substitute Architect or Construction Manager. In case of termination of employment of the Architect or the Construction Manager, the District shall appoint a substitute architect or substitute Construction Manager whose status under the Contract Documents shall be that of the Architect or the Construction Manager, as applicable.

3.4 Construction Manager. If a Construction Manager is designated for the Work, the Construction Manager shall be a representative of the District until Final Completion is achieved and Final Payment is due the Contractor. The Construction Manager is authorized to act on behalf of the District and in connection with the Work as set forth in the Contract Documents, including without limitation: (i) review of the Contractor's Construction Schedule and updates thereto; (ii) review of the Contractor's Applications for Payment and verification of the amount due the Contractor under an Application for Payment; (iii) conducting the Pre-Construction Meeting, Progress Meetings and/or Special Meetings and maintaining minutes thereof; and (iv) enforcement of the Contractor's obligations under the Contract Documents, including the Contractor's close-out obligations.

#### **ARTICLE 4: THE CONTRACTOR**

##### **4.1 Contractor Review of Contract Documents.**

4.1.1 Examination of Contract Documents. The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the District pursuant to the Contract Documents and shall at once report to the Architect any errors, inconsistencies or omissions discovered. If the Contractor performs any Work knowing, or with reasonable diligence should have known that, it involves an error, inconsistency or omission in the Contract Documents without prior notice to the Architect of the same, the Contractor shall assume full responsibility for such performance and shall bear all costs for correction of the same without adjustment of the Contract Price.

4.1.2 Field Measurements. Prior to commencement of the Work, or portions thereof, the Contractor shall take field measurements and verify field conditions at the Site and shall carefully compare such field measurements and conditions with information provided in the Contract Documents. Errors, inconsistencies or omissions discovered shall be immediately reported to the Architect along with request for clarification or direction.

**4.1.3 Dimensions; Layouts and Field Engineering.** Unless otherwise expressly provided, dimensions indicated in the Drawings are intended for reference only. The Drawings are intended to be diagrammatic and schematic in nature; the Contractor is solely responsible for dimensioning and coordinating the Work of the Contract Documents. All field engineering required for laying out the Work and establishing grades for earthwork operations shall be by the Contractor at its expense. Any field engineering or other engineering to be provided or performed by the Contractor under the Contract Documents and required or necessary for the proper execution or installation of the Work shall be provided and performed by the an engineer duly registered under the laws of the State of California in the engineering discipline for such portion of the Work.

**4.1.4 Work in Accordance With Contract Documents.** The Contractor shall perform all of the Work in strict conformity with the Contract Documents, the Laws and Architect accepted Submittals.

**4.2 Site Investigation; Subsurface Conditions.**

**4.2.1 Contractor Investigation.** The Contractor is responsible for, and by executing the Agreement acknowledges, that it has carefully examined the Site and has taken all steps it deems reasonably necessary to ascertain all conditions which may affect the Work, or the cost thereof, including, without limitation, conditions bearing upon transportation, disposal, handling or storage of materials; availability of labor or utilities; access to the Site; and the physical conditions and the character of equipment, materials, labor and services necessary to perform the Work. Any failure of the Contractor to do so will not relieve it from the responsibility for fully and completely performing all Work without adjustment to the Contract Price or the Contract Time. The District assumes no responsibility to the Contractor for any understandings or representations concerning conditions or characteristics of the Site, or the Work, made by any of its officers, employees or agents prior to the execution of the Agreement, unless such understandings or representations are expressly set forth in the Contract Documents.

**4.2.2 Subsurface Data.** By executing the Agreement, the Contractor acknowledges that it has examined the boring data and other subsurface data available and satisfied itself as to the character, quality and quantity of surface and subsurface materials, including without limitation, obstacles which may be encountered in performance of the Work, insofar as this information is reasonably ascertainable from an inspection of the Site, review of available subsurface data and analysis of information furnished by the District under the Contract Documents. Subsurface data or other soils investigation report provided by the District hereunder are not a part of the Contract Documents. Information contained in such data or report regarding subsurface conditions, elevations of existing grades or below grade elevations are approximate only and are neither guaranteed or warranted by the District to be complete and accurate. The Contractor shall examine all boring and other subsurface data to make its own independent interpretation of the subsurface conditions and acknowledges that its bid is based upon its own opinion of the conditions which may be encountered. The District assumes no responsibility for any conclusions or interpretations made by Contractor on the basis of available subsurface data or other information furnished by District under the Contract Documents.

**4.2.3 Subsurface Conditions.** If the Work involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly and before the following conditions are disturbed, notify the Project Inspector, in writing, of any: (i) material that the Contractor believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I or Class II or Class III disposal site in accordance



with provisions of existing law; (ii) subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the Work or the character provided for in the Contract Documents. If upon notice to the District of the conditions described above and upon the District's investigation thereof, the District determines that the conditions so materially differ or involve such hazardous materials which require an adjustment to the Contract Price or the Contract Time, the District shall issue a Change Order in accordance with Article 9 hereof. In accordance with California Public Contract Code §7104, any dispute arising between the Contractor and the District as to any of the conditions listed in (i), (ii) or (iii) above, shall not excuse the Contractor from the completion of the Work within the Contract Time and the Contractor shall proceed with all Work to be performed under the Contract Documents. The District reserves the right to terminate the Contract pursuant to Article 15.2 hereof should the District determine not to proceed because of any condition described in (i), (ii) or (iii) above.

#### 4.3 Supervision and Construction Procedures.

4.3.1 Supervision of the Work. The Contractor shall supervise and direct performance of the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents, unless Contract Documents give other specific instructions concerning these matters. The Contractor shall be responsible for inspection of completed or partially completed portions of Work to determine that such portions are in proper condition to receive subsequent Work.

4.3.2 Responsibility for the Work. The Contractor is responsible to the District for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and all other persons performing any portion of the Work under a contract with the Contractor. The Contractor is not relieved from its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager, Project Inspector or the Architect, or by tests, inspections or approvals required or performed by persons other than the Contractor.

4.3.3 Layouts Surveys. The Contractor is solely responsible for laying-out the Work so that construction of the Work conforms to the requirements of the Contract Documents and so that all component parts of the Work are coordinated. The Contractor shall prepare or cause to be prepared all detailed surveys necessary for performance of the Work, including without limitation, slope stakes, points, lines and elevations. The Contractor is responsible for the establishment, location, maintenance and preservation of benchmarks, reference points and stakes for the Work without adjustment of the Contract Price. The Contractor is solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes.

4.3.4 Waste Materials. Every effort should be made by the contractor to recycle all waste materials removed from the District. The State requires 50% of all waste (by weight) to be recycled. In an effort to maintain this compliance, Contractor shall submit all weight tickets, bill of lading or tonnage reports of any waste materials sent out for recycling from a work site within the District. Copies of the documents shall be submitted to the Construction Manager. Final payment will be contingent upon receipt of these documents.

4.3.5 Construction Utilities. The District will furnish and pay the costs of utility services for the Work as set forth in the Special Conditions; all other utilities necessary to complete the Work and the Contractor's obligations hereunder shall be obtained by the Contractor without adjustment of the Contract Price or the Contract Time. The

Contractor shall furnish and install necessary or appropriate temporary distributions of utilities, including utilities furnished by the District. Any such temporary distributions shall be removed by the Contractor upon completion of the Work. The costs of all such utility services, including the installation, relocations and removal of temporary distributions thereof, shall be borne by the Contractor and included in the Contract Price.

**4.3.6 Existing Utilities; Removal, Relocation and Protection.**

**4.3.6.1 Contractor Responsibility for Locating Utilities.** The Contractor is responsible for locating all below grade drainage lines, storm drains, sewers, domestic water, gas, electrical, hot water and irrigation utility services, vaults, duct banks and other similar items or utilities services (collectively "Underground Facilities") which are shown in the Drawings or other portions of the Contract Documents; or (ii) which are identified in information relating to Underground Facilities maintained by the regional notification center, "Underground Service Alert" ("USA"). Contractor shall locate and mark locations of the Underground Facilities shown in the Contract Documents and information relating to Underground Facilities maintained by USA before proceeding with Work that may: (i) damage, destroy or impair Underground Facilities; or (ii) limit, disrupt or interrupt utility services provided through Underground Facilities. Prior to commencing Work in the proximity of Underground Facilities or other underground structures that can be readily inferred from adjacent surface improvements, Contractor shall further locate, by carefully excavating with small equipment, potholing and principally by hand, such utilities or installations that are to remain and that are subject to damage, destruction or disruption.

**4.3.6.2 Contractor Responsibility for Damage to Underground Facilities.** Without adjustment of the Contract Time or the Contract Price, the Contractor shall repair or replace all damage to or destruction of Underground Facilities occurring during performance of the Work. All such repairs or replacements shall be with materials, equipment and other items consistent with those in place prior to commencement of the Work and when the repair or replacement is completed, the Underground Facilities shall be in the same functional and operational condition as prior to the damage or destruction.

**4.3.6.3 Contractor Responsibility for Maintaining Utility Services.** The Contractor shall maintain in service all utility services provided through the Underground Facilities unless the Contractor has notified the District and Construction Manager in writing of utility service disruptions at least two (2) business days in advance of the anticipated disruption of utility services. Notwithstanding the Contractor's notice pursuant to the foregoing, the District may, in the sole discretion of the District, direct alternative times/days for the anticipated utility service disruption as necessary for conduct of on-going activities or operations of the District at and about the Site. The Contractor shall be liable for all costs, fees or charges incurred by the District to provide utility services if there is disruption, interruption or limitation of any utility services for which the Contractor has not provided the advance written notice of utility disruption pursuant to the foregoing. The District may deduct such costs, fees or charges from the Contract Price then or thereafter due the Contractor.

**4.3.6.4 Unmarked; Unknown Utilities.** Additional Underground Facilities not shown in the Contract Documents or USA data may exist on or about the Site. The Contractor shall be alert to their existence; if they are encountered, Contractor shall immediately report such Underground Facilities to the Project Inspector, Construction Manager and District for disposition of the same prior to disturbing any existing condition. In accordance with California Government Code §4215, the District is responsible for the timely removal, relocation, or

protection of existing main or trunkline utility facilities located on the Site which are not identified in the Contract Documents. Contractor shall be compensated for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Contract Documents with reasonable accuracy, and for equipment on the Site necessarily idled during such work. Contractor shall not be assessed Liquidated Damages for delay in completion of the Work when such delay is caused by the failure of the District or the District of the utility to provide for removal or relocation of such utility facilities. Nothing in this Article 4.3.6 shall be deemed to require the District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meters and junction boxes, on or adjacent to the Site. If such utility facilities are owned by a public utility, the public utility shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

**4.3.7 Conferences and Meetings.** A material obligation of the Contractor under the Contract Documents is the attendance at meetings and conferences relating to the Work by the Contractor's supervisory personnel for the Work and the Contractor's management personnel as required by the Contract Documents or as requested by the District. The Contractor's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of the Contractor and to bind the Contractor. The Contractor is solely responsible for arranging for the attendance by Subcontractors, Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by the District.

**4.3.7.1 Pre-Construction Conference.** The Contractor's representatives (and representatives of Subcontractors as requested by the District) shall attend a Pre-Construction Conference at such time and place as designated by the District. The Pre-Construction Conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the Pre-Construction Conference will include as appropriate: (i) administrative matters, including an overview of the respective responsibilities of the District, Architect, Construction Manager, Contractor, Subcontractors, Project Inspector and others performing any part of the Work or services relating to the Work; (iii) Submittals; (iv) Changes and Change Order processing; (v) employment practices, including Certified Payroll preparation and submission, prevailing wage rate responsibilities of the Contractor and Subcontractors, compliance with apprenticeship standards and Division of Labor Standards ("DSLE") monitoring and enforcement of prevailing wage rate requirements; (vi) Progress Schedule development and maintenance; (vii) development of Schedule of Values and payment procedures; (viii) communications procedures, including the handling of Requests for Interpretation; (ix) conduct of pre-installation meetings to plan and coordinate work of new contractors, separate contractors and to plan for utility outages; (x) emergency and safety procedures; (xi) Site visitor policies; (xii) conduct of Contractor/Subcontractor personnel at the Site; (xiii) punchlist/close-out procedures; and (xiv) Contractor and Subcontractor DIR Contractor Registration.

**4.3.7.2 Progress Meetings.** Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). The Contractor's representatives and representatives of Subcontractors (as requested by the District) shall attend Progress Meetings. Progress Meetings will be chaired by the Architect or the Construction Manager

and will generally include as agenda items: Site safety, field issues, coordination of Work, construction progress and impacts to timely completion, if any. The purposes of the Progress Meetings include without limitation: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Construction Schedule and Submittals.

**4.3.7.3 Pre-Installation Conference.** The Contractor's representatives (and representatives of Subcontractors as requested by the District or the Construction Manager) shall attend a Pre-Installation Conference prior to the initiation of a new phase of Work or in connection with the delivery and installation of major items of equipment incorporated into the Work. Pre-Installation Conferences will generally address the requirements of the new phase of Work and Contract Documents, and/or to coordinate delivery and installation of major equipment items.

**4.3.7.4 Special Meetings.** As deemed necessary or appropriate by the District, Special Meetings will be conducted with the participation of the Contractor, Subcontractors and other Project participants as requested by the District.

**4.3.7.5 Minutes of Meetings.** Following conclusion of the Pre-Construction Conference, Progress Meetings and Special Meetings, the Architect or the Construction Manager will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the Contractor notifies the Architect or the Construction Manager in writing of objections or corrections to minutes prepared hereunder within five (5) days of the date of distribution of the minutes, the minutes as distributed shall constitute the official record of the meeting or conference. No objections or corrections of any Subcontractor or Material Supplier shall be submitted directly to the Architect or the Construction Manager; such objections or corrections shall be submitted to the Architect and the Construction Manager through the Contractor. If the Contractor timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled Progress Meeting.

**4.3.8 Temporary Sanitary Facilities.** At all times during Work at the Site, the Contractor shall obtain and maintain temporary sanitary facilities in conformity with applicable law, rule or regulation. The Contractor shall maintain temporary sanitary facilities in a neat and clean manner with sufficient toilet room supplies. Personnel engaged in the Work are not permitted to use toilet facilities at or about the Site.

**4.3.9 Noise and Dust Control**

**4.3.9.1 Noise Control.** The Contractor shall install noise reducing devices on construction equipment. Contractor shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction Equipment noise at the Site shall be limited and only as permitted by applicable law, rule or regulation. If classes are in session at any point during the progress of the Work, and, in the District's reasonable discretion, the noise from any Work disrupts or disturbs the students or faculty or the normal operation of the school, at the District's request, the Contractor shall schedule the performance of all such Work around normal school hours or make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

**4.3.9.2 Dust Control.** The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors

and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and District personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the Laws, including, without limitation, the EPA, OSHA and Cal-OSHA,. Additionally, the Contractor shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by the District to pay such damages shall be due and payable to the District on demand. Contractor shall replace any damaged property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in the District's reasonable discretion, flying debris, grinding powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the school, at the District's request, the Contractor shall schedule the performance of all such Work around normal school hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

**4.3.9.3 Air Pollution.** The Contractor shall comply with all applicable air pollution control rules, regulations, ordinances, or statutes. Neither the Contract Time nor the Contract Price shall be subject to adjustment for measures of the Contractor to comply with air pollution control requirements. The Contractor shall be solely responsible for implementing measures required by any governmental or quasi-governmental agency with jurisdiction and/or authority to enforce air pollution control measures without adjustment of the Contract Time or the Contract Price. If in performance of the Work, the Contractor violates applicable air pollution control requirements, the Contractor shall be solely responsible for discharging and satisfying any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures. The scope of the Contractor's indemnity obligations under the Contract Documents shall include, without limitation, the defense, indemnity and hold harmless of the Indemnified Parties from any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures as a result of the Contractor's failure or refusal to comply with its obligations hereunder.

**4.3.9.4 Contractor Failure to Comply.** If the Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the District, Architect, District Inspector or Construction Manager are each authorized to notify the Contractor in writing of such failure and the Contractor shall take immediate action. Should the Contractor fail to respond with immediate and responsive action and not later than twenty-four (24) hours from such notification, the District shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any and all costs incurred by the District in connection with such actions shall be the sole responsibility of, and be borne by, the Contractor; the District may deduct

such amounts from the Contract Price then or thereafter due the Contractor.

4.4 Labor and Materials.

4.4.1 Payment for Labor, Materials and Services. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, Construction Equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated in the Work.

4.4.2 Employee Discipline. The Contractor shall enforce strict discipline and good order among the Contractor's employees, the employees of any Subcontractor or Sub-subcontractor, and all other persons performing any part of the Work at the Site. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall dismiss from its employ and direct any Subcontractor or Sub-subcontractor to dismiss from their employment any person deemed by the District to be unfit or incompetent to perform Work and thereafter, the Contractor shall not employ nor permit the employment of such person for performance of any part of the Work without the prior written consent of the District, which consent may be withheld in the reasonable discretion of the District.

4.4.3 Compliance with Immigration Reform and Control Act of 1986. The Contractor is solely and exclusively responsible for employment of individuals for the Work of the Contract in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§1101 et seq. (the "IRCA"); the Contractor shall also require Subcontractors and any other person or entity employing labor in connection with any of the Work to so similarly comply with the IRCA. The foregoing includes without limitation, verification that individuals engaged in any Work are legally entitled to do so.

4.4.4 Contractor's Project Manager and Superintendent

4.4.4.1 Qualifications of Contractor Superintendent and Contractor Project Manager. Prior to start of Work at the Site, the Contractor shall submit in writing to the District and Construction Manager, the qualifications of the Contractor's proposed superintendent ("Contractor Superintendent") and the Contractor's proposed Project Manager ("Contractor PM") for acceptance by the Construction Manager and District. The Contractor's proposed Contractor Superintendent and proposed Contractor PM shall each have recent experience in similar types of construction to the Work. The Contractor's proposed Contractor Superintendent and Contractor PM shall be satisfactory to the District and Construction Manager and shall not be changed during the Work unless the Contractor's employment of the Contractor Superintendent or Contractor PM is terminated by the Contractor for cause or the Contractor Superintendent or Contractor PM voluntarily ceases employment by the Contractor. The Contractor shall dismiss the Contractor Superintendent or the Contractor PM if they are deemed, in the sole reasonable judgment of the District, to be unfit, incompetent or incapable of performing the functions assigned to them. In such event, the District shall have the right to approve of the replacement Contractor Superintendent or Contractor Project Manager, as applicable.

4.4.4.2 Contractor Superintendent. Competency of the Contractor Superintendent shall include, without limitation, a minimum of three (3) years prior experience as a superintendent for a general contractor on projects similar in size, scope and complexity to the Work and be proficient in English (speaking, reading and writing). The Contractor's communications relating to the Work or

the Contract Documents shall be through the Contractor Superintendent. The Contractor Superintendent shall represent the Contractor and communications given to the Contractor Superintendent shall be binding as if given to the Contractor.

**4.4.4.3 Contractor Project Manager.** The Contractor shall employ a Contractor PM who shall be a senior management employee of the Contractor. The Contractor PM shall be at the Site periodically to observe the progress and quality of the Work in progress and in place. Competency of the Contractor's PM shall include, without limitation, a minimum of five (5) years prior experience as a project manager for a prime contractor on projects similar in size, scope and complexity as the Work and be proficient in English (speaking, reading and writing). The Contractor PM shall be responsible for directing and coordinating human and material resources of the Contractor and Subcontractors throughout the course of the Work using management techniques so that the Work is completed for the Contract Price and within the Contract Time. Prohibition on Harassment.

**4.4.5 District's Policy Prohibiting Harassment.** The District is committed to providing a campus and workplace free of sexual harassment and harassment based on factors such as race, color religion, national origin, ancestry, age, medical condition, marital status, disability, veteran status or other legally protected classification. Harassment includes without limitation, verbal, physical or visual conduct which creates an intimidating, offensive or hostile environment such as racial slurs; ethnic jokes; posting of offensive statements, posters or cartoons or similar conduct. Sexual harassment includes without limitation the solicitation of sexual favors, unwelcome sexual advances, or other verbal, visual or physical conduct of a sexual nature.

**4.4.5.1 Contractor's Adoption of Anti-Harassment Policy.** Contractor shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Contractor shall require that any Subcontractor or Sub-subcontractor performing any portion of the Work to adopt and implement policies in conformity with this Article 4.4.5.

**4.4.5.2 Prohibition on Harassment at the Site.** Contractor shall not permit any person, whether employed by Contractor, a Subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and implemented pursuant to Article 4.4.5.1 above. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of the District or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon the District's receipt of any notice or complaint that any person employed directly or indirectly by Contractor in performing or providing the Work has engaged in a prohibited form

of harassment, the District will promptly undertake an investigation of such notice or complaint. If the District, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the District shall promptly notify the Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless the District's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, District shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. Contractor and the Surety shall defend, indemnify and hold harmless the District and its employees, officers, Board of Education, agents, and representatives from any and all claims, liabilities, judgments, awards, actions or causes of actions, including without limitation, attorneys' fees, which arise out of, or pertain in any manner to: (i) the assertion by any person dismissed from performing or providing work at the direction of the District pursuant to this Article 4.4.5.2; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of the Contractor has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of the Contractor and the Surety under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

4.5 Taxes. The Contractor shall pay, without adjustment of the Contract Price, all sales, consumer, use and other taxes for the Work or portions thereof provided by the Contractor under the Contract Documents.

4.6 Permits, Fees and Notices; Compliance With Laws.

4.6.1 Payment of Permits, Fees. The Contractor shall secure and pay for permits, approvals governmental fees, licenses and inspections necessary or required for the proper execution and completion of the Work which are designated in the Contract Documents as the responsibility of the Contractor.

4.6.2 Compliance With Laws. The Contractor shall comply with and give notices required by the Laws and other orders of public authorities bearing on performance of the Work.

4.6.3 Notice of Variation From Laws. If the Contractor knows, or has reason to believe, that any portion of the Contract Documents are at variance with the Laws, the Contractor shall promptly notify the Architect, Construction Manager and the Project Inspector, in writing, of the same. If the Contractor performs Work knowing, or with reasonable diligence should have known, it to be contrary to the Laws without such notice to the Architect, Construction Manager and the Project Inspector, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs arising or associated therefrom, including without limitation, the removal, replacement or correction of the same.

4.7 Submittals.

4.7.1 Purpose of Submittals. Submittals are not Contract Documents. Submittals are for the purpose of demonstrating, for those portions of the Work for which Submittals are required, the manner in which the Contractor proposes to provide or incorporate such item of the Work in conformity with the information given and the design concept expressed in the Contract Documents.

4.7.2 Contractor's Submittals.



4.7.2.1 Prompt Submittals. The Contractor shall review, approve and submit to the Architect or such other person or entity designated by the District or the Contract Documents, the number of copies of Submittals required by the Contract Documents. All Submittals required by the Contract Documents shall be prepared, assembled and submitted by the Contractor within the time frames set forth in the Submittal Schedule incorporated and made a part of the Approved Construction Schedule. Contractor's submission of Submittals in conformity with the Submittal Schedule is a material obligation of the Contractor. If the Contractor fails or refuses to deliver Submittals in accordance with the Submittal Schedule, the Contractor shall be subject to per diem assessments in the amount set forth in the Special Conditions for each day of delayed submission for any Submittal beyond the date set forth in the Submittal Schedule for Contractor's submission of such Submittal. Contractor and the District acknowledge and agree that the per diem assessment for delayed submission of Submittals set forth in the Special Conditions represents a reasonable estimate of costs and expenses the District will incur as a result of delayed submission of Submittals and that the same is not a penalty. Notwithstanding Contractor's submission of all required Submittals in accordance with the Submittal Schedule, in the event that the District or the Architect reasonably determines that all or any portion of such Submittals fail to comply with the requirements of Articles 4.7.2.2, 4.7.2.3 and 4.7.2.4 of these General Conditions and/or such Submittals are not otherwise complete and accurate so as to require re-submission, Contractor shall bear all costs associated with the review and approval of resubmitted Submittals, including without limitation Architect's fees incurred in connection therewith; provided that such costs are in addition to, and not in lieu of, Liquidated Damages imposed under this Article 4.7.2.1 for Contractor's delayed submission of Submittals. If Liquidated Damages are assessed for the Contractor's delayed submission of Submittals or if the Contractor is assessed Architect fees to review incomplete or inaccurate Submittals, the District may deduct the same from any portion the Contract Price then or thereafter due the Contractor. Submittals not required by the Contract Documents or which do not otherwise conform to the requirements of the Contract Documents may be returned without action. No adjustment to the Contract Time or the Contract Price shall be granted to the Contractor on account of its failure to timely submit of any Submittal.

4.7.2.2 Approval of Subcontractor Submittals. All Submittals prepared by Subcontractors, Material Suppliers, manufacturers or distributors shall bear the written approval of the Contractor thereto prior to submission to the Architect for review. Any Submittal not bearing the Contractor's written approval shall be subject to return to the Contractor for re-submittal in conformity herewith, with the same being deemed to not have been submitted. Any delay, impact or cost associated therewith shall be the sole and exclusive responsibility of the Contractor without adjustment to the Contract Time or the Contract Price.

4.7.2.3 Verification of Submittal Information. By approving and submission of Submittals, the Contractor represents to the District and Architect that the Contractor has determined and verified materials, field measurements, field construction criteria, catalog numbers and similar data related thereto and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. The Contractor has also verified that the Submittal includes notations of any portion of the Work depicted in the Submittal which is not in strict conformity to the Contract Documents.

4.7.2.4 Information Included in Submittals. All Submittals shall be

accompanied by a written transmittal or other writing by the Contractor providing an identification of the portion of the Drawings or the Specifications pertaining to the Submittal, with each Submittal numbered consecutively for ease of reference along with the following information: (i) date of submission; (ii) project name; (iii) name of submitting Subcontractor; and (iv) if applicable, the revision number. The foregoing information is in addition to, and not in lieu of, any other information required by the Contract Documents for the Architect's review, evaluation and acceptance of the Contractor's Submittals.

**4.7.2.5 Contractor Responsibility for Deviations.** The Contractor shall not be relieved of responsibility for correcting deviations from the requirements of the Contract Documents by the Architect's review of Submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submission of the Submittal and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Submittals by the Architect's review thereof.

**4.7.2.6 No Performance of Work Without Architect Review.** The Contractor shall perform no portion of the Work requiring the Architect's review of Submittals until the Architect has completed its review and returned the Submittal to the Contractor indicating "No Exception Taken" to such Submittal. The Contractor shall not perform any portion of the Work forming a part of a Submittal or which is affected by a related Submittal until the entirety of the Submittal or other related Submittal has been fully processed. Such Work shall be in accordance with the final action taken by the Architect in review of Submittals and other applicable portions of the Contract Documents.

**4.7.3 Architect Review of Submittals.** The purpose of the Architect's review of Submittals and the time for the Architect's return of Submittals to the Contractor shall be as set forth elsewhere in the Contract Documents. If the Architect returns a Submittal as rejected or requiring correction(s) with re-submission, the Contractor, so as not to delay the progress of the Work, shall promptly thereafter resubmit a Submittal conforming to the requirements of the Contract Documents; the resubmitted Submittal shall indicate the portions thereof modified in accordance with the Architect's direction. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications accompanying Submittals. The Architect's review of the Submittals is for the limited purposes described in the Contract Documents. The following notations or notations of a similar nature noted on a reviewed Submittal will require the Contractor action noted below.

<b>Notation</b>	<b>Action Required</b>
No Exceptions Taken	No formal revision required
Make Corrections Noted	Make revision noted; re-submission of revised Submittal not required
Revise and Re-Submit	Revise Submittal in accordance with notations and re-submit for revision
Rejected Re-Submit	Prepare new alternative Submittal and re-submit for review

**4.7.4 Deferred Approval Items.** If any portion of the Work is designated in the Contract Documents as a "Deferred Approval" item, Contractor shall be solely and exclusively responsible for: (i) the design, engineering and specifying the materials/equipment

forming any part of the Deferred Approval Item; (ii) integrating and/or coordinating the Deferred Approval Item with other portions of the Work; (iii) preparation of Submittals for such item(s) in a timely manner so as not to delay or hinder the completion of the Work within the Contract Time; and (iv) timely obtaining DSA approval thereof.

#### 4.8 Materials and Equipment.

4.8.1 Specified Materials, Equipment. References in the Contract Documents to any specific article, device, equipment, product, material, fixture, patented process, form, method or type of construction, by name, make, trade name, or catalog number, with or without the words "or equal" shall be deemed to establish a minimum standard of quality or performance, and shall not be construed as limiting competition. Whenever a product, material or other item is specified with reference to a Federal Specification, an ASTM Standard, an American National Standards Institute Specification, or other trade association standard (collectively, "the Standards"), the Contractor shall present an affidavit from the manufacturer when requested by the Architect or required in the Specifications, certifying the product, material or other item to be furnished and installed complies with the Standards. When requested by the Architect or required by the Contract Document, support test data shall be submitted to substantiate compliance with the Standards.

4.8.2 Approval of Substitutions or Alternatives. The Contractor may propose to furnish alternatives or substitutes for a particular item specified in the Contract Documents, provided that: (i) such proposed substitution or alternative complies with the requirements of the Specifications relating to substitutions of specified items; (ii) the Contractor certifies to the Architect and District that the quality, performance capability and functionality (including visual and/or aesthetic effect) of the proposed alternative or substitute meet or exceed the quality, performance capability and functionality of the item or process specified; and (iii) demonstrate to the reasonable satisfaction of the Architect and District that the use of the substitution or alternative is appropriate and will not delay completion of the Work or result in an increase to the Contract Price. The Contractor shall submit calculations engineering, construction, dimension, visual, aesthetic and performance data to the Architect to permit its proper evaluation of the proposed substitution or alternative. If requested by the Architect, Contractor shall promptly furnish any additional information or data regarding a proposed substitution or alternative which the Architect deems reasonably necessary for the evaluation of the proposed substitution or alternative. The Contractor shall not provide, furnish or install any substitution or alternative without the Architect's review and final action on the proposed substitution or alternative; any alternative or substitution installed or incorporated into the Work without first obtaining the Architect's review and final action of the same shall be subject to removal pursuant to Article 12 hereof. The Architect's decision evaluating the Contractor's proposed substitutions or alternatives shall be final. Neither the Contract Time nor the Contract Price shall be increased on account of any substitution or alternative proposed by the Contractor and which is accepted by the Architect; provided, however, that in the event a substitution or alternative accepted by the Architect and purchase, fabrication and/or installation or such accepted substitution or alternative shall be less expensive than the originally specified item, the Contract Price shall be reduced by the actual cost savings realized by the Contractor's furnishing and/or installation of such approved substitution or alternative. The Contractor shall be solely responsible for all costs and fees incurred by the District to review a proposed substitution or alternative, including without limitation fees of the Architect, and/or governmental agencies to review and/or approve any proposed substitution or alternative. The Contractor shall be solely responsible for any increase in the cost of any accepted substitution or alternative or any Work affected by such alternative or substitution. The foregoing notwithstanding, unless

modified in writing elsewhere in the Contract Documents, including without limitation, the Specifications, Addenda or Bid Documents, all requests for the Architect's review and approval of any proposed substitution or alternative and all engineering, construction, dimension and performance data substantiating the equivalency of the proposed substitution or alternative shall be submitted by Contractor not later than thirty-five (35) days following the date of the District's award of the Contract to Contractor by action of the District's Board of Education; any request for approval of proposed alternatives or substitutions submitted thereafter may be rejected summarily. The foregoing process and time limits shall apply to any proposed substitution or alternative regardless of whether the substitute or alternate item is to be provided, furnished or installed by Contractor, any Subcontractor, any Sub-Subcontractor, Material Supplier or Manufacturer.

**4.8.3 District Standards; "Sole Source" Products.** If any material, equipment, product or other item is designated in the Contract Documents as a "District Standard" or similar words/terms, the District shall be deemed to have made a finding that such material, equipment, product or other item is designated and specified to match other materials, equipment, products, or other item in use in a completed or to be completed work of improvement and not subject to substitution. . If any material, equipment, or other item is identified in the Contract Documents as being the only source of the material, equipment or other item necessary to accomplish the intended result(s), such material, equipment or other item shall be deemed a "sole source" and shall not be subject to substitution.

**4.8.4 Placement of Material and Equipment Orders.** Contractor shall, after award of the Contract, promptly and timely place all orders for materials and/or equipment necessary for completion of the Work so that delivery of the same shall be made without delay or interruption to the timely completion of the Work. Contractor shall require that any Subcontractor similarly place orders for all materials and/or equipment to be furnished by any such Subcontractor in a prompt and timely manner so that delivery of the same shall be made without delay or interruption to the timely completion of the Work. Upon request of the District, Construction Manager or the Architect, the Contractor shall furnish reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, including without limitation, orders for materials and/or equipment to be provided, furnished or installed by any Subcontractor.

**4.8.5 District's Right to Place Orders for Materials and/or Equipment.** Notwithstanding any other provision of the Contract Documents, if the Contractor shall, upon request of the District, Construction Manager or the Architect, fails or refuses, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or should the District determine, in its sole and reasonable discretion, that any orders for materials and/or equipment have not been placed in a manner so that such materials and/or equipment will be delivered to the Site so the Work can be completed without delay or interruption, the District shall have the right, but not the obligation, to place such orders on behalf of the Contractor. If the District exercises the right to place orders for materials and/or equipment pursuant to the foregoing, the District's conduct shall not be deemed to be an exercise, by the District, of any control over the means, methods, techniques, sequences or procedures for completion of the Work, all of which remain the responsibility and obligation of the Contractor. Notwithstanding the right of the District to place orders for materials and/or equipment pursuant to the foregoing, the election of the District to exercise, or not to exercise, such right shall not relieve the Contractor from any of Contractor's obligations under the Contract Documents, including without limitation, completion of the Work within the Contract Time and for the Contract Price. If the District exercises the right

hereunder to place orders for materials and/or equipment on behalf of Contractor pursuant to the foregoing, Contractor shall reimburse the District for all costs and fees incurred by the District in placing such orders; such costs and fees may be deducted by the District from the Contract Price then or thereafter due the Contractor.

**4.8.6 Contractor and Subcontractor Communication.** All written communications between the Contractor and any Subcontractor, Material Supplier or others directly or indirectly engaged by the Contractor to perform or provide any portion of the Work shall be available to the District, the Construction Manager and the Architect for review, inspection and reproduction as may be requested from time to time. The foregoing is a material obligation of the Contractor hereunder.

#### 4.9 Safety.

**4.9.1 Safety Programs.** The Contractor shall be solely responsible for initiating, maintaining and supervising all safety programs required by the Laws required by the type or nature of the Work. The foregoing include, without limitation: (i) workplace safety programs mandated by the Laws; and (ii) safety programs and safety measures required by the OSHA, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs.

**4.9.2 Contractor Safety Plan.** Prior to commencement of Work at the Site, the Contractor shall submit to the District and the Construction Manager, if any, the Contractor's Safety Plan for the Work for review and acceptance by the District. Acceptance by the District is subject to the Safety Plan conforming to requirements of the Laws, conditions at or about the Site and the nature of the Work. The Contractor shall modify its Safety Plan as necessary to obtain the District's acceptance thereof. Notwithstanding the District's acceptance of the Contractor's Safety Plan, the Contractor shall remain solely responsible for implementing the Safety Plan and implementing measures as necessary to maintain safety of persons and property at and about the Site. The District's acceptance of the Contractor's Safety Plan shall not limit, restrict or otherwise modify the Contractor's obligations relating to safety at or about the Site in accordance with the Contract Documents and the Laws.

**4.9.3 Safety Precautions.** The Contractor shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody or control of the Contractor or Subcontractors; and (iii) other property or items at the Site, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement.

**4.9.4 Safety Signs, Barricades.** The Contractor shall erect and maintain, as required by existing conditions and conditions resulting from performance of the Contract, reasonable safeguards for safety and protection of property and persons, including, without limitation, posting danger signs and other warnings against hazards, barricades, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

**4.9.5 Safety Notices.** The Contractor shall give or post all safety notices required by the Laws and comply with the Laws bearing on safety of persons or property or their protection from damage, injury or loss.

**4.9.6 Safety Coordinator.** The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents and

the implementation and maintenance safety precautions and programs. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Construction Manager, Project Inspector and the Architect.

4.9.7 Site Conduct. The Contractor, Subcontractors, their respective personnel and others under their direction or control on or about the Site shall undertake and implement the following standards of personnel conduct at the Site. The following are in addition to, and not in lieu of, other requirements relating to conduct of personnel at or about the Site, whether set forth in the Contract Documents or arising by operation of law.

4.9.7.1 Clothing. Hard hats complying with CAL-OSHA Construction Safety Orders are required at all times. All personnel providing Work related labor must be attired in workpants, shirt and appropriate boots or closed-toe shoes. No sexual preference shall be permitted on any item of clothing or on hardhats. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.2 Prohibited Substances. No alcohol, or the consumption or distribution thereof is permitted at any time at the Site or on District property. No smoking or the use, consumption or distribution of any tobacco products is permitted at any time at the Site or on District property. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.3 Audio Devices. No personal radios, headsets, walkmen, CD, MD, MP3 or other personal audio/video devices of any kind, type or nature are permitted at any time at the Site. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.4 Break-Time Clean-Up. The Contractor shall be responsible for clean-up of areas at the Site utilized by personnel for break-time or lunch functions. Cans, wrappers and other break/lunch related items shall be placed in appropriate trash receptacles and the break/lunch areas shall be maintained in a neat, clean and sanitary condition by the Contractor.

4.9.7.5 Guns/Knives. No guns or switchblades are permitted at the Site at any time. No knives with blades longer than two (2) inches are permitted at the Site at any time. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.6 Non-English Speaking Personnel. The Contractor shall be responsible for providing non-English speaking personnel at the Site written materials translated into the native language(s) of such personnel relating to safety requirements at the Site and requirements of the OSHA. In lieu of written translations, the Contractor may provide an interpreter to verbally notify such personnel in their respective native languages.

4.9.7.7 Mandatory 6' Fall Protection. The Contractor's and Subcontractor's employees shall be protected from fall exposures of 6 feet or greater.

4.9.8 Emergencies. In an emergency affecting safety of persons or property, the Contractor shall act, to prevent threatened damage, injury or loss.

4.9.9 Hazardous Materials.

4.9.9.1 General. If the Contractor, any Subcontractor or anyone employed directly or indirectly by them shall use, at the Site, or incorporate into the Work, any material or substance deemed to be hazardous or toxic under any law, rule, ordinance, regulation or interpretation thereof (collectively "Hazardous Materials"), the Contractor shall comply with all Laws applicable thereto and shall exercise all necessary safety precautions relating to the use, storage or disposal thereof.

4.9.9.2 Prohibition on Use of Asbestos Construction Building Materials ("ACBMs"). Notwithstanding any provision of the Drawings or the Specifications

to the contrary, it is the intent of the District that ACBMs not be used or incorporated into any portion of the Work. In the event that any portion of the Work depicted in the Drawings or the Specifications shall require materials or products which the Contractor knows, or should have known with reasonably diligent investigation, to contain ACBMs, Contractor shall promptly notify the Architect and the Project Inspector of the same so that an appropriate alternative can be made in a timely manner so as not to delay the progress of the Work. Contractor warrants to the District that there are no materials or products used or incorporated into the Work which contain ACBMs. Whether before or after completion of the Work, if it is discovered that any product or material forming a part of the Work or incorporated into the Work contains ACBMs, the Contractor shall at its sole cost and expense remove such product or material in accordance with any laws, rules, procedures and regulations applicable to the handling, removal and disposal of ACBMs and to replace such product or material with non-ACBM products or materials and to return the affected portion(s) of the Work to the finish condition depicted in the Drawings and Specifications relating to such portion(s) of the Work. Contractor's obligations under the preceding sentence shall survive the termination of the Contract, the warranty period provided under the Contract Documents, the Contractor's completion of the Work or the District's acceptance of the Work. If the Contractor fails or refuses, for any reason, to commence the removal and replacement of any material or product containing ACBMs forming a part of, or incorporated into the Work, within ten (10) days of the date of the District's written notice to the Contractor of the existence of ACBM materials or products in the Work, the District may thereafter proceed to cause the removal and replacement of such materials or products in any manner which the District determines to be reasonably necessary and appropriate; all costs, expenses and fees, including without limitation fees and costs of consultants and attorneys, incurred by the District in connection with such removal and replacement shall be the responsibility of the Contractor and the Surety.

**4.9.9.3 Disposal of Hazardous Materials.** Contractor shall be solely and exclusively responsible for the disposal of any Hazardous Materials on or about the Site. The Contractor's obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with the Laws.

**4.9.10 Temporary Sanitary Facilities.** At all times during Work at the Site, the Contractor shall obtain and maintain temporary sanitary facilities in conformity with applicable law, rule or regulation. The Contractor shall maintain temporary sanitary facilities in a neat and clean manner with sufficient toilet room supplies. Personnel engaged in the Work are not permitted to use toilet facilities at or about the Site.

**4.9.11 Noise and Dust Control**

**4.9.11.1 Noise Control.** The Contractor shall install noise reducing devices on construction equipment. Contractor shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction Equipment noise at the Site shall be limited and only as permitted by applicable law, rule or regulation. If classes are in session at any point during the progress of the Work, and, in the District's reasonable discretion, the noise from any Work disrupts or disturbs the students or faculty or the normal operation of the college, at the District's request, the Contractor shall schedule the performance of all such Work around normal college hours or make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

4.9.11.2 Dust Control. The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and District personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the Laws, including, without limitation, the EPA, OSHA and Cal-OSHA,. Additionally, the Contractor shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by the District to pay such damages shall be due and payable to the District on demand. Contractor shall replace any damaged property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in the District's reasonable discretion, flying debris, grinding powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the college, at the District's request, the Contractor shall schedule the performance of all such Work around normal school hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

4.9.11.3 Air Pollution. The Contractor shall comply with all applicable air pollution control rules, regulations, ordinances, or statutes. Neither the Contract Time nor the Contract Price shall be subject to adjustment for measures of the Contractor to comply with air pollution control requirements. The Contractor shall be solely responsible for implementing measures required by any governmental or quasi-governmental agency with jurisdiction and/or authority to enforce air pollution control measures without adjustment of the Contract Time or the Contract Price. If in performance of the Work, the Contractor violates applicable air pollution control requirements, the Contractor shall be solely responsible for discharging and satisfying any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures. The scope of the Contractor's indemnity obligations under the Contract Documents shall include, without limitation, the defense, indemnity and hold harmless of the Indemnified Parties from any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures as a result of the Contractor's failure or refusal to comply with its obligations hereunder.

4.9.11.4 Contractor Failure to Comply. If the Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the District, Architect, District Inspector or Construction Manager are each authorized to notify the Contractor in writing of such failure and the Contractor shall take immediate action. Should the Contractor fail to respond with immediate and responsive action and not later than twenty-four (24) hours from such notification, the District shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any



and all costs incurred by the District in connection with such actions shall be the sole responsibility of, and be borne by, the Contractor; the District may deduct such amounts from the Contract Price then or thereafter due the Contractor.

#### 4.10 Maintenance of Documents.

4.10.1 Documents at Site. The Contractor shall maintain at the Site: (i) one record copy of the Drawings, Specifications and all addenda thereto; (ii) Change Orders approved by the District and all other modifications to the Contract Documents; (iii) Submittals reviewed by the Architect; (iv) Record Drawings; (v) Material Safety Data Sheets ("MSDS") accompanying any materials, equipment or products delivered or stored at the Site or incorporated into the Work; and (vi) all building and other codes or regulations applicable to the Work, including without limitation, Title 24, Part 2 of the California Code of Regulations. During performance of the Work, all documents maintained by Contractor at the Site shall be available to the District, the Construction Manager, the Architect, the Project Inspector and DSA for review, inspection or reproduction. Upon completion of the Work, all documents maintained at the Site by the Contractor pursuant to the foregoing shall be assembled and transmitted to the Architect for delivery to the District.

4.10.2 Maintenance of Record Drawings. During its performance of the Work, the Contractor shall maintain Record Drawings consisting of a set of the Drawings which are marked to indicate all field changes made to adapt the Work depicted in the Drawings to field conditions, changes resulting from Change Orders and all concealed or buried installations, including without limitation, piping, conduit and utility services. All buried or concealed items of Work shall be completely and accurately marked and located on the Record Drawings. The Record Drawings shall be clean and all changes, corrections and dimensions shall be marked in a neat and legible manner in a contrasting color. Record Drawings relating to the Structural, Mechanical, Electrical and Plumbing portions of the Work shall indicate without limitation, circuiting, wiring sizes, equipment/member sizing and shall depict the entirety of the as built conditions of such portions of the Work. The Record Drawings shall be continuously maintained by the Contractor during the performance of the Work. At any time during the Contractor's performance of the Work, upon the request of the District, the Project Inspector or the Architect, the Contractor shall make the Record Drawings maintained hereunder available for the District's review and inspection. The District's review and inspection of the Record Drawings during the Contractor's performance of the Work shall be only for the purpose of generally verifying that Contractor is continuously maintaining the Record Drawings in a complete and accurate manner; any such inspection or review shall not be deemed to be the District's approval or verification of the completeness or accuracy thereof. The failure or refusal of the Contractor to continuously maintain complete and accurate Record Drawings or to make available the Record Drawings for inspection and review by the District may be deemed by the District to be Contractor's default of a material obligation hereunder. Without waiving, restricting or limiting any other right or remedy of the District for the Contractor's failure or refusal to continuously maintain the Record Drawings, the District may, upon reasonably determining that the Contractor has not, or is not, continuously maintaining the Record Drawings in a complete and accurate manner, take appropriate action to cause the continuous maintenance of complete and accurate Record Drawings, in which event all fees and costs incurred or associated with such action shall be charged to the Contractor and the District may deduct the amount of such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In accordance with Article 8.4.2 of these General Conditions, prior to receipt of the Final Payment, Contractor shall deliver the Record Drawings to the Architect.

4.10.3 Daily Reports By Contractor. At the end of each work day, the Contractor shall

submit a daily report to the Construction Manager and the Project Inspector for document control listing all labor, materials, and equipment involved with the Work for that day, including but not limited to: (i) Labor, number of classifications of work by contractor/subcontractors, (ii) Materials used, by contractor/subcontractor, (iii) Equipment used, by contractor/subcontractors, (iv) Any inspections or testing performed, (v) Any other authorized services or expenditures.

#### 4.11 Site.

4.11.1 Contractor Use of Site. The Contractor shall confine operations at the Site to areas permitted by the Laws or permits relating to the Work, subject to any restrictions or limitations set forth in the Contract Documents. The Contractor shall not unreasonably encumber the Site or adjoining areas with materials or equipment. The Contractor is solely responsible for providing security at the Site with all such costs included in the Contract Price. The District shall at all times have access to the Site.

4.11.2 Limitations Upon Site Activities. Except in the circumstances of an emergency, no construction activities shall be permitted at or about the Site except during the District's hours and days set forth in the Special Conditions. Work performed outside of the hours and days noted in the Special Conditions will not result in adjustment of the Contract Time or the Contract Price; unless Work outside of the hours and days noted in the Special Conditions is expressly authorized by the District. Additional or premium costs incurred by the District for Work performed outside the hours and days of Work permitted at the Site shall be borne solely and exclusively by the Contractor. The District may deduct such additional or premium costs from the Contract Price then or thereafter due the Contractor.

4.12 Clean-Up. The Contractor shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by performance of the Work. Without limiting the generality of the foregoing, Contractor shall maintain the Site in a "rake-clean" standard on a daily basis. If the Work includes painting and/or the installation of floor covering, before any painting operations or the installation of any flooring covering, the area and adjoining areas of the Site where paint is to be applied or floor covering is to be installed shall be in a "broom-clean" condition. Prior to completion of the Work, Contractor shall remove from the Site all rubbish, waste materials, excess excavated materials, tools, Construction Equipment, machinery, surplus materials and any other items which are not the property of the District under the Contract Documents. Upon completion of the Work, the Site and all adjoining areas shall be left by the Contractor in a neat and broom clean condition satisfactory to District. The Project Inspector or Construction Manager shall be authorized to direct the Contractor's clean-up obligations hereunder. If the Contractor fails to clean up as provided for in the Contract Documents, the District may do so, and all costs incurred in connection therewith shall be charged to the Contractor; the District may deduct such costs from any portion of the Contract Price then or thereafter due the Contractor.

4.13 Access to the Work. The Contractor shall provide DSA, the District, the Construction Manager, the Project Inspector and the Architect access to the Work, whether in place, preparation and progress and wherever located.

#### 4.14 Facilities and Information for the Project Inspector.

4.14.1 Information to Project Inspector. The Contractor shall furnish the Project Inspector access to the Work for obtaining such information as may be necessary to keep the Project Inspector fully informed respecting the progress, quality and character of the Work and materials, equipment or other items incorporated therein.

4.14.2 Facilities for Project Inspector. Facilities, services or other items to be provided

by the Contractor for use by the Project Inspector, if any, shall be as set forth in the Special Conditions. If any such facilities, services or other items are designated in the Special Conditions and the Contractor fails or refuses to provide the same, the District may furnish such facilities, services or other items, with the costs, fees or expenses incurred to furnish the same being deducted from the Contract Price.

4.15 Patents and Royalties. The Contractor and the Surety shall defend, indemnify and hold harmless the District and its agents, employees and officers from any claim, demand or legal proceeding arising out of or pertaining, in any manner, to any actual or claimed infringement of patent rights in connection with performance of the Work.

4.16 Cutting and Patching. The Contractor is responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. The Contractor shall not damage or endanger any portion of the Work, or the fully or partially completed construction of the District or separate contractors by cutting, patching, excavation or other alteration. The Contractor shall not cut, patch or otherwise alter the construction by the District or separate contractor without the prior written consent of the District or separate contractor thereto, which consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold consent to the request of the District or separate contractor to cut, patch or otherwise alter the Work.

4.17 Encountering of Hazardous Materials. If the Contractor encounters Hazardous Materials at the Site which have not been rendered harmless or for which there is no provision in the Contract Documents for containment, removal, abatement or handling of such Hazardous Materials, the Contractor shall immediately stop the Work in the affected area, but shall diligently proceed with the Work in all other unaffected areas. Upon encountering such Hazardous Materials, the Contractor shall immediately notify the Project Inspector and the Architect, in writing, of such condition. The Contractor shall proceed with the Work in such affected area only after such Hazardous Materials have been rendered harmless, contained, removed or abated. If such Hazardous Materials are encountered, the Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Work is stopped and Substantial Completion of the Work is affected thereby. In no event shall there be an adjustment to the Contract Price solely on account of the Contractor encountering such Hazardous Materials.

4.18 Wage Rates; Employment of Labor.

4.18.1 Prevailing Wage Rates.

4.18.1.1 Prevailing Wage Rate Schedules. Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2 of the California Labor Code at §§1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the prevailing rate for holiday and overtime work in the locality in which the Work is to be performed. Holidays shall be as defined in the collective bargaining agreement applicable to each particular craft, classification or type of worker employed under the Contract. Per diem wages include employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided in California Labor Code §1773.8, apprenticeship or other training programs authorized by California Labor Code §3093, and similar purposes when the term "per diem wages" is used herein. Holiday and overtime work, when permitted by law, shall be paid for at the rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. The Contractor shall post, at appropriate and conspicuous locations on the Site, a schedule showing all determined general prevailing wage rates.

4.18.1.2 Payment of Prevailing Rates. There shall be paid each worker of the Contractor and Subcontractors, of any tier, engaged in the Work, not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor, of any tier, and such worker. The Contractor is solely responsible for obtaining and complying with prevailing wage rate determinations and modifications thereto during performance of the Work. Any such modification shall not result in an adjustment to Contract Price.

4.18.1.3 Prevailing Rate Penalty. The Contractor shall, as a penalty, forfeit not more than Two Hundred Dollars (\$200.00) to the District for each calendar day or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for the Work by the Contractor or by any Subcontractor, of any tier, in connection with the Work. The amount of the penalty for failure to pay applicable prevailing wage rates shall be determined and assessed in accordance with the standards established pursuant to Labor Code §1775(a)(2). The amount of the penalty shall be determined based on consideration of both of the following: (i) whether the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor; and (ii) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations. The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor. The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Contractor or Subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned. The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1. When the penalty amount due hereunder is collected from the Contractor or Subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that Contractor or Subcontractor shall be satisfied before applying that amount to the penalty imposed on that Contractor or Subcontractor hereunder. The difference between prevailing wage rates and the amount paid to each worker each calendar day, or portion thereof, for which each worker paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4.18.1.4 Prevailing Wage Rate Monitoring and Enforcement. During the Work and pursuant to Labor Code §1771.4(a)(4), the Department of Industrial Relations shall monitor and enforce the obligation of the Contractor and Subcontractors of every tier to pay laborers performing any portion of the Work the Prevailing Wage Rate established for the classification of work/labor performed.

#### 4.18.2 Payroll Records.

4.18.2.1 Certified Payroll Records. Pursuant to California Labor Code §1776, the Contractor and each Subcontractor, of any tier, shall keep an accurate payroll record, showing the name, address, social security number, work classification,

straight time and overtime hours worked each day and week, and the actual per diem wages paid to each person employed for the Work.

4.18.2.2 Certified Payroll Records Submittal to Labor Commissioner. The Contractor and all Subcontractors shall prepare and submit Certified Payroll Records to the Labor Commissioner in compliance with requirements established in Labor Code §1771.4. The form and content of Certified Payroll Records shall be as established by the Labor Commissioner and the frequency of Certified Payroll Records submittal to the Labor Commissioner shall be pursuant to Labor Code §1771.4.

4.18.2.3 Inspection and Copies of Certified Payroll Records. The payroll records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor on the following basis: (i) a certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request; (ii) a certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement ("DLSE") and the Division of Apprenticeship Standards of the Department of Industrial Relations ("Apprenticeship Council"); (iii) a certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, DLSE and the Apprenticeship Council. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, Subcontractors and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor; (iv) the Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; (v) any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Apprenticeship Council or DLSE shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any Subcontractor, of any tier, performing a part of the Work shall not be marked or obliterated. The Contractor shall inform the District of the location of payroll records, including the street address, city and county and shall, within five (5) business days, provide a notice of a change or location and address. In the event of noncompliance with the foregoing requirements, the Contractor shall have ten (10) days in which to comply, subsequent to receipt of written notice specifying in what respects the Contractor must comply herewith. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Apprenticeship Council or DLSE, such penalties shall be withheld from any portion of the Contract Price then or thereafter due the Contractor. The Contractor is solely responsible for compliance with the foregoing provisions.

#### 4.18.3 Hours of Work.

4.18.3.1 Limits on Hours of Work. Pursuant to California Labor Code §1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code §1811, the time of service of any worker employed at any time by the Contractor or by a Subcontractor, of any tier, upon the Work or upon any part of the Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereafter

provided. Notwithstanding the foregoing provisions, Work performed by employees of Contractor or any Subcontractor, of any tier, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

4.18.3.2 Penalty for Excess Hours. The Contractor shall pay to the District a penalty of Twenty-five Dollars (\$25.00) for each worker employed on the Work by the Contractor or any Subcontractor, of any tier, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

4.18.3.3 Contractor Responsibility. Any Work performed by workers necessary to be performed after regular working hours or on Saturdays, Sundays or other holidays shall be performed without adjustment to the Contract Price or any other additional expense to the District. The Contractor shall be responsible for costs incurred by the District which arise out of Work performed by the Contractor at times other than regular working hours and regular business days. Upon determination of such costs, the District may deduct such costs from the Contract Price then or thereafter due the Contractor.

#### 4.18.4 Apprentices.

4.18.4.1 Employment of Apprentices. Any apprentices employed to perform any of the Work shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code §3077 who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code §§3070 et seq. are eligible to be employed for the Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

4.18.4.2 Apprenticeship Certificate. When the Contractor or any Subcontractor, of any tier, in performing any of the Work employs workers in any Apprenticeable Craft or Trade, the Contractor and such Subcontractor shall apply to the Joint Apprenticeship Committee administering the apprenticeship standards of the craft or trade in the area of the site of the Work for a certificate approving the Contractor or such Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected, provided, however, that the approval as established by the Joint Apprenticeship Committee or Committees shall be subject to the approval of the Administrator of Apprenticeship. The Joint Apprenticeship Committee or Committees, subsequent to approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or such Subcontractor in order to comply with California Labor Code §1777.5. Prior to the commencement of the Work, the Contractor and Subcontractors shall submit contract award information (on Form DAS-140) to the applicable Joint Apprenticeship Committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. Concurrently with submission of contract information on Form DAS-140 to the Apprenticeship Council, the Contractor shall deliver a copy of its completed DAS-140 to the District and the Construction

Manager. There shall be an affirmative duty upon the Joint Apprenticeship Committee or Committees, administering the apprenticeship standards of the crafts or trades in the area of the site of the Work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Contractors or Subcontractors shall not be required to submit individual applications for approval to local Joint Apprenticeship Committees provided they are already covered by the local apprenticeship standards.

**4.18.4.3 Ratio of Apprentices to Journeymen.** The ratio of Work performed by apprentices to journeymen, who shall be employed in the Work, may be the ratio stipulated in the apprenticeship standards under which the Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in California Labor Code §1777.5. The minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the Joint Apprenticeship Committee, is employed at the site of the Work and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the completion of the Work. The Contractor shall, however, endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the site of the Work. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a Joint Apprenticeship Committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. The Contractor or any Subcontractor covered by this Article and California Labor Code §1777.5, upon the issuance of the approval certificate, or if it has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that it employs apprentices in such craft or trade in the State of California on all of its contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 ratio as set forth in this Article and California Labor Code §1777.5. This Article shall not apply to contracts of general contractors, or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than Thirty Thousand Dollars (\$30,000.00) or twenty (20) business days. The term "Apprenticeable Craft or Trade," as used herein shall mean a craft or trade determined as an Apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

**4.18.4.4 Exemption From Ratios.** The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions are met: (i) unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%) or; (ii) the number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen, or; (iii) the Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis, or; (iv) if assignment of an apprentice to any Work performed

under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

**4.18.4.5 Contributions to Trust Funds.** The Contractor or any Subcontractor, of any tier, who, performs any of the Work by employment of journeymen or apprentices in any Apprenticeable Craft or Trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Work, to which fund or funds other contractors in the area of the site of the Work are contributing, shall contribute to the fund or funds in each craft or trade in which it employs journeymen or apprentices in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall, using California Apprenticeship Council Training Fund Contributions Form CAC-2, pay a like amount to the California Apprenticeship Council. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to such fund(s) as set forth in California Labor Code §227. Such contributions shall not result in an increase in the Contract Price.

**4.18.4.6 Contractor's Compliance.** The responsibility of compliance with this Article for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Article are subject to the provisions of California Labor Code §3081. If the Contractor willfully fails to comply with the provisions of this Article and California Labor Code §1777.5, pursuant to California Labor Code §1777.7, the Contractor shall: (i) be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of non-compliance is made by the Administrator of Apprenticeship; and (ii) forfeit, as a civil penalty, Fifty Dollars (\$50.00) for each calendar day of noncompliance. Notwithstanding the provisions of California Labor Code §1727, upon receipt of such determination, the District shall withhold such amount from the Contract Price then due or to become due. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council. Any funds withheld by the District pursuant to this Article shall be deposited in the General Fund or other similar fund of the District. The interpretation and enforcement of California Labor Code §§1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

**4.18.5 Employment of Independent Contractors.** Pursuant to California Labor Code §1021.5, Contractor shall not willingly and knowingly enter into any agreement with any person, as an independent contractor, to provide any services in connection with the Work where the services provided or to be provided requires that such person hold a valid contractors' license issued pursuant to California Business and Professions Code §§7000 et seq. and such person does not meet the burden of proof of his/her independent contractor status pursuant to California Labor Code §2750.5. If the Contractor employs any person in violation of the foregoing, Contractor shall be subject



to the civil penalties under California Labor Code §1021.5 and any other penalty provided by law. In addition to the penalties provided under California Labor Code §1021.5, Contractor's violation of this Article 4.18.5 or the provisions of California Labor Code §1021.5 shall be deemed an event of Contractor's default under Article 15.1 of these General Conditions. The Contractor shall require any Subcontractor or Sub-Subcontractor performing or providing any portion of the Work to adhere to and comply with the foregoing provisions.

4.19 Assignment of Antitrust Claims. Pursuant to California Government Code §4551, the Contractor and its Subcontractor(s), of any tier, hereby offers and agrees to assign to the District all rights, title and interest in and to all causes of action they may have under Section 4 of the Clayton Act, (15 U.S.C. §15) or under the Cartwright Act (California Business and Professions Code §§16700 et seq.), arising from purchases of goods, services or materials hereunder or any Subcontract. This assignment shall be made and become effective at the time the District tenders Final Payment to the Contractor, without further acknowledgment by the parties. If the District receives, either through judgment or settlement, a monetary recovery in connection with a cause of action assigned under California Government Code §§4550 et seq., the assignor thereof shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the District any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the District as part of the Contract Price, less the expenses incurred by the District in obtaining that portion of the recovery. Upon demand in writing by the assignor, the District shall, within one year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose: and (i) the District has not been injured thereby; or (ii) the District declines to file a court action for the cause of action.

4.20 DSA Construction Oversight. All of the Work is subject to DSA Construction Oversight processes and procedures; a material obligation of the Contractor hereunder is the Contractor's compliance with the processes and procedures established by DSA for the Work. As applicable, the foregoing shall include without limitation, the processes and procedures established under DSA PR 13-01 in effect at the time of performing the Work hereunder. The foregoing shall include:

4.20.1 DSA Approved Documents. The Contractor shall carefully study the DSA approved documents and shall plan a schedule of operations well ahead of time.

4.20.2 Correction of Non-Conforming Work. If at any time it is discovered that Work is not in accordance with the DSA approved construction documents, the Contractor shall correct the Work immediately.

4.20.3 Verification of DSA 152 Forms. The Contractor shall verify that DSA 152 forms were issued for prior to the commencement of construction.

4.20.4 Test/Inspection Communications. The Contractor shall meet with the Architect, Construction Manager, the Laboratory of Record retained by the District for special tests/inspections and the Project Inspector to mutually communicate and understand the testing and inspection program, and the methods of communication appropriate for the Work.

4.20.5 DSA Form 156 Notifications to Project Inspector. The Contractor shall notify the Project Inspector, in writing, of the commencement of construction of each and every aspect of the Work at least 48 hours in advance by submitting Commencement/Completion of Work Notification (form DSA 156), or other agreed upon written documents, to the Project Inspector. The Contractor shall notify the Project Inspector of the completion of construction of each and every aspect of the Work by submitting form DSA 156 (or other agreed upon written documents) to the Project

Inspector.

4.20.6 Limitations on Contractor Work. Until the Project Inspector has signed off applicable blocks and sections of the form DSA 152, the Contractor may be prohibited from proceeding with subsequent construction activities that cover up the unapproved Work. Any subsequent construction activities, that cover up the unapproved Work, will be subject to a "Stop Work Order" from DSA or the District, and are subject to removal and remediation if found to be in non-compliance with the DSA approved construction documents.

4.20.7 Final Verified Report. The Contractor shall submit the final Contractor Verified Report. (form DSA 6-C) to DSA and the Project Inspector. The DSA 6-C reports are required to be submitted by the Contractor upon occurrence of any of the following events: (i) the Work is substantially complete (DSA considers the Work to be complete when the construction is sufficiently complete in accordance with the DSA approved construction documents so that the owner can occupy or utilize the Work); (ii) Work is suspended for a period of more than one (1) month; (iii) services of the Contractor are terminated for any reason prior to the completion of the Work; or (iv) DSA requests a verified report.

4.20.8 Failure to Submit Final Verified Report. Should Contractor fail or refuse to submit the final Contractor Verified Report (form DSA 6-C) to DSA and the Project Inspector, the Final Payment due the Contractor shall be reduced by Twenty-Five Thousand Dollars (\$25,000.00) until such time as the Contractor submits the final Contractor Verified Report (form DSA 6-C) to DSA and the Project Inspector.

#### 4.21 DSA Verified Reports

4.21.1 Contractor Actions. The Contractor acknowledges and agrees that a material obligation of the Contractor under the Contract Documents is the completion by the Contractor of all actions and activities which by the Contract Documents or by the Laws are the responsibility of the Contractor relating to DSA reporting requirements pursuant to Education Code §81141 (including amendments thereto) and issuance of DSA's Certificate of Compliance for the Project pursuant to Education Code §81147 (including amendments thereto) upon completion of the Work. The foregoing shall include without limitation, the timely preparation, completion and filing of Verified Reports during Project construction and the filing of the Final Verified Report with DSA within thirty (30) days of the determination of Final Completion. The Contractor shall provide the District, the Project Inspector, Architect, Construction Manager with copies of all Verified Reports completed by the Contractor and submitted to DSA; such copies shall be provided to the Project Inspector, Architect, the Construction Manager and the District concurrently with the Contractor's submission thereof to DSA.

4.21.2 District Withholdings From Final Payment. Notwithstanding any provision of the Contract Documents to the contrary, the completion and filing of the Final Verified Report with DSA by the Contractor is an express condition precedent to the District's disbursement of the Final Payment. If the Contractor fails to prepare and file the Final Verified Report with DSA within thirty (30) days of the determination of Final Completion, the District may in the sole and exclusive discretion of the District retain and withhold ten percent (10%) of the Final Payment from disbursement to the Contractor as damages for the failure of the Contractor to have timely and completely discharged its obligations hereunder. The Contractor acknowledges and agrees that the foregoing withholdings by the District is a reasonable estimate of the damages and other losses the District will sustain due to the failure of the Contractor to have timely and fully discharged its obligations hereunder.

**4.22 Employee Fingerprinting; Contractor's Compliance With Education Code §§ 45125.1 and 45125.2**

**4.22.1 General; School Session Requirements.** The Contractor acknowledges that the safety of students on or about the Site is of paramount importance and that Contractor's compliance with these provisions is a material obligation of the Contractor under the Contract Documents. To ensure the safety of students on or about the Site, the Contractor agrees that if at any time during performance of any Work at or about the Site occurs when classes are in session at the Site or during school related functions at the Site, no personnel of the Contractor, Subcontractor, Material Supplier or others performing or providing any portion of the Work of the Contract Documents will be permitted access to the Site unless such personnel are specifically identified in Exhibit A to a Fingerprint Certification. Any personnel at the Site who is not identified in Exhibit A to a Fingerprint Certification will be immediately removed from the Site and will not be permitted access until a Fingerprint Certification is submitted to the District identifying such personnel in Exhibit A thereto. Neither the Contract Time nor the Contract Price shall be adjusted on account of the removal of any personnel from the Site pursuant to the foregoing.

**4.22.2 Non-School Session.** If at any time during performance of Work at or about the Site which when classes are not in session at the Site or when there are no other school related functions at the Site, personnel of the Contractor, Subcontractors, Material Suppliers or others performing or providing any portion of the Work will be permitted access to the Site without such personnel being specifically identified in Exhibit A to a Fingerprint Certification. The foregoing notwithstanding, during such times, the Contractor shall comply with the provisions of Education Code §42125.2 by either: (a) erecting physical barriers to limit contact with students or (b) continual supervision and monitoring of personnel at the Site by a employee of the Contractor who has been verified by the California Department of Justice as not having been convicted of a violent or serious felony. If the Contractor elects the procedure under (b) in the preceding sentence, the Contractor shall submit a Fingerprint Certification attesting to the Department of Justice verification that such employee has not been convicted of a violent or serious felony and has no felony proceedings pending against her/him. The provisions of Education Code §45125.2 notwithstanding, there will be no surveillance of the personnel of the Contractor, Subcontractors, Material Suppliers or others performing or providing Work at the Site by the personnel of the District, Architect, Construction Manager, or the Inspector.

**4.22.3 District Required Identification.** In addition to compliance with the foregoing, if the District requires the issuance of identification badges or other means of identification, no person will be permitted access to the Site until the District has issued such person an identification badge or other means of identification. Notwithstanding compliance with the foregoing requirements, if the District requires that identification badges be issued and worn at the Site, any person providing or performing Work at the Site who has not been issued or who is not wearing his/her identification badge will be immediately removed from the Site; such person will not be permitted access to the Site until the District has issued such person an identification badge and/or such person wears her/her identification badge issued by the District. The removal of any personnel from the Site under the foregoing provisions shall not result in adjustment of the Contract Price or the Contract Time.

**ARTICLE 5: SUBCONTRACTORS**

**5.1 Subcontracts.** Any Work performed for the Contractor by a Subcontractor shall be pursuant to a written agreement between the Contractor and such Subcontractor which

specifically incorporates by reference the Contract Documents and which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents, including without limitation, the policies of insurance required under Article 6 of these General Conditions and obligates the Subcontractor to assume toward the Contractor all the obligations and responsibilities of the Contractor which by the Contract Documents the Contractor assumes toward the District and the Architect. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and the District, unless the Contract is terminated and District, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to the District if the Contract is terminated by the District pursuant to Article 15 hereof, subject to the prior rights of the Surety if the District terminates the Contract for the Contractor's default. The Contractor shall provide to the District copies of all executed Subcontracts and Purchase Orders to which Contractor is a party within thirty (30) days after Contractor's execution of the Agreement. During performance of the Work, the Contractor shall, from time to time, as and when requested by the District, the Architect or the Construction Manager provide the District with copies of any and all Subcontracts or Purchase Orders relating to the Work and all modifications thereto. The Contractor's failure or refusal, for any reason, to provide copies of such Subcontracts or Purchase Orders in accordance with the two preceding sentences is Contractor's default of a material term of the Contract Documents.

## 5.2 Subcontractor DIR Contractor Registration.

5.2.1 No Subcontractor Performance of Work Without DIR Registration. No portion of the Work is permitted to be performed by a Subcontractor unless the Subcontractor is a DIR Registered contractor. The foregoing DIR contractor registration requirement is applicable for all Subcontractors, including without limitation, lower tier Subcontractors and Subcontractors who are not identified in the Contractor's Subcontractors List.

5.2.2 Contractor Obligation to Verify Subcontractor DIR Registration Status. An affirmative and on-going obligation of the Contractor under the Contract Documents is the Contractor's verification that all Subcontractors are at all times during performance of the Work in full and strict compliance with DIR contractor registration requirements. The Contractor shall not permit or allow any Subcontractor to perform any Work without the Contractor's verification that the Subcontractor is in full and strict compliance with DIR contractor registration requirements.

5.2.3 Contractor Obligation to Request Substitution of Listed Subcontractor Who Is Not DIR Registered Contractor. If any Subcontractor identified in the Contractor's Subcontractors List submitted with the Contractor's proposal for the Work is not a DIR registered contractor at the time of opening of proposals for the Work or if a Subcontractor's DIR contractor registration lapses prior to or during a Subcontractor's performance of Work, the Contractor shall request the District's consent to substitute the Subcontractor who is not a DIR registered contractor pursuant to Labor Code §1771.1(c)(3) and/or Labor Code §1771.1(d).

## 5.3 Substitution of Listed Subcontractor.

5.3.1 Substitution Process. Request of the Contractor to substitute a listed Subcontractor will be considered only if in strict conformity with this Article 5.3 and California Public Contract Code §4107. All costs incurred by the District, including without limitation, costs of the Project Inspector, the Architect, the Construction Manager or attorney's fees in the review and evaluation of a request to substitute a listed Subcontractor shall be borne by the Contractor; such costs may be deducted by the District from the Contract Price then or thereafter due the Contractor.

5.3.2 Responsibilities of Contractor Upon Substitution of Subcontractor. The District's consent to Contractor's substitution of a listed Subcontractor shall not relieve Contractor

from its obligation to complete the Work within the Contract Time and for the Contract Price. The substitution of a listed Subcontractor shall not, under any circumstance, result in, or give rise to any to any increase of the Contract Price or the Contract Time on account of such substitution. If the District consents to substitution of a listed Subcontractor, the Architect shall determine the extent to which, if any, revised or additional Submittals will be required of the newly substituted Subcontractor ("Substituted Subcontractor"). If the Architect determines that revised or additional Submittals are required of a Substituted Subcontractor, the Architect shall promptly notify the Contractor, in writing, of such requirement. In such event, revised or additional Submittals shall be submitted to Architect not later than thirty (30) days following the date of the Architect's written notice to the Contractor pursuant to the foregoing sentence; provided that if in the reasonable and good faith judgment of the Architect, the progress of the Work or completion of the Work requires submission of additional or revised Submittals by a Substituted Subcontractor in less than thirty (30) days, the Architect shall so state in its written notice to the Contractor. If the revised or additional Submittals are not submitted by Contractor within thirty (30) days, or such earlier time as determined by the Architect pursuant to the preceding sentence, following the Architect's written notice of the requirement for revised or additional Submittals, Contractor shall be subject to the per diem assessments for late Submittals as set forth in Article 4.7.2.1 of these General Conditions. Any revised or additional Submittals required pursuant to this Article 5.3.2 shall conform to the requirements of Article 4.7 of these General Conditions. Contractor shall reimburse the District for all fees and costs, including without limitation fees of the Architect, the District's administrative costs and DSA fees, incurred or associated with the processing, review and evaluation of any revised or additional Submittals required pursuant to this Article 5.3.2; the District may deduct such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In the event that additional or revised Submittals are required pursuant to this Article 5.3.2, such requirement shall not result in an increase to the Contract Time or the Contract Price.

**5.4 Subcontractors' Work.** Whenever the Work of a Subcontractor is dependent upon the Work of the Contractor or another Subcontractor, the Contractor shall require the Subcontractor to: (i) coordinate its Work with the dependent Work; (ii) provide necessary dependent data and requirements; (iii) supply and/or install items to build into the dependent Work of others; (iv) make appropriate provisions for dependent Work of others; (v) carefully examine and understand the portions of the Contract Documents (including Drawings, Specifications and Field Clarifications) and Submittals relating to the dependent Work; and (vi) examine the existing dependent Work and verify that the dependent Work is in proper condition for the Subcontractor's Work. If the dependent Work is not in a proper condition, the Subcontractor shall notify the Contractor in writing and not proceed with the Subcontractor's Work until the dependent Work has been corrected or replaced and is in a proper condition for the Subcontractor's Work.

## **ARTICLE 6: INSURANCE; INDEMNITY; BONDS**

**6.1 Workers' Compensation Insurance; Employer's Liability Insurance.** The Contractor shall purchase and maintain Workers' Compensation Insurance as will protect the Contractor from claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Contractor shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by Contractor. The Employer's Liability Insurance required of Contractor hereunder may be obtained by Contractor as a

separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained by Contractor hereunder. The limits of liability for the Employer's Liability Insurance required hereunder shall be as set forth in the Special Conditions.

6.2 Commercial General Liability and Property Insurance. The Contractor shall purchase and maintain Commercial General Liability and Property Insurance covering the types of claims set forth below which may arise out of or result from Contractor's operations under the Contract Documents and for which the Contractor may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than the Contractor's employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to the Contractor's obligations under the Contract Documents; (vi) Completed Operations; and (vii) pollution liability.

6.3 Builder's Risk "All-Risk" Insurance. The Contractor, during the progress of the Work and until Final Acceptance of all Work by the District, shall maintain Builder's Risk "All-Risk" Completed Value Insurance Coverage on all insurable Work included under the Contract Documents which coverage is to provide extended coverage and insurance against vandalism and malicious mischief, perils of fire, sprinkler leakage, civil authority, sonic boom, collapse and flood upon the entire Work which is the subject of the Contract Documents, and including completed Work and Work in progress to the full insurable value thereof. Contractor's Builders Risk Insurance shall include coverage and insurance against the perils of earthquake if so indicated in the Special Conditions. Such insurance shall include the District as an additional named insured, and any other person with an insurable interest designated by the District as an additional named insured. The risk of damage to the Work due to the perils covered by the Builder's Risk "All Risk" Insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the Surety, and no claims for such loss or damage shall be recognized by the District, nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

6.4 Contractors' Pollution Liability Insurance. The DBE shall provide Contractors' Pollution Liability Insurance covering environmental liabilities including, without limitation, those resulting from construction and remediation operations, whether performed by the contractor or subcontractors and claims alleging improper supervision of subcontractors. If the Work of the DBE's Subcontractor involves the Storm Water Pollution Prevention Plan ("SWPPP"), the removal of asbestos, the removal/replacement of underground tanks or the removal of toxic chemicals and substances, the DBE Subcontractor(s), as applicable, are required to obtain Contractor's Pollution Liability insurance covering the risk of exposure to asbestos, lead and/or toxic/hazardous materials encountered during construction of the Project.

6.5 Coverage Amounts. The insurance required of the Contractor hereunder shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater. In the event of any loss or damage covered by a policy of insurance required to be obtained and maintained by the Contractor hereunder, the Contractor shall be solely and exclusively responsible for the payment of the deductible, if any, under such policy of insurance, without adjustment to the Contract Price on account thereof.

6.6 Required Qualifications of Insurers. The Contractor and Subcontractors' policies of Commercial General Liability and Property/Casualty insurance and the Contractor's Builders Risk insurance will be accepted by the District only if the insurer(s) are: (a) A.M. Best rated A- or better; (b) A.M. Best Financial Size Category VII or higher; and (c) authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California. If at any time during performance of the Work, the insurer(s) issuing a policy of insurance covering Commercial General Liability or Property/Casualty is/are not A.M. Best rated A- or better and is/are not A.M. Best Financial Size Category VII or higher, the Contractor or Subcontractor, as applicable shall within thirty (30) days of the District's written notice of the insufficiency of an insurer to the Contractor, obtain insurance coverage(s) from alternative insurer(s) who is/are then A.M. Best rated A- or better and who is/are A.M. Best Financial Size Category VII or higher. If the Contractor fails to deliver Certificate(s) of Insurance from an alternative insurer(s) meeting or exceeding the A.M. Best rating and A.M. Best Financial Size Category set forth above, within thirty (30) days of the date of the District's issuance of a written notice pursuant to the preceding sentence, in addition to any other right or remedy of the District under the Contract Documents or arising by operation of law, the District may withhold disbursement of any Progress Payment otherwise due hereunder until the Contractor has delivered such Certificate(s) of Insurance from an alternative insurer(s).

6.7 Evidence of Insurance; Subcontractor's Insurance.

6.7.1 Certificates of Insurance. Prior to commencing the Work, Contractor shall deliver to the District Certificates of Insurance evidencing the insurance coverages required by the Contract Documents. Failure or refusal of the Contractor to so deliver Certificates of Insurance may be deemed by the District to be a default of a material obligation of the Contractor under the Contract Documents, and thereupon the District may proceed to exercise any right or remedy provided for under the Contract Documents or at law. The Certificates of Insurance and the insurance policies required by the Contract Documents shall contain a provision that coverages afforded under such policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the District. The insurance policies required of Contractor hereunder shall also name the District as an additional insured as its interests may appear. The additional Insured acknowledgement shall be submitted as a separate declaration from the Contractor's insurance provider (ACCORD form modifications are not acceptable). Should any policy of insurance be canceled before Final Acceptance of the Work by the District and the Contractor fails to immediately procure replacement insurance as required, the District reserves the right to procure such insurance and to deduct the premium cost thereof and other costs incurred by the District in connection therewith from any sum then or thereafter due the Contractor under the Contract Documents. The Contractor shall, from time to time, furnish the District, when requested, with satisfactory proof of coverage of each type of insurance required by the Contract Documents; failure of the Contractor to comply with the District's request may be deemed by the District to be a default of a material obligation of the Contractor under the Contract Documents.

6.7.2 Subcontractors' Insurance. Contractor shall require that every Subcontractor, to obtain and maintain the policies of insurance set forth in Articles 6.1 through 6.4 of these General Conditions; the coverages and limits of liability of such policies of insurance to be obtained and maintained by Subcontractors shall be as set forth in the Special Conditions. The policies of insurance to be obtained and maintained by Subcontractors hereunder are in addition to, and not in lieu of, Contractor obtaining and maintaining such policies of insurance. Each of the policies of insurance obtained and maintained by a Subcontractor hereunder shall conform to the requirements of this Article 6. Upon request of the District, Contractor shall promptly deliver to the District Certificates of Insurance evidencing that the Subcontractors have obtained and maintained policies of

insurance in conformity with the requirements of this Article 6. Failure or refusal of the Contractor to provide the District with Subcontractors' Certificates of Insurance evidencing the insurance coverages required hereunder is a material default of Contractor hereunder.

**6.8 Maintenance of Insurance.** Any insurance bearing on the adequacy of performance of Work shall be maintained after the District's Final Acceptance of all of the Work for the full one year correction of Work period and any longer specific guarantee or warranty periods set forth in the Contract Documents. Should such insurance be canceled before the end of any such periods and the Contractor fails to immediately procure replacement insurance as specified, the District reserves the right to procure such insurance and to charge the cost thereof to the Contractor. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its operations or performance of the Work under the Contract Documents, including without limitation the Contractor's obligation to pay Liquidated Damages. In no instance will the District's exercise of its option to occupy and use completed portions of the Work relieve the Contractor of its obligation to maintain insurance required under this Article until the date of Final Acceptance of the Work by the District, or such time thereafter as required by the Contract Documents. The insurer providing any insurance coverage required hereunder shall be to the reasonable satisfaction of the District.

**6.9 Contractor's Insurance Primary.** All insurance and the coverages thereunder required to be obtained and maintained by Contractor hereunder, if overlapping with any policy of insurance maintained by the District, shall be deemed to be primary and non-contributing with any policy maintained by the District and any policy or coverage thereunder maintained by District shall be deemed excess insurance. To the extent that the District maintains a policy of insurance covering property damage arising out of the perils of fire or other casualty covered by the Contractor's Builder's Risk Insurance or the Comprehensive General Liability Insurance of the Contractor or any Subcontractor, the District, Contractor and all Subcontractors waive rights of subrogation against the others. The costs for obtaining and maintaining the insurance coverages required herein shall be included in the Contract Price.

**6.10 Indemnity.** Unless arising solely out of the active negligence, gross negligence, reckless or willful misconduct the District or the Architect, the Contractor shall indemnify, defend and hold harmless the Indemnified Parties who are: (i) the District and its Board of Education, officers, employees, agents and representatives (including the District's Inspector); (ii) the Architect its respective agents and employees; and (iii) if one is designated by the District for the Work, the Construction Manager and its agents and employees. The Contractor's obligations hereunder includes indemnity, defense and hold harmless of the Indemnified Parties from and against any and all damages, losses, claims, demands, liabilities, actions and/or causes of action whether for damages, losses or other relief, including, without limitation attorney's fees and costs which arise, in whole or in part, from the Work, the Contract Documents or the negligent, grossly negligent, reckless or willful acts, omissions or other conduct of the Contractor, any Subcontractor or any person or entity engaged by them for the Work. The Contractor's obligations under the foregoing include without limitation: (i) injuries to or death of persons; (ii) damage to property; or (iii) theft or loss of property; (iv) Stop Notice claims asserted by any person or entity in connection with the Work; and (v) other losses, liabilities, damages or costs resulting from, in whole or part, any acts, omissions or other conduct of Contractor, any of Contractor's Subcontractors, of any tier, or any other person or entity employed directly or indirectly by Contractor in connection with the Work and their respective agents, officers or employees. If any action or proceeding, whether judicial, administrative, arbitration or otherwise, shall be commenced on account of any claim, demand or liability subject to Contractor's



obligations hereunder, and such action or proceeding names any of the Indemnified Parties as a party thereto, the Contractor shall, at its sole cost and expense, defend the named Indemnified Parties in such action or proceeding with counsel reasonably satisfactory to the named Indemnified Parties. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding to which any of the Indemnified Parties are bound by, Contractor shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief; Contractor shall indemnify and hold harmless the Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, settlement or relief. The Contractor's obligations hereunder are binding upon Contractor's Performance Bond Surety and these obligations shall survive notwithstanding Contractor's completion of the Work or the termination of the Contract.

6.11 Payment Bond; Performance Bond. Prior to commencement of the Work, the Contractor shall furnish a Performance Bond as security for Contractor's faithful performance of the Contract and a Labor and Material Payment Bond as security for payment of persons or entities performing work, labor or furnishing materials in connection with Contractor's performance of the Work under the Contract Documents. The penal sum of the Performance Bond and the Payment Bond shall each be one hundred percent (100%) of the Contract Price. Said Labor and Material Payment Bond and Performance Bond shall be in the form and content set forth in the Contract Documents. The failure or refusal of the Contractor to furnish either the Performance Bond or the Labor and Material Payment Bond in strict conformity with this Article 6.11 may be deemed by the District as a default by the Contractor of a material obligation hereunder. Upon request of the Contractor, the District may consider and accept, but is not obligated to do so, multiple sureties on such bonds. The Surety on any bond required under the Contract Documents shall be an Admitted Surety Insurer as that term is defined in California Code of Civil Procedure §995.120.

## **ARTICLE 7: CONTRACT TIME**

7.1 Substantial Completion of the Work Within Contract Time. Unless otherwise expressly provided in the Contract Documents, the Contract Time is the period of time, including authorized adjustments thereto, allotted in the Contract Documents for achieving Substantial Completion of the Work. The date for commencement of the Work is the date established by the Notice to Proceed issued by the District pursuant to the Agreement, which shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible. The date of Substantial Completion is the date certified by the Architect and the Project Inspector as such in accordance with the Contract Documents.

### **7.2 Progress and Completion of the Work.**

7.2.1 Time of Essence. Time limits stated in the Contract Documents are of the essence. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing and achieving Substantial Completion of the Work. The Contractor shall employ and supply a sufficient force of workers, material and equipment, and prosecute the Work with diligence so as to maintain progress, to prevent Work stoppage and to achieve Substantial Completion of the Work within the Contract Time. The Work may require Contractor to perform in different areas of the Site simultaneously in order to achieve Substantial Completion of the Work within the Contract Time. As each area becomes available, Contractor shall begin work in those respective areas with additional crews, if necessary, to avoid a reduction of effort in other areas already under construction. The Contract Price shall not be subject to adjustment on account of any action or activity of the Contractor to perform Work simultaneously in different areas of the Site.

7.2.2 Substantial Completion. Substantial Completion is that stage in the progress of

the Work when the Work or any designated portion thereof (whether described as milestones, phases, segments or other similar terms) is complete in accordance with the Contract Documents so the District can occupy or use the Work or designated portion thereof for its intended purpose. Substantial Completion shall be determined by the Architect, Construction Manager, if any, and the Project Inspector upon request by the Contractor in accordance with the Contract Documents. The good faith and reasonable determination of Substantial Completion by the Project Inspector, Construction Manager, if any and the Architect shall be controlling and final.

**7.2.3 Correction or Completion of the Work After Substantial Completion.**

**7.2.3.1 Punchlist.** Upon achieving Substantial Completion of the Work, the District, the Project Inspector, the Construction Manager, if any, the Architect and the Contractor shall jointly inspect the Work and prepare a comprehensive list of items of the Work to be corrected or completed by the Contractor ("the Punchlist"). The exclusion of, or failure to include, any item on the Punchlist shall not alter or limit the obligation of the Contractor to complete or correct any portion of the Work in accordance with the Contract Documents.

**7.2.3.2 Time for Completing Punchlist Items.** In addition to establishing the Punchlist items pursuant to Article 7.2.3.1, the Construction Manager, if any, Contractor and Architect shall, after the joint inspection, establish a reasonable time for Contractor's completion of all Punchlist items. If mutual agreement is not reached to establish the time for the Contractor's completion of Punchlist items, the Architect shall determine such time, and in such event, the time determined by the Architect shall be final and binding upon the District and Contractor so long as the Architect's determination is made in good faith. The Contractor shall promptly and diligently proceed to complete all Punchlist items within the time established. If the Contractor fails or refuses, for any reason, to complete all Punchlist items within the time established, Contractor shall be subject to assessment of Liquidated Damages in accordance with Article 7.5 hereof. The foregoing notwithstanding, if the Contractor fails or refuses to complete all Punchlist items, the District may in its sole and exclusive discretion and without further notice to Contractor, elect to cause the completion of all remaining Punchlist items provided, however that such election by the District is in addition to and not in lieu of any other right or remedy of the District under the Contract Documents or at law. If the District elects to complete Punchlist items of the Work, pursuant to the foregoing, Contractor shall be responsible for all costs incurred by the District in connection herewith and the District may deduct such costs from the Contract Price then or thereafter due the Contractor, if these costs exceed the remaining Contract Price due to the Contractor, the Contractor and the Performance Bond Surety are jointly and severally liable to District for any such excess costs.

**7.2.4 Final Completion.** Final Completion is that stage of the Work when all Work has been completed in accordance with the Contract Documents, including without limitation, all Punchlist items noted upon Substantial Completion, and the Contract has been otherwise fully performed by the Contractor. Final Completion shall be determined by the Architect, Construction Manager, if any and the Project Inspector upon request of the Contractor. The good faith and reasonable determination of Final Completion by the Project Inspector, Construction Manager, if any, and the Architect shall be controlling and final.

**7.2.5 Contractor Responsibility for Multiple Inspections.** If the Contractor requests determination of Substantial Completion or Final Completion by the Project Inspector, Construction Manager, if any, and the Architect and it is determined by the Project Inspector, Construction Manager, if any, or the Architect that the Work does not then

justify certification of Substantial Completion or Final Completion and re-inspection is required at a subsequent time to make such determination, the Contractor shall be responsible for all costs of such re-inspection, including without limitation, the fees of the Architect, Construction Manager, if any, and the Project Inspector. The District may deduct such costs from the Contract Price then due or thereafter due to the Contractor.

**7.2.6 Final Acceptance.** Final Acceptance of the Work shall occur upon approval of the Work by the District's Board of Education; such approval shall be submitted for adoption at the next regularly scheduled meeting of the District's Board of Education after the determination of Final Completion. The commencement of any warranty or guarantee period under the Contract Documents is the date upon which the District's Board of Education approves of the Final Acceptance of the Work.

### 7.3 Construction Schedule.

**7.3.1 Submittal of Preliminary Construction Schedule.** Within five (5) days following execution of the Agreement, the Contractor shall prepare and submit to the District, the Construction Manager, if any, and the Architect a Preliminary Construction Schedule indicating, in graphic form, the estimated rate of progress and sequence of all Work required under the Contract Documents. The purpose of the Preliminary Construction Schedule is to assure adequate planning and execution of the Work so that it is completed within the Contract Time and to permit evaluation of the progress of the Work. Unless otherwise provided in the Special Conditions, the Construction Schedules required under this Article 7 shall; (i) be prepared with a commercially available computer software program in a critical path format; (ii) indicate the date(s) for commencement and completion of various portions of the Work including without limitation, procurement, fabrication and delivery of major items, materials or equipment; (iii) indicate manpower and other resources required for completion of each Construction Schedule activity; (iv) indicate costs for completion of each Construction Schedule activity; (v) identify each Submittal required by the Contract Documents, the date for the Contractor's submission of each Submittal and the date for the return of the reviewed Submittal to the Contractor. The Contractor may submit a Preliminary Construction Schedule depicting completion of the Work in a duration shorter than the Contract Time; provided that such Preliminary Construction Schedule shall not be a basis for adjustment to the Contract Price in the event that completion of the Work shall occur after the time depicted therein, nor shall such Preliminary Construction Schedule be the basis for any extension of the Contract Time, the Contractor's entitlement to any extension of the Contract Time shall be based upon the Contract Time and not on any shorter duration which may be depicted in the Contractor's Preliminary Construction Schedule. If the Construction Schedules required under this Article 7.3 incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the District and the Contractor. As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Construction Schedule.

**7.3.2 Review of Preliminary Construction Schedule.** The District, the Construction Manager, if any, and the Architect shall review the Preliminary Construction Schedule submitted by the Contractor pursuant to Article 7.3.1 above for conformity with the requirements of the Contract Documents. Within fifteen (15) days of the date of receipt of the Preliminary Construction Schedule, the Preliminary Construction Schedule will be returned to the Contractor with comments to the form or content thereof. Review of the Preliminary Construction Schedule and any comments thereto by the District, the Construction Manager and/or the Architect shall not be deemed to be the assumption of construction means, methods or sequences by the District, the Construction Manager or the Architect, all of which remain the Contractor's obligations under the Contract Documents.

**7.3.3 Preparation and Submittal of Contract Construction Schedule.** Within ten (10) days of the District's return of the Preliminary Construction Schedule to the Contractor pursuant to Article 7.3.2 above, the Contractor shall prepare and submit to the Architect and the Construction Manager, if any, the Construction Schedule which incorporates therein the comments to the Preliminary Construction Schedule. Upon the Contractor's submittal of such Construction Schedule, the District, the Construction Manager and the Architect shall review the same for purposes of determining conformity with the requirements of the Contract Documents. Within fifteen (15) days of the receipt of the Construction Schedule, the District will approve such Construction Schedule or will return the same to the Contractor with comments to the form or content. In the event there are comments to the form or content thereof, the Contractor, shall within seven (7) days of receipt of such comments, revise and resubmit the Construction Schedule incorporating therein such comments. Upon the District's approval of the form and content of a Construction Schedule, the same shall be deemed the "Approved Construction Schedule." The District's approval of a Construction Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By the Approved Construction Schedule, the District shall not be deemed to have exercised control over, or approval of, construction means, methods or sequences, all of which remain the responsibility and obligation of the Contractor in accordance with the terms of the Contract Documents. Further, the Approved Construction Schedule shall not operate to limit or restrict any of Contractor's obligations under the Contract Documents nor relieve the Contractor from the full, faithful and timely performance of such obligations in accordance with the terms of the Contract Documents. The activities, commencement and completion dates of activities, and the sequencing of activities depicted on the Approved Construction Schedule shall not be modified or revised by the Contractor without the prior consent, or direction, of the District and the Architect. Updates to the Approved Construction Schedule pursuant to Article 7.3.5 below shall not be deemed revisions to the Approved Construction Schedule. If the Approved Construction Schedule depicts completion of the Work in a duration shorter than the Contract Time, the same shall not be a basis for an adjustment of the Contract Time or the Contract Price in the event that actual completion of the Work shall occur after such the time depicted in such Approved Construction Schedule. In such event, the Contract Price shall not be subject to adjustment on account of any additional costs incurred by the Contractor to complete the Work prior to the Contract Time, as adjusted in accordance with the terms of the Contract Documents. Any adjustment of the Contract Time or the Contract Price shall be based upon the Contract Time set forth in the Contract Documents and not any shorter duration which may be depicted in the Approved Construction Schedule.

**7.3.4 Revisions to Approved Construction Schedule.** In the event that the progress of the Work or the sequencing of the activities of the Work shall materially differ from that indicated in the Approved Construction Schedule, as determined by the District in its reasonable discretion and judgment, the District may direct the Contractor to revise the Approved Construction Schedule; within fifteen (15) days of the District's direction, the Contractor shall prepare and submit to the Architect and the Construction Manager a revised Approved Construction Schedule, for review and approval by the District. The Contractor may request consent of the District to revise the Approved Construction Schedule. Any such request shall be considered by the District only if in writing setting forth the Contractor's proposed revision(s) to the Approved Construction Schedule and the reason(s) therefor. The District may consent to, or deny, any such request of the Contractor to revise the Approved Construction Schedule in its reasonable discretion.

**7.3.5 Updates to Approved Construction Schedule.** The Contractor shall monitor and update the Approved Construction Schedule on a monthly basis, or more frequently as

required by the conditions or progress of the Work, or as may be requested by the District. The Contractor shall provide the District, the Construction Manager and the Architect with updated Approved Construction Schedules indicating progress achieved and activities commenced or completed within the prior updated Approved Construction Schedule. Updates to the Approved Construction Schedule shall not include any revisions to the activities, commencement and completion dates of activities or the sequencing of activities depicted on the Approved Construction Schedule. Any such revisions to the Approved Construction Schedule shall result in the District's rejection of such update and Contractor shall, within seven (7) days of the District's rejection of such update, submit to the Architect and the Construction Manager an Updated Approved Construction Schedule which does not incorporate any such revisions. If requested by the District, the Contractor shall also submit, with its updates to the Approved Construction Schedule a narrative statement including a description of current and anticipated problem areas of the Work, delaying factors and their impact, and an explanation of corrective action taken or proposed by the Contractor. If the progress of the Work is behind the Approved Construction Schedule, the Contractor shall indicate what measures will be taken to place the Work back on schedule. The District may, from time to time, and in the District's sole and exclusive discretion, transmit to the Contractor's Performance Bond Surety the Approved Construction Schedule, any updates thereof and the narrative statement described hereinabove. The District's election to transmit, or not to transmit such information, to the Contractor's Performance Bond Surety shall not limit the Contractor's obligations under the Contract Documents.

**7.3.6 Contractor Responsibility for Construction Schedule.** The Contractor shall be responsible for the preparation, submittal and maintenance of the Construction Schedules required by the Contract Documents, and any failure of the Contractor to do so may be deemed by the District as the Contractor's default in the performance of a material obligation under Contract Documents. Any and all costs or expenses required or incurred to prepare, submit, maintain, and update the Construction Schedules shall be solely that of the Contractor and no such cost or expense shall be charged to the District. The Contract Price shall not be subject to adjustment on account of costs, fees or expenses incurred or associated with the Contractor's preparation, submittal, maintenance or updating of the Construction Schedules.

**7.3.7 Three (3) Week Look Ahead Schedule.** The Contractor shall prepare and submit at each Weekly Construction Meeting, a Three (3) Week Look Ahead Schedule for its portion of the Work. The Three (3) Week Look Ahead Schedules shall provide additional definition of manpower, activities and sequencing to that identified on the then current updated Construction Schedule. The form, content and extent of detail in the Contractor's Three (3) Week Look Ahead Schedules in accordance with the directives and instructions of the Construction Manager. Failure of the Contractor to provide a Three (3) Week Look Ahead Schedule may be deemed by the District as the Contractor's default in the performance of a material obligation of the Contractor under Contract Documents.

**7.3.8 Cost of Scheduling.** Any and all costs or expenses required or incurred to prepare, submit, maintain, and update the Construction, Recovery or Three (3) Week Look Ahead Schedules shall be solely at the expense of the Contractor without adjustment to the Contract Price. The Contract Price shall not be subject to adjustment on account of costs, fees or expenses incurred or associated with the Contractor's preparation, submittal, and maintenance or updating of the Construction Schedules. If the Contractor does not comply with the District's request for an Updated Construction Schedule, the District may have the update completed by others at the Contractor's expense. In such event, the updated Construction Schedule shall be deemed binding upon the Contractor and the District may deduct all costs, fees or expenses in preparing

such updated Construction Schedule(s) from any portion of the Contract Price then or thereafter due the Contractor.

**7.3.9 Scheduling Software & Requirements.** Unless otherwise provided in the Special Conditions, the Construction Schedules required under this Article 7 shall; (i) be prepared with a commercially available computer software program in a critical path format; (ii) indicate the date(s) for commencement and completion of various portions of the Work including, without limitation, procurement, fabrication and delivery of major items, materials or equipment; (iii) indicate manpower (estimated men per day) and other resources required for completion of each schedule activity; (iv) indicate costs for completion of each schedule activity; and (v) identify each Submittal required by the Contract Documents, the date for the Contractor's submission of each Submittal and the date for the return of the reviewed Submittal to the Contractor.

**7.3.10 Float.** As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Construction Schedule. If the Construction Schedules required under this Article 7 incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the District and the Contractor. If the construction progress is ahead of schedule based on the Construction Schedule(s) and a delay is encountered (even if such delay is a District caused delay), no compensation of any type will be due the Contractor and the District may claim float days equal to the delay until such float days are exhausted and the delay extends the overall Project Substantial Completion date.

**7.4 Adjustment of Contract Time.** If Substantial Completion is delayed, adjustment, if any, to the Contract Time on account of such delay shall be in accordance with this Article 7.4.

**7.4.1 Excusable Delays.** If Substantial Completion of the Work is delayed by Excusable Delays, the Contract Time shall be subject to adjustment for such reasonable period of time as determined by the Architect; Excusable Delays shall not result in any increase in the Contract Price. Excusable Delays refer to unforeseeable and unavoidable casualties or other unforeseen causes beyond the control, and without fault or neglect, of the Contractor, any Subcontractor, Material Supplier or other person directly or indirectly engaged by the Contractor in performance of any portion of the Work. Excusable Delays include unanticipated and unavoidable labor disputes, unusual and unanticipated delays in transportation of equipment, materials or Construction Equipment reasonably necessary for completion and proper execution of the Work, unanticipated unusually severe weather conditions or DSA directive to stop the Work. Neither the financial resources of the Contractor or any person or entity directly or indirectly engaged by the Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of the Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Contractor establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Contractor's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time directly and adversely impacted the progress of the Work as indicated in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay. The foregoing provisions notwithstanding, if the Special Conditions set forth a number of "Rain Days" to be anticipated during performance of the Work, the Contract Time shall not be adjusted for rain related

unusually severe weather conditions until and unless the actual number of Rain Days during performance of the Work exceeds those noted in the Special Conditions and such additional Rain Days directly and adversely impact the critical path progress of the Work as depicted in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of such additional Rain Days.

**7.4.2 Compensable Delays.** If Substantial Completion of the Work is delayed and such delay is caused by the acts or omissions of the District, the Architect, or separate contractor employed by the District (collectively "Compensable Delays"), upon Contractor's request and notice, in strict conformity with Articles 7 and 9 of these General Conditions, the Contract Time will be adjusted by Change Order for such reasonable period of time as determined by the Architect and the District. In accordance with California Public Contract Code §7102, if the Contractor's progress is delayed by any of the events described in the preceding sentence, Contractor shall not be precluded from the recovery of damages directly and proximately resulting therefrom, provided that the District is liable for the delay, the delay is unreasonable under the circumstances involved and the delay was not within the reasonable contemplation of the District and the Contractor at the time of execution of the Agreement. In such event, Contractor's damages, if any, shall be limited to direct, actual and unavoidable additional costs of labor, materials or Construction Equipment directly resulting from such delay, and shall exclude indirect or other consequential damages, including without limitation, home office expenses, bond capacity impairment or loss of prospective economic advantage. Except as expressly provided for herein, Contractor shall not have any other claim, demand or right to adjustment of the Contract Price arising out of delay, interruption, hindrance or disruption to the progress of the Work. Adjustments to the Contract Price and the Contract Time, if any, on account of Changes to the Work or Suspension of the Work shall be governed by the applicable provisions of the Contract Documents, including without limitation, Articles 9 and 14 of these General Conditions.

**7.4.3 Unexcusable Delays.** Unexcusable Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in Articles 7.4.1 and 7.4.2 above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Unexcusable Delays.

**7.4.4 Procedure for Adjustment of Contract Time.** The Contract Time shall be subject to adjustment only in strict conformity with applicable provisions of the Contract Documents. Failure of Contractor to request adjustment(s) of the Contract Time in strict conformity with applicable provisions of the Contract Documents shall be deemed Contractor's waiver of the same.

**7.4.5 Limitations Upon Adjustment of Contract Time on Account of Delays.** Any adjustment of the Contract Time on account of an Excusable Delay or a Compensable Delay shall be limited as set forth herein. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. If an Unexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, which the Excusable Delay or the Compensable Delay exceeds the period of time of the Unexcusable Delay. In addition to the foregoing limitations upon extension of the Contract Time, no adjustment of the Contract Time shall be made on account of any Excusable Delays or Compensable Delays unless such delay(s) actually and directly impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule as of the date on which such delay first occurs. The District shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if the District shall deny any request by the Contractor for an adjustment of the Contract Time for any delay which does not actually and directly

impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule.

**7.5 Liquidated Damages.** Should the Contractor neglect, fail or refuse to: (i) submit Submittals in accordance with the Approved Construction Schedule; (ii) achieve Substantial Completion of the Work or designated portions thereof within the Contract Time, (subject to adjustments authorized under the Contract Documents); (iii) or to complete Punchlist items within the time established pursuant to the Contract Documents, the Contractor agrees to pay to the District the amount of per diem Liquidated Damages set forth in the Special Conditions, not as a penalty but as Liquidated Damages, for every day beyond the Contract Time, as adjusted, until Submittals are submitted, Substantial Completion or completion of the Punchlist items are achieved. The Liquidated Damages amounts set forth in the Special Conditions are agreed upon by and between the Contractor and the District because of the difficulty of fixing the District's actual damages in the event of delayed submission of Submittals, Substantial Completion or completion of Punchlist items. The Contractor and the District specifically agree that said amounts are reasonable estimates of the District's damages in such event, and that such amounts do not constitute a penalty. Liquidated Damages may be deducted from the Contract Price then or thereafter due the Contractor. The Contractor and the Surety shall be liable to the District for any Liquidated Damages exceeding any amount of the Contract Price then held or retained by the District. In the event that the Contractor shall fail or refuse to complete Punchlist items and the District elects to exercise its right to cause completion or correction of such items pursuant to Article 7.2.3.2 hereof, the District's assessment of Liquidated Damages pursuant to the foregoing shall be in addition, and not in lieu of, the District's right to charge Contractor with the cost of completing or correcting such items of the Work, as provided for under Article 7.2.3.2. The Contractor and the District acknowledge and agree that the provisions of this Article 7.5 are reasonable under the circumstances existing at the time of the Contractor's execution of the Agreement.

**7.6 District Right to Take-Over Work.**

**7.6.1 Progress of Work.** Unless caused by the District, Architect, Construction Manager or the Project Inspector, if the Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment or services to maintain progress of the Work in accordance with the then current Construction Schedule after seventy-two (72) hour advance written notice from the Construction Manager to the Contractor of its failure or refusal, the District may, without terminating the Contract or waiving, limiting or conditioning any right or remedy of the District, thereafter furnish or cause to be furnished such materials, labor, equipment or services necessary to maintain progress of the Work in accordance with the then current Construction Schedule. All costs, expenses or other charges (whether direct, indirect and administrative) incurred by the District in furnishing such materials, labor, equipment or services shall be at the sole cost of the Contractor and the District may deduct the same from the Contract Price then or thereafter due the Contractor. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents.

**7.6.2 District's Right to Withhold.** All costs, expenses or other charges incurred by the District in connection with completing or supplementing the Work under this Article 7.6 shall be at the sole cost of the Contractor. District shall be entitled to deduct from the Contract Price then or thereafter due Contractor, all such costs, expenses, and charges, including costs for any additional services the District's representatives and consultants made necessary thereby. If the Contract Price then or thereafter due the Contractor is insufficient to cover such amounts, Contractor shall pay the additional sum to the District promptly upon demand therefore. The assessment and/or withholding of the amount of



such costs, expenses, and/or other charges shall be in addition to, and not in lieu of, any liquidated damages assessed and/or withheld from Contractor under Article 7.5 hereof.

7.6.3 Non-exclusive Remedy. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents or the Laws.

## **ARTICLE 8: CONTRACT PRICE**

8.1 Contract Price. The Contract Price is the amount stated in the Agreement and subject to adjustments thereto in accordance with the Contract Documents, is the total amount payable by the District to the Contractor for completion of the Work and other obligations of the Contractor under the Contract Documents. The District's payment of the Contract Price to the Contractor shall be in accordance with the Contract Documents.

8.2 Cost Breakdown. Within fifteen (15) days of the execution of the Agreement by Contractor, Contractor shall furnish, in a form acceptable to the District, a detailed estimate and complete Cost Breakdown of the Contract Price. The Cost Breakdown is subject to the District's review and approval of the form and content thereof. If the District objects to any portion of the Cost Breakdown, within ten (10) days of the District's receipt of the Cost Breakdown, the District shall notify the Contractor, in writing of the District's objection(s) to the Cost Breakdown. Within five (5) days of the date of the District's written objection(s), Contractor shall submit a revised Cost Breakdown to the District for review and approval. The foregoing procedure for the preparation, review and approval of the Cost Breakdown shall continue until the District has approved of the entirety of the Cost Breakdown. Upon the District's approval of the Cost Breakdown, the Cost Breakdown shall not be thereafter modified or amended by the Contractor without the prior consent and approval of the District, which may be granted, conditioned or withheld in the sole discretion of the District. Notwithstanding any provision of the Contract Documents to the contrary, payment of the Contractor's overhead, supervision and general conditions costs and profit, as such items are reflected in the Cost Breakdown, shall be made by the District in equal installments with its disbursements of Progress Payments and the Final Payment with the amount of each such installment equal to the aggregate amount of such items as reflected in the Cost Breakdown divided by the number of months of the Contract Time.

### 8.3 Progress Payments.

8.3.1 Applications for Progress Payments. During the Contractor's performance of the Work, the Contractor shall submit monthly, on the first working day of each month, to the District, Project Inspector, Construction Manager, if any, and the Architect, Applications for Progress Payments ("Payment Applications"), on forms approved by the District, setting forth an itemized estimate of Work completed in the preceding month for the purpose of the District's making of Progress Payments thereon. Values utilized in the Payment Applications shall be based upon the District approved Cost Breakdown pursuant to Article 8.2 above provided that such values are only for determining the basis of Progress Payments to Contractor, and shall not be considered as fixing a basis for adjustments, whether additive or deductive, to the Contract Price, or for determining the extent of Work actually completed.

8.3.2 Payment Application Review for Determination of Proper Payment Application. In accordance with Public Contract Code §20104.50, upon receipt of an Application for Progress Payment, the District shall cause the same to be reviewed by the Project Inspector, the Construction Manager, if one is designated by the District, and the Architect, as soon as is practicable after receipt of such Application for Progress Payment. Such review shall be for the purpose of determining that the Application for Progress Payment is a proper Progress Payment request. For purposes of this Article 8.3.2, an Application for Progress Payment shall be deemed "proper" only if it is

submitted on the form approved by the District, with all of the requested information of such form of Application for Progress Payment completely and accurately provided by the Contractor and such completed Application for Progress Payment is accompanied by: (i) the form of Verification of Certified Payroll Records Submittal to Labor Commissioner, executed under penalty of perjury by the Contractor's Superintendent and/or the Contractor PM; which verifies that all Certified Payroll Records for the Contractor and all Subcontractors for the period of time covered by the Application for Progress Payment have been completed and submitted in strict conformity with Labor Code §1771.4; (ii) Certified Payrolls of the Contractor and all Subcontractors for laborers performing any portion of the Work for which the Progress Payment is requested; (iii) duly completed and executed forms of Conditional Waiver and Release of Rights Upon Progress Payment in accordance with California Civil Code §8132 of the Contractor, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment requested; (iv) duly completed and executed forms of Unconditional Waiver and Release of Rights upon Progress Payment in accordance with California Civil Code §8134 of the Contractor, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment received by the Contractor under the prior Application for Progress Payment; (v) if applicable, a current union statement reflecting that the Contractor and any Subcontractor of any tier, are current in the payment of any supplemental fringe benefits required pursuant to any collective bargaining agreement to which the Contractor or any such Subcontractor is a party to or is otherwise bound by; (vi) a certification by the Contractor that it has continuously maintained, or caused to be maintained, the Record Drawings reflecting the actual as-built conditions of the Work performed for which the Progress Payment is requested, it being understood that such certification is subject to verification by the District, Architect or the Construction Manager prior to disbursement of the Progress Payment; and (vii) an updated Construction Schedule, reflecting Work actually completed and in progress. In accordance with Public Contract Code §20104.50, an Application for Progress Payment determined by the District not to be a proper Application for Progress Payment shall be returned by the District to the Contractor as soon as is practicable after receipt of the same from the Contractor, but in no event not more than seven (7) days after the District's receipt thereof. The District's return of any Application for Progress Payment pursuant to the preceding sentence shall be accompanied by a written document setting forth the reason(s) why the Application for Progress Payment is not proper.

**8.3.3 Verification of Work Completed.** Upon receipt of a Payment Application, the Architect, Construction Manager, if any and the Project Inspector shall inspect and verify the Work to determine whether it has been performed in accordance with requirements of the Contract Documents and to determine the portion of the Payment Application which is properly due to the Contractor under the terms of the Contract Documents.

**8.3.4 District's Disbursement of Progress Payments.**

**8.3.4.1 Timely Disbursement of Progress Payments.** Pursuant to Public Contract Code §20104.50, within thirty (30) days after the District's receipt of a proper Payment Application, there shall be paid, by District, to Contractor a sum equal to ninety-five percent (95%) of the value of the Work indicated in the Payment Application which is actually in place as of the date of the Payment Application, as verified by the Project Inspector, Construction Manager, if any, and the Architect and the pro rata portion of the Contractor's overhead, supervision and general conditions costs and profit for that month; provided, however, that the District's obligation to disburse any Progress Payment shall be subject to the District's receipt of all documents set forth in Article 8.3.2 above, each and all of which are conditions precedent to the District's obligation to

disburse Progress Payments. If a Payment Application is determined not to be proper due to the failure or refusal of the Contractor to submit documents with the Payment Application, as required by Article 8.3.2, or incompleteness or inaccuracies in any such documents submitted or if it is reasonably determined that the Record Drawings have not been continuously maintained to reflect the actual as built conditions of the Work completed in the period for which the Progress Payment is requested, the thirty (30) day period hereunder for the District's timely disbursement of a Progress Payment is deemed to commence on the date that the District is actually in receipt of documents not submitted with the Payment Application, or corrections to documents with the Payment Application so as to render them complete and accurate, or the date upon which the Contractor accurately and fully completes preparation of the Record Drawings relating to the Work for which the Progress Payment is requested.

**8.3.4.2 Untimely Disbursement of Progress Payments.** Pursuant to Public Contract Code §20104.50, if the District fails to make a Progress Payment within thirty (30) days after receipt of an undisputed and proper Payment Application, the District shall pay the Contractor interest on the undisputed amount of such Payment Application at the legal rate of interest set forth in California Code of Civil Procedure §685.010(a). The foregoing notwithstanding, if the District determines that any Payment Application is not proper, pursuant to Article 8.3.2 above, and the District does not return such Payment Application within the seven (7) day period provided for in Article 8.3.2, the period of time for the District's disbursement of the Progress Payment on such Payment Application without incurring interest liability shall be reduced by the number of days exceeding the seven (7) day return period.

**8.3.4.3 District's Right to Disburse Payments by Joint Checks.** The District, may, in its sole discretion, issue joint checks to the Contractor and Subcontractors/Material Suppliers in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.

**8.3.4.4 No Waiver of Defective or Non-Conforming Work.** The approval of any Payment Application or the disbursement of any Progress Payment to the Contractor shall not be deemed nor constitute acceptance of defective or non-conforming Work. Notwithstanding approval or disbursement of a Progress Payment for Work deemed to be defective or non-conforming, the Contractor shall remain obligated under the Contract Documents to repair, replace or otherwise correct such defective or non-conforming Work.

**8.3.5 Progress Payments for Changed Work.** The Contractor's Payment Applications may include requests for payment on account of Changes in the Work which have been properly authorized and approved by the Project Inspector, the Architect and all other governmental agencies with jurisdiction over such Change in accordance with the terms of the Contract Documents and for which a Change Order has been issued. Except as provided for herein, no other payment shall be made by the District for Changes in the Work.

**8.3.6 Materials or Equipment Not Incorporated Into the Work.**

**8.3.6.1 Limitations Upon Payment.** Except as expressly provided for herein, no payments shall be made by the District on account of any item of the Work, including without limitation, materials or equipment which, at the time of the Contractor's submittal of a Payment Application, has/have not been incorporated into and made a part of the Work.

**8.3.6.2 Materials or Equipment Delivered and Stored at the Site.** The District may, in its sole and exclusive discretion, make payment for materials or equipment not yet incorporated into the Work if, at or prior to the time of the

Contractor's submittal of a Payment Application requesting payment for such materials or equipment if all of the following are complied with: (i) the materials or equipment have been delivered to the Site; (ii) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage; and (iii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the Site pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment shall not be deemed the District's default hereunder. If the District elects to make payment for materials or equipment delivered and stored at the Site, the costs and expenses incurred to comply with the requirements of (ii) and (iii) of this Article 8.3.6.2 shall be borne solely and exclusively by the Contractor and no payment shall be made by the District on account of such costs and expenses.

**8.3.6.3 Materials or Equipment Not Delivered or Stored at the Site.** No payments shall be made by the District for materials or equipment to be incorporated into the Work where such materials or equipment have not been delivered or stored at the Site or which are in the process of fabrication or transportation to the Site.

**8.3.6.4 Materials or Equipment in Fabrication or Transit.** The provisions of this Article 8.3.6.4 notwithstanding, the District shall not make any payment on account of any materials or equipment which are in the process of being fabricated or which are in transit to the Site or other storage location.

**8.3.7 Exclusions From Progress Payments.** In addition to the District's right to withhold disbursement of any Progress Payment provided for in the Contract Documents, neither the Contractor's Payment Application shall include, nor shall the District be obligated to disburse any portion of the Contract Price for amounts which the Contractor does not intend to pay any Subcontractor or Material Supplier because of a dispute or any other reason.

**8.3.8 Title to Work.** The Contractor warrants that title to all Work covered by a Payment Application will pass to the District no later than the time of payment. The Contractor further warrants that upon submittal of a Payment Application, all Work for which a Progress Payment has been previously disbursed and the Contractor has received payment from the District therefor shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, stop notices, security interests or encumbrances in favor of the Contractor, Subcontractors, Material Suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

**8.3.9 Substitute Security for Retention.** Pursuant to California Public Contract Code §22300, eligible and equivalent securities may be substituted for any monies withheld by the District to ensure the Contractor's performance under the Contract Documents at the request and expense of the Contractor and in conformity with the provisions of California Public Contract Code §22300. The foregoing and the provisions of California Public Contract Code §22300 notwithstanding, failure of the Contractor to request the substitution of eligible and equivalent securities for monies to be withheld by the District within ten (10) days following the date of award of the Contract to Contractor shall be deemed a waiver of such right.

#### 8.4 Final Payment.

8.4.1 Application for Final Payment. When the Contractor has achieved Final Completion of the Work and has otherwise fully performed its obligations under the Contract Documents, the Contractor shall submit an Application for Final Payment on such form as approved by the District. Thereupon, the Architect, Construction Manager, if any, and the Project Inspector will promptly make a final inspection of the Work and when the Architect, Construction Manager, if any and the Project Inspector find the Work acceptable under the Contract Documents and that the Contract has been fully performed by the Contractor, the Architect, Construction Manager, if any, and the Project Inspector will thereupon promptly approve the Application for Final Payment, stating that to the best their knowledge, information and belief, the Work has been completed in accordance with the terms of the Contract Documents. The Final Payment shall include the remaining balance of the Contract Price and any retention from Progress Payments previously withheld by the District.

8.4.2 Conditions Precedent to Disbursement of Final Payment. Neither Final Payment nor any remaining Contract Price shall become due until the Contractor submits to the District each and all of the following, the submittal of which are conditions precedent to the District's obligation to disburse the Final Payment: (i) an affidavit or certification by the Contractor that payrolls, bills for materials and other indebtedness incurred in connection with the Work for which the District or the District's property may or might be responsible or encumbered have been paid or otherwise satisfied; (ii) a certificate evidencing that insurance required by the Contract Documents to remain in force after the Contractor's receipt of Final Payment is currently in effect; (iii) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover any period following Final Payment as required by the Contract Documents; (iv) consent of the Surety on the Labor and Material Payment Bond and Performance Bond, to Final Payment if required; (v) duly completed and executed forms of Conditional or Unconditional Waivers and Releases of rights upon Final Payment of the Contractor, Subcontractors/Material Suppliers in accordance with California Civil Code §§8136 and 8138, with each of the same stating that there are, or will be, no claims for additional compensation after disbursement of the Final Payment; (vi) Operations and Maintenance manuals and separate warranties provided by any manufacturer or distributor of any materials or equipment incorporated into the Work; (vii) the Record Drawings; (viii) the form of Guarantee included in the Contract Documents duly executed by an authorized representative of the Contractor; (ix) any and all other items or documents required by the Contract Documents to be delivered to the District upon completion of the Work; (x) the completion and submittal of all reports required by the Contract Documents, including without limitation, verified reports required by applicable provisions of the California Code of Regulations; and (xi) if required by the District, such other data establishing payment or satisfaction of obligations such as receipts, releases and waivers of liens, stop notices, claims, security interest or encumbrances arising out of the Contract to the extent and in such form as may be required by the District.

8.4.3 Disbursement of Final Payment. Provided that the District is then in receipt of all documents and other items in Article 8.4.2 above as conditions precedent to the District's obligation to disburse Final Payment, not later than sixty (60) days following Final Acceptance the District shall disburse the Final Payment to the Contractor. Pursuant to California Public Contract Code §7107, if there is any dispute between the District and the Contractor at the time that disbursement of the Final Payment is due, the District may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute. If the Contractor fails to timely submit completed DSA Reports in accordance with Article 4.21.1 above, the Final Payment due

the Contractor shall be reduced in accordance with Article 4.21.2 above.

8.4.4 Waiver of Claims. The Contractor's acceptance of the Final Payment is a waiver and release by the Contractor of any and all claims against the District for compensation or otherwise in connection with the Contractor's performance of the Contract.

8.4.5 Claims Asserted After Final Payment. Any lien, stop notice or other claim filed or asserted after the Contractor's acceptance of the Final Payment by any Subcontractor, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of the Contractor and the Surety. The Contractor and Surety shall indemnify, defend and hold harmless the District and its officers, agents, representatives and employees from and against any claims, demands or judgments arising or associated therewith, including without limitation attorney's fees incurred by the District in connection therewith.

8.5 Withholding of Payments. The District may withhold any Progress Payment or the Final Payment, in whole or in part, or backcharge the Contractor to the extent it may deem advisable to protect the District on account of: (i) defective Work or Work not in conformity with the requirements of the Contract Documents which is not remedied; (ii) failure of the Contractor to make payments when due Subcontractors/Material Suppliers; (iii) claims filed or reasonable evidence of the probable filing of claims by Subcontractors, laborers, Material Suppliers, or others performing any portion of the Work under the Contract Documents for which the District may be liable or responsible including, without limitation, Stop Notice Claims filed with the District pursuant to California Civil Code §9350 et seq.; (iv) a reasonable doubt that the Contract can be completed for the then unpaid balance of the Contract Price; (v) tax demands filed in accordance with California Government Code §12419.4; (vi) other claims, penalties and/or forfeitures for which the District is required or authorized to retain funds otherwise due the Contractor; (vii) any amounts due from the Contractor to the District under the terms of the Contract Documents; or (viii) the Contractor's failure to perform any of its obligations under the Contract Documents, its default under the Contract Documents or its failure to maintain adequate progress of the Work. In addition to the foregoing, the District shall not be obligated to process any Payment Application or Application for Final Payment, nor shall Contractor be entitled to any Progress Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by the District, the Project Inspector, the Architect or any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by the Contractor. When the District is reasonably satisfied that the Contractor has remedied any such deficiency, payment shall be made of the amount withheld.

8.6 Payments to Subcontractors. The Contractor shall pay all Subcontractors for and on account of Work of the Contract performed by such Subcontractors in accordance with the terms of their respective subcontracts and as provided for pursuant to California Public Contract Code §10262, the provisions of which are deemed incorporated herein by this reference. If the Contractor fails to make payment to Subcontractors in conformity with California Public Contract Code §10262, the provisions of California Public Contract Code §10253 shall apply; by this reference, the provisions of California Public Contract Code §10253 are incorporated herein in its entirety, except that the references in said Section 10253 to "the director" shall be deemed to refer to the District. The Contractor shall timely make payment of retention due Subcontractors in accordance with Public Contract Code §7107.

8.7 Computerized Job Cost Reporting System.

8.7.1 Job Cost Reporting. The Contractor and each Subcontractor with a Subcontract valued at One Million Five Hundred Thousand Dollars (\$1.5M) or greater shall maintain a computerized job cost reporting system conforming to the requirements set forth

herein. The computer program(s) utilized by the Contractor and applicable Subcontractors shall be subject to the review and acceptance by the District. The job cost reporting systems for the Work shall be updated in regular intervals of not more than one (1) calendar month.

**8.7.2 Job Cost Reporting System Requirements.** The computerized job cost programs utilized by the Contractor and applicable Subcontractors shall conform and comply with generally accepted accounting principles applied in a consistent manner and with recognized and generally accepted construction industry accounting standards, guidelines and procedures. The job cost reporting system format and configuration shall follow the general format of the District approved Cost Breakdown and budgets established for each line item shall be traceable to a bid estimate of costs. The job cost reporting systems utilized by the Contractor and applicable Subcontractors shall be capable of: (i) providing overall cost status on a monthly and cumulative basis; (ii) providing comparative analysis of the original budgeted costs, actual costs, remaining budget, and projected cost of completion; the job cost reporting system shall be capable of providing comparative analysis for individual line items and the totality of the Work reflected in the job cost report and; (ii) tracking adjustments to original budget amounts for Changes to the Work (including, without limitation, issued, pending and potential Change Orders).

**8.7.3 Job Cost System Information.** Upon request of the District, the Contractor and applicable Subcontractors shall make available written job cost reports and/or provide the District with the electronic files of the then current or requested job cost report. The Contractor's obligations hereunder are material.

## **ARTICLE 9: CHANGES**

**9.1 Changes in the Work.** The District, at any time, by written order, may make Changes within the general scope of the Work under the Contract Documents or issue additional instructions, require additional Work or direct deletion of Work. The Contractor shall not proceed with any Change involving an increase or decrease in the Contract Price or the Contract Time without prior written authorization from the District. The foregoing notwithstanding, the Contractor shall promptly commence and diligently complete any Change to the Work subject to the District's written authorization issued pursuant to the preceding sentence; the Contractor is not relieved or excused from its obligation to promptly commence and diligently complete any Change subject to the District's written authorization by virtue of the absence or inability of the Contractor and the District to agree upon the extent of any adjustment to the Contract Time or the Contract Price on account of such Change. The issuance of a Change Order pursuant to this Article 9 in connection with any Change authorized by the District under this Article 9.1 is not a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Change authorized by the District hereunder. The District's right to make Changes shall not invalidate the Contract nor relieve the Contractor of any liability or other obligations under the Contract Documents. Any requirement of notice of Changes in the scope of Work to the Surety shall be the responsibility of the Contractor. Changes to the Work depicted or described in the Drawings or the Specifications shall be subject to approval by the DSA. The District may make Changes to bring the Work or the Project into compliance with environmental requirements or standards established by Laws enacted after award of the Contract.

**9.2 Construction Change Directive.** A Construction Change Directive is a written instrument issued by or on behalf of the District directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. The Contractor shall promptly commence and diligently complete any Change to the Work subject to a Construction Change Directive issued hereunder. The issuance of a Change Order pursuant to this Article 9 in connection with any Construction

Change Directive authorized by the District is not a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Construction Change Directive. Upon completion of the Work subject to a Construction Change Directive, if the Contractor and District have not agreed on the adjustment of Contract Time and/or Contract Price for such Change, District shall issue a Unilateral Change Order pursuant to this Article 9.

**9.3 Oral Order of Change in the Work.** Any oral order, direction, instruction, interpretation, or determination from the District or the Architect which in the opinion of the Contractor constitutes a Change to the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if the Contractor gives the Architect, Construction Manager, if any and the Project Inspector written notice within ten (10) days of the order, directions, instructions, interpretation or determination and prior to acting in accordance therewith. Time is of the essence in Contractor's written notice pursuant to the preceding sentence. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice within ten (10) days of such order, direction, instruction, interpretation or determination is the Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of such order, direction, instruction, interpretation or determination. The written notice shall state the date, circumstances, extent of adjustment to the Contract Price or the Contract Time, if any, requested, and the source of the order, directions, instructions, interpretation or determination that the Contractor regards as a Change. Unless the Contractor acts in strict accordance with this procedure, any such order, direction, instruction, interpretation or determination shall not be treated as a Change and the Contractor waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

**9.4 Contractor Submittal of Data.** Within thirty (30) days after receipt of a written order directing a Change in the Work or furnishing the written notice regarding any oral order directing a Change in the Work, the Contractor shall submit to the Architect, Construction Manager, if any, the Project Inspector and the District a detailed written statement setting forth the general nature of the Change, the adjustment to the Contract Price on account thereof, properly itemized and supported by sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Change. No claim or adjustment to the Contract Price or the Contract Time shall be allowed if not asserted by the Contractor in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents.

**9.5 Adjustment to Contract Price and Contract Time on Account of Changes to the Work.**

**9.5.1 Adjustment to Contract Price.** Adjustments to the Contract Price due to Changes in the Work shall be determined by application of one of the following methods, in the following order of priority. Costs computed to any of the following methods shall exclude: (i) fees, salaries or other compensation for: field/office supervisory personnel, project engineers, scheduler, estimator, drafting/detailing; (ii) vehicles not directly engaged in performance of a Change; (iii) field/home office expenses, including personnel, materials, supplies, etc.; (iv) on-Site or off-Site trailer, storage costs (whether rented, leased or owned); and (v) except as incorporated into an applicable Prevailing Wage Rate for labor required to complete a Change, insurance (including without limitation, general liability, automobile liability, employer's liability and workers compensation)

**9.5.1.1 Mutual Agreement.** By negotiation and mutual agreement, on a lump sum basis, between the District and the Contractor on the basis of the estimate of the actual and direct increase or decrease in costs on account of the Change. Upon request of the District, Construction Manager, if any, or the Architect, the Contractor shall provide a detailed estimate of increase or decrease in costs



directly associated with performance of the Change along with cost breakdowns of the components of the Change and supporting data and documentation. The Contractor's estimate of increase or decrease in costs pursuant to the foregoing, if requested, shall be in sufficient detail and in such form as to allow the District, the Project Inspector and the Architect to review and assess the completeness and accuracy thereof. The Contractor shall be solely responsible for any additional costs or additional time arising out of, or related in any manner to, its failure to provide the estimate of costs within the time specified in the request of the District or the Architect for such estimate.

**9.5.1.2 Determination by the District.** By the District, whether or not negotiations are initiated pursuant to Article 9.5.1.1 above, based upon actual and necessary costs incurred by the Contractor as determined by the District on the basis of the Contractor's records. In the event that the procedure set forth in this Article 9.5.1.2 is utilized to determine the extent of adjustment to the Contract Price on account of Changes to the Work, promptly upon determining the extent of adjustment to the Contract Price, the District shall notify the Contractor in writing of the same; the Contractor is deemed to have accepted the District's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor notifies the District, the Architect, Construction Manager, if any and the Project Inspector, in writing, not more than fifteen (15) days from the date of the District's written notice, of any objection to the District's determination. Failure of the Contractor to timely notify the District, the Construction Manager, the Architect and the Project Inspector of Contractor's objections to the District's determination of the extent of adjustment to the Contract Price shall be deemed Contractor's acceptance of the District's determination and a waiver of any right or basis of the Contractor to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price pursuant to this Article 9.5.1.2, Contractor shall, pursuant to Article 9.8 below, diligently proceed to perform and complete any such Change.

**9.5.1.3 Basis for Adjustment of Contract Price.** If Changes in the Work require an adjustment of the Contract Price pursuant to Articles 9.5.1.1 or 9.5.1.2 above, the basis for adjustment of the Contract Price shall be as follows:

**9.5.1.3.1 Allowable Labor Costs.** Except in the event adjustment of the Contract Price for a District authorized Change is computed by unit prices, the labor costs allowable for incorporation into a Contract Price adjustment for a Change shall be limited as set forth herein.

**9.5.1.3.1.1 Limitation to Field Labor and Prevailing Wage Rates.** The Contract Price adjustment for labor necessary to complete a Change shall be limited to the laborers of the Contractor or Subcontractors actually and necessarily engaged in the performance of the Change and for which there is a prevailing wage rate classification. Wage rates for laborers shall not exceed the applicable prevailing wage rate in the locality of the Site for the classification(s) of labor necessary to complete a Change. Use of a prevailing wage rate classification which increases the costs of a Change shall not be allowed. Overtime labor charges for performing any part of the Change shall only be allowed if authorized in writing by the Architect, Construction Manager and the District prior to Contractor's performance of the overtime

labor. Use of a labor classification which would increase labor costs associated with any Change shall not be permitted.

9.5.1.3.1.2 Fringe Benefits, Payroll Taxes and Labor Burdens. The Contractor or Subcontractor may adjust the prevailing wage rate for allowable labor costs to reflect fringe benefits, payroll taxes and labor burdens actually incurred by Contractor and provided to such labor directly engaged in performing a Change. The allowable adjustment for fringe benefit payments, payroll taxes and labor burdens shall not, however, exceed fifteen percent (15%) of the applicable prevailing wage rate and shall not be subject to the additional mark-up set forth in Article 9.5.1.3.4 and the Special Conditions.

9.5.1.3.1.3 Excluded Labor Costs. The Contract Price adjustment for labor costs on account of a Change shall exclude costs: (i) for preparing estimate(s) of the costs of the Change; (ii) to maintain records relating to the costs of the Change; (iii) for coordination and assembly of materials and information relating to the Change or performance thereof; (iv) to supervise, coordinate or manage the Work of a Change; or (v) any other general administrative overhead or general conditions costs associated with the Change or performance thereof as such costs are incorporated into the overhead and general conditions mark-up costs set forth in Article 9.5.1.3.4.

9.5.1.3.2 Materials and Equipment. Contractor shall be compensated for the costs of materials and equipment necessarily and actually used or consumed in connection with the performance of Changes. Costs of materials and equipment may include reasonable costs of transportation from a source closest to the site of the Work and delivery to the Site. If discounts by Material Suppliers are available for materials necessarily used in the performance of Changes, they shall be credited to the District. If materials and/or equipment necessarily used in the performance of Changes are obtained from a supplier or source owned in whole or in part by the Contractor, compensation therefor shall not exceed the current wholesale price for such materials or equipment. If, in the reasonable opinion of the District, the costs asserted by the Contractor for materials and/or equipment in connection with any Change is excessive, or if the Contractor fails to provide satisfactory evidence of the actual costs of such materials and/or equipment from its supplier or vendor of the same, the costs of such materials and/or equipment and the District's obligation for payment of the same shall be limited to the then lowest wholesale price at which similar materials and/or equipment are available in the quantities required to perform the Change. The District may elect to furnish materials and/or equipment for Changes to the Work, in which event the Contractor shall not be compensated for the costs of furnishing such materials and/or equipment or any mark-up thereon.

9.5.1.3.3 Construction Equipment. Contractor shall be compensated for the actual cost of the necessary and direct use of Construction Equipment in the performance of Changes to the Work. Use of such Construction Equipment in the performance of Changes to the Work shall be compensated in increments of fifteen (15) minutes. Rental time for Construction Equipment moved by its own power shall include time required to move such Construction Equipment to the site of the Work

from the nearest available rental source of the same. If Construction Equipment is not moved to the Site by its own power, Contractor will be compensated for the loading and transportation costs in lieu of rental time. The foregoing notwithstanding, neither moving time or loading and transportation time shall be allowed if the Construction Equipment is used for performance of any portion of the Work other than Changes to the Work. Unless prior approval in writing is obtained by the Contractor from the Architect, Construction Manager, if any, the Project Inspector and the District, no costs or compensation shall be allowed for time while Construction Equipment is inoperative, idle or on standby, for any reason. The Contractor shall not be entitled to an allowance or any other compensation for Construction Equipment or tools used in the performance of Changes to the Work where such Construction Equipment or tools have a replacement value of \$500.00 or less. Construction Equipment costs claimed by the Contractor in connection with the performance of any Change to the Work shall not exceed rental rates established by distributors or construction equipment rental agencies in the locality of the Site; any costs asserted which exceed such rental rates shall not be allowed or paid. Unless otherwise specifically approved in writing by the Architect, Construction Manager, if any, the Project Inspector and the District, the allowable rate for the use of Construction Equipment in connection with Changes to the Work shall constitute full compensation to the Contractor for the cost of rental, fuel, power, oil, lubrication, supplies, necessary attachments, repairs or maintenance of any kind, depreciation, storage, insurance, labor (exclusive of labor costs of the Construction Equipment operator), and any all other costs incurred by the Contractor incidental to the use of such Construction Equipment.

9.5.1.3.4 Mark-up on Costs of Changes to the Work. In determining the cost to the District and the extent of increase to the Contract Price resulting from a Change adding to the Work, the allowance for mark-ups on the costs of the Change for all overhead (including home office and field overhead), general conditions costs and profit associated with the Change shall not exceed the percentage set forth in the Special Conditions, regardless of the number of Subcontractors, of any tier, performing any portion of any Change to the Work. If a Change to the Work reduces the Contract Price, no profit, general conditions or overhead costs shall be paid by the District to the Contractor for the reduced or deleted Work. In such event, the adjustment to the Contract Price shall be the actual cost reduction realized by the reduced or deleted Work multiplied by the percentage set forth in the Special Conditions for mark-ups on the cost of a Change adding to the scope of the Work.

9.5.1.4 Contractor Maintenance of Records. If the Contractor is directed to perform any Changes to the Work pursuant to Article 9.1, 9.2 or 9.3, or should the Contractor encounter conditions which the Contractor believes to obligate the District to adjust the Contract Price and/or the Contract Time, Contractor shall maintain detailed records on a daily basis. Such records shall include without limitation hourly records for labor and Construction Equipment and itemized records of materials and equipment used that day in connection with the performance of any Change to the Work. If more than one Change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, Construction Equipment, materials and equipment for

each such Change. If any Subcontractor provides or performs any portion of a Change to the Work, Contractor shall require that each such Subcontractor maintain records in accordance with this Article. Each daily record maintained hereunder shall be signed by Contractor's Superintendent or Contractor's authorized representative which shall constitute the Contractor's representation and warranty to the District that all information contained therein is true, accurate, complete and relate only to the Change referenced therein. All records maintained by a Subcontractor relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the District, the Architect, Construction Manager, if any or the Project Inspector upon request. If the Contractor fails or refuses, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work, the District's reasonable good faith determination of the extent of adjustment to the Contract Price on account of such Change shall be final, conclusive, dispositive and binding upon Contractor. Contractor's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract Documents with respect to Changes to the Work.

9.5.2 Adjustment to Contract Time. If any Change to the Work authorized pursuant to this Article 9, the Contract Time affects the critical path of the Work, the Contract Time shall be extended or reduced by Change Order for a period of time commensurate with the time reasonably necessary to perform such Change. The Contractor is solely responsible for submitting scheduling data, analysis and other materials necessary or required by the District to substantiate the Contract Time adjustment requested by the Contractor for a Change. The District is not obligated to consider any adjustment to the Contract Time on account of a Change until the Contractor has submitted such scheduling data, analysis and other materials.

9.5.3 Addition or Deletion of Alternate Bid Item(s). If the Bid Proposal for the Work includes proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect, pursuant to this Article to add any such Alternate Bid Item(s) if the same did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if the same formed a basis for award of the Contract. If the District elects to add or delete any such Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for such Alternate Bid Item(s) shall be as set forth in the Contractor's Bid. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted to the extent that the addition or deletion of an Alternate Bid Item actually affects Work on the critical path of the Construction Schedule as of the date upon which an Alternate Bid Item is added to or deleted from the Work..

9.6 Change Orders. If the District approves of a Change, a written Change Order prepared by the Architect on behalf of the District shall be forwarded to the Contractor describing the Change and setting forth the adjustment to the Contract Time and the Contract Price, if any, on account of such Change. All Change Orders shall be in full payment and final settlement of all claims for direct, indirect and consequential costs, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, including without limitation: impacts of any kind; preparation and processing of any and all related RFIs, ASIs, Bulletins, FCDs, Quotes, and/or CCDs; inefficiencies; productivity losses; delay; acceleration; field and

home office overhead; and any and all other incidental costs for all of the work described in the Change Order, as well as any and all adjustments to the Contract Time necessitated thereby. Any claim or item relating to any Change incorporated into a Change Order not presented by the Contractor for inclusion in the Change Order shall be deemed waived. The Contractor shall execute the Change Order prepared pursuant to the foregoing; once the Change Order has been prepared and forwarded to the Contractor for execution, without the prior approval of the District which may be granted or withheld in the sole and exclusive discretion of the District, the Contractor shall not modify or amend the form or content of such Change Order, or any portion thereof. The Contractor's attempted or purported modification or amendment of any such Change Order, without the prior approval of the District, shall not be binding upon the District; any such unapproved modification or amendment to such Change Order shall be null, void and unenforceable. Unless otherwise expressly provided for in the Contract Documents or in the Change Order, any Change Order issued hereunder shall be binding upon the District only upon action of the District's Board of Education approving and ratifying such Change Order. In the event of any amendment or modification made by the Contractor to a Change Order for which there is no prior approval by the District, in accordance with the provisions of this Article 9.6, unless otherwise expressly stated in its approval and ratification of such Change Order, any action of the Board of Education to approve and ratify such Change Order shall be deemed to be limited to the Change Order as prepared by the Architect; such approval and ratification of such Change Order shall not be deemed the District's approval and ratification of any unapproved amendment or modification by the Contractor to such Change Order.

**9.7 Unilateral Change Orders.** A Unilateral Change Order is a Change Order issued by the District, in the sole and exclusive discretion of the District, before the Contractor and District have agreed on the extent of adjustment of the Contract Time or the Contract Price relating to a Change. The District may, in its sole reasonable discretion, issue a Unilateral Change Order for any Change to the Work authorized by the District when the Contractor and the District have been unable to reach mutual agreement as to the extent of any adjustment to the Contract Price or Contract Time on account of such Change. If the District elects to issue a Unilateral Change Order, the District shall forward to the Contractor a copy of the proposed Unilateral Change Order (for the Contractor's information) at least ten (10) days prior to the date of the Board of Education' meeting to review and consider approval of the Unilateral Change Order. Any Unilateral Change Order issued hereunder shall be binding upon the District and Contractor only if the District's Board of Education' takes action to approve or ratify the Unilateral Change Order. Any and all claims by the Contractor arising out of such Unilateral Change Order, and/or the Change giving rise to such Unilateral Change Order, shall accrue as of the date of the Board of Education' action approving or ratifying a Unilateral Change Order and shall be subject to the claim provisions set forth in Article 16.11. Notwithstanding any provision of the Contract Documents to the contrary, an express condition precedent to the Contractor's exercise of rights and remedies under Article 16.11 relating to a Unilateral Change Order, is the Contractor notification to the District, Architect and Construction Manager, if any, in writing of the Contractor's objections to all or any portion of a Unilateral Change Order within ten (10) days after the date of the Board of Education meeting ratifying or approving a Unilateral Change Order; failure of the Contractor to do so is deemed the Contractor's acceptance of the entirety of a Unilateral Change Order, as approved or ratified by the District's Board of Education and an express unequivocal waiver by the Contractor of any right or remedy of the Contractor, under the Contract Documents or the Laws to: (i) object to the Unilateral Change Order or any portion thereof; or (ii) further adjustment of the Contract Time or the Contract Price on account of the Change(s) incorporated into a Unilateral Change Order.

**9.8 Contractor Notice of Changes.** If the Contractor claims that any instruction, request, RFI, FCD, ASI, Bulletin, the Drawings, the Specifications, action, condition, omission, default, or other

situation obligates the District to increase the Contract Price or to extend the Contract Time, the Contractor shall notify the Construction Manager, if any, the Project Inspector and the Architect, in writing, of such claim within ten (10) days from the date of its actual or constructive notice of the factual basis supporting the same. The District shall consider any such claim of the Contractor only if sufficient supporting documentation is submitted with the Contractor's notice to the Project Inspector and the Architect. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the District can promptly investigate and consider alternative measures to the address such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice (with sufficient supporting documentation to permit the District's review and evaluation) within ten (10) days of its actual or constructive knowledge of any instruction, request, Drawings, Specifications, action, condition, omission, default or other situation for which the Contractor believes there should an adjustment of the Contract Time or the Contract Price shall be deemed Contractor's waiver, release, discharge and relinquishment of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of any such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. In the event that the District determines that the Contract Price or the Contract Time are subject to adjustment based upon the events, circumstances and supporting documentation submitted with the Contractor's written notice under this Article 9.8, any such adjustment shall be determined in accordance with the provisions of Articles 9.5.1 and 9.5.2.

9.9 Disputed Changes. If there is any dispute or disagreement between the Contractor and the District regarding the characterization of any item as a Change to the Work or as to the appropriate adjustment of the Contract Price or the Contract Time on account thereof, the Contractor shall promptly proceed with the performance and completion of such item of the Work, subject to a subsequent resolution of such dispute or disagreement in accordance with the terms of the Contract Documents. The Contractor's failure or refusal to so proceed with such Work is the Contractor's default of a material obligation of the Contractor under the Contract Documents.

9.10 Emergencies. In an emergency affecting or threatening the safety of persons, or which affects or threatens the Work, or property, the Contractor, without special instruction or prior authorization from the District, Construction Manager or the Architect, is permitted to act at its discretion to prevent such threatened loss or injury. Any compensation claimed by the Contractor on account of such emergency work shall be submitted and determined in accordance with this Article 9.

9.11 Minor Changes in the Work. The Architect may order minor Changes in the Work not involving an adjustment in the Contract Price or the Contract Time and not inconsistent with the intent of the Contract Documents. Such Changes shall be effected by written order and shall be binding on the District and the Contractor. The Contractor shall carry out such orders promptly.

9.12 Unauthorized Changes. Any Work beyond the lines and grades shown on the Contract Documents, or any extra Work performed or provided by the Contractor without notice to the Architect, Construction Manager and the Project Inspector in the manner and within the time set forth in Articles 9.2 or 9.7 shall be considered unauthorized and at the sole expense of the Contractor. Work so done will not be measured or paid for, no extension to the Contract Time will be granted on account thereof and any such Work may be ordered removed at the Contractor's sole cost and expense. The failure of the District to direct or order removal of such Work shall not constitute acceptance or approval of such Work nor relieve the Contractor from

any liability on account thereof.

## **ARTICLE 10: SEPARATE CONTRACTORS**

10.1 District's Right to Award Separate Contracts. The District reserves the right to perform construction or operations related to the Project with the District's own forces or to award separate contracts in connection with other portions of the Project or other construction or operations at or about the Site. If the Contractor claims that delay or additional cost is involved because of such action by the District, the Contractor shall seek an adjustment to the Contract Price or the Contract Time as provided for in the Contract Documents. Failure of the Contractor to request such an adjustment of the Contract Time or the Contract Price in strict conformity with the provisions of the Contract Documents applicable thereto shall be deemed a waiver of the same.

10.2 District's Coordination of Separate Contractors. The District shall provide for coordination of the activities of the District's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the District in reviewing their respective Construction Schedules when directed to do so. The Contractor shall make any revisions to the Approved Construction Schedule for the Work hereunder deemed necessary after a joint review and mutual agreement. The Construction Schedules shall then constitute the Construction Schedules to be used by the Contractor, separate contractors and the District until subsequently revised.

10.3 Mutual Responsibility. The Contractor shall afford the District and separate contractors of the District reasonable opportunity for storage of their materials and equipment and performance of their activities at the Site and shall connect and coordinate the Contractor's Work, construction and operations with theirs as required by the Contract Documents.

10.4 Discrepancies or Defects. If part of the Contractor's Work depends for proper execution or results upon construction or operations by the District or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect, Construction Manager, if any and the Project Inspector any discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results of the Contractor's Work. Failure of the Contractor to so report shall constitute an acknowledgment that the District's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then discoverable by the Contractor's reasonable diligence.

### 10.5 District's Right to Withhold for Delay to Separate Contractors

10.5.1 Progress of Work. Unless caused by the District, Architect, Construction Manager, Project Inspector, or separate contractor, if the Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment, tools and/or services to maintain progress of the Work in accordance with the then current Construction Schedule thereby delaying the Work of separate contractor(s), the District may, after forty-eight (48) hours advance written notice from the District to the Contractor of its failure or refusal, direct, instruct and authorize the separate contractor(s) to furnish or cause to be furnished such materials, labor, equipment, tools and/or services necessary to maintain progress of the Work in accordance with the then current Construction Schedule.

10.5.2 District's Right to Withhold. If the work of a separate contractor to the District on the Project is delayed by the acts or omissions of the Contractor, any and all costs, expenses, and/or other charges incurred by the District for the work of such separate

contractor(s) resulting from such acts or omissions of the Contractor shall be the sole responsibility of, and be borne by, the Contractor, and the District may deduct the amount of any and all such costs, expenses, and/or other charges from the Contract Price then or thereafter due the Contractor. If the Contract Price then or thereafter due the Contractor is insufficient to cover such amounts, the Contractor and the Performance Bond Surety shall be jointly and severally liable to the District for such amounts in excess of the Contract Price, provided that the liability of the Performance Bond Surety shall be limited to the penal sum of the Performance Bond. The assessment and/or withholding of the amount of such costs, expenses, and/or other charges shall be in addition to, and not in lieu of, any liquidated damages assessed and/or withheld from Contractor under Article 7.5 hereof.

10.5.3 Non-exclusive Remedy. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents, or arising by operation of the Laws.

## **ARTICLE 11: TESTS AND INSPECTIONS**

### **11.1 Tests; Inspections; Observations.**

11.1.1 Contractor's Notice. If the Contract Documents, the Laws or any public authority with jurisdiction over the Work requires the Work, or any portion thereof, to be specially tested, inspected or approved, the Contractor shall give the Architect, the Construction Manager and the Project Inspector written notice of the readiness of such Work for observation, testing or inspection at least two (2) business days prior to the time for the conducting of such test, inspection or observation. The Contractor shall not cover up any portion of the Work subject to tests, inspections or observations prior to the completion and satisfaction of the requirements of such test, inspection or observation. If any portion of the Work subject to tests, inspection or approval is covered up by Contractor prior to completion and satisfaction of the requirements of such tests, inspection or approval, Contractor shall be responsible for the uncovering of such portion of the Work as is necessary for performing such tests, inspection or approval without adjustment of the Contract Price or the Contract Time on account thereof.

11.1.2 Cost of Tests and Inspections. The District will pay for fees, costs and expenses for the initial tests/inspections of materials/equipment which are conducted at the Site or locations within a one hundred (100) mile radius of the Site. All fees, costs or expenses for subsequent tests/inspections or for tests/inspections conducted at a location more than a one hundred (100) mile radius from the Site (including without limitation, travel and travel-related expenses) shall be borne solely and exclusively by the Contractor. The foregoing notwithstanding, if the portion(s) of the Work subject to tests/inspections is/are not ready for such test/inspection at the time indicated in the Contractor's notice under Article 11.1.1 or if upon completion of such test/inspection, the portion(s) of the Work subject to such test/inspection do not meet or exceed the minimum requirements of such test/inspection, the Contractor shall be solely responsible for the payment of all fees, costs or expenses arising out of or related in any manner to subsequent tests/inspections of such portion(s) of the Work, and resulting delays, disruptions or other impacts to completion of the Project. Further, notwithstanding the District's payment of fees, costs or expenses for conducting initial tests/inspections, if any actions or failures to act of the Contractor or person or entity providing or performing Work under the direction or control of the Contractor require tests/inspections to be conducted over a period of more than eight (8) hours per day by any single person or on weekends/holidays, the Contractor shall be solely responsible for the payment of fees, costs or expenses which result from test/inspection services which exceed eight (8) hours per day by any single person or on weekends/holidays.

11.1.3 Testing/Inspection Laboratory. The District shall select duly qualified person(s)



or testing laboratory(ies) to conduct the tests and inspections to be paid for by the District and required by the Contract Documents. All such tests and inspections shall be in conformity with the Laws, including without limitation, Title 24 of the California Code of Regulations. Where inspection or testing is to be conducted by an independent laboratory or testing agency, materials or samples thereof shall be selected by the laboratory, testing agency, the Project Inspector, the Construction Manager or the Architect and not by the Contractor.

**11.1.4 Additional Tests, Inspections and Approvals.** If the Architect, the Construction Manager, the Project Inspector or public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval, the Architect or Construction Manager, if any will, upon written authorization from the District, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the District, and the Contractor shall give timely notice to the Architect, the Construction Manager and the Project Inspector of when and where tests and inspections are to be made so the Project Inspector and the Architect may observe such procedures. The District shall bear the costs of such additional tests, inspections or approvals, except to the extent that such additional tests, inspections or approvals reveal any failure of the Work to comply with the requirements of the Contract Documents, in which case the Contractor shall bear all costs made necessary by such failures, including without limitation, the costs of corrections, repeat tests, inspections or approvals and the fees of the Architect, Construction Manager, if any, and the Project Inspector in connection therewith.

**11.2 Delivery of Certificates.** Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

**11.3 Timeliness of Tests, Inspections and Approvals.** Tests or inspections required and conducted pursuant to the Contract Documents shall be made or arranged by Contractor to avoid delay in the progress of the Work.

## **ARTICLE 12: UNCOVERING AND CORRECTION OF WORK**

### **12.1 Inspection of the Work.**

**12.1.1 Access to the Work.** All Work and all materials and equipment forming a part of the Work or incorporated into the Work are subject to inspection by the District, the Construction Manager, the Architect and the Project Inspector for conformity with the Contract Documents. The Contractor shall, at its cost and without adjustment to the Contract Price or the Contract Time, furnish any facilities necessary for sufficient and safe access to the Work for purposes of inspection by the District, the Construction Manager, the Architect, the Project Inspector, DSA or any other public or quasi-public authority with jurisdiction over the Work or any portion thereof.

**12.1.2 Limitations Upon Inspections.** Inspections, tests, measurements, or other acts of the Architect and the Project Inspector hereunder are for the sole purpose of assisting them in determining that the Work, materials, equipment, progress of the Work, and quantities generally comply and conform to the requirements of the Contract Documents. These acts or functions shall not relieve the Contractor from performing the Work in full compliance with the Contract Documents. No inspection by the Architect or the Project Inspector shall constitute or imply acceptance of Work inspected. Inspection of the Work hereunder is in addition to, and not in lieu of, any other testing, inspections or approvals of the Work required under the Contract Documents.

**12.2 Uncovering of Work.** If any portion of the Work is covered contrary to the request of the

Architect, the Project Inspector or the requirements of the Contract Documents, it must, if required by the Architect or the Project Inspector, be uncovered for observation by the Architect and the Project Inspector and be replaced at the Contractor's expense without adjustment of the Contract Time or the Contract Price.

12.3 Rejection of Work. Prior to the District's Final Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work which constitutes Defective or Non-Conforming Work may be rejected by the District, the Construction Manager the Architect or the Project Inspector and the Contractor shall correct such rejected Work without any adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected by the Architect or the Project Inspector or even if they failed to observe the Defective or Non-Conforming nature of the Work, materials or equipment.

12.4 Correction of Work. The Contractor shall promptly correct any Defective or Non-Conforming Work whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting Defective or Non-Conforming Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby. The Contractor shall bear all costs of correcting destroyed or damaged construction, whether completed or partially completed, of the District or separate contractors, caused by the Contractor's correction or removal of Defective or Non-Conforming Work.

12.5 Removal of Non-Conforming or Defective Work. The Contractor shall, at its sole cost and expense, remove from the Site all Defective or Non-Conforming Work which are neither corrected by the Contractor nor accepted by the District.

12.6 Failure of Contractor to Correct Work. If the Contractor fails to commence to correct Defective or Non-Conforming Work within three (3) days of notice of such condition and promptly thereafter complete the same within a reasonable time, the District may correct it in accordance with the Contract Documents. If the Contractor does not proceed with correction of such Defective or Non-Conforming Work within the time fixed herein, the District may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage after written notice, the District may sell such materials or equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including without limitation compensation for the Architect's services, attorney's fees and other expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Price shall be reduced by the deficiency. If payments of the Contract Price then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and the Surety shall be jointly and severally liable to the District for any such excess amount.

12.7 Acceptance of Defective or Non-Conforming Work. The District may, in its sole and exclusive discretion, elect to accept Defective or Non-Conforming Work in lieu of requiring its removal and correction, in which case the Contract Price shall be reduced as appropriate and equitable. The District's determination of the extent of reduction of the Contract Price on account of Defective or Non-Conforming Work accepted by the District shall be binding, conclusive, dispositive and not subject to appeal or other dispute resolution procedures, unless such determination is manifestly unreasonable.

## ARTICLE 13: WARRANTIES

13.1 Workmanship and Materials. The Contractor warrants to the District that: (i) the Work and all materials and equipment incorporated therein conform to requirements of the Contract Documents; (ii) all materials and equipment incorporated into the Work are new, of good quality and of the most suitable grade and quality for the purpose intended, unless otherwise specified in the Contract Documents; and (iii) all Work and workmanship is of good quality, free from faults and defects and in conformity with the requirements of the Contract Documents. If required by the Architect, Project Inspector, Construction Manager or the District, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment incorporated into the Work. Any Work or portion thereof not conforming to these requirements, including substitutions or alternatives not properly approved in accordance with the Contract Documents may be deemed Defective or Non-Conforming. Where there is an approved substitution of, or alternative to, material or equipment specified in the Contract Documents, the Contractor warrants to the District that such installation, construction, material, or equipment will equally perform the function and have the quality of the originally specified material or equipment. The Contractor expressly warrants the merchantability, the fitness for use, and quality of all substitute or alternative items in addition to any warranty given by the manufacturer or supplier of such item. The obligations of the Contractor hereunder are in addition to, and not in lieu of, any other obligations imposed by any special guarantee or warranty required by the Contract Documents, guarantees or warranties provided by any manufacturer of any item or equipment forming a part of, or incorporated into the Work, or otherwise recognized, prescribed or imposed by the Laws.

13.2 Warranty Work. If, within one (1) year after the date of Final Acceptance, or such other time frame set forth elsewhere in the Contract Documents, any of the Work is found to be defective or not in accordance with the requirements of the Contract Documents, or otherwise contrary to the warranties contained in the Contract Documents, the Contractor shall commence all necessary corrective action not more than seven (7) days after receipt of a written notice from the District to do so, and to thereafter diligently complete the same. If the Contractor fails or refuses to commence correction of any such item within said seven (7) day period or to diligently prosecute such corrective actions to completion, the District may, without further notice to Contractor, cause such corrective Work to be performed and completed. In such event, Contractor and Contractor's Performance Bond Surety shall be responsible for all costs in connection with such corrective Work, including without limitation, general administrative overhead costs of the District in securing and overseeing such corrective Work. Nothing contained herein shall be construed to establish a period of limitation with respect to any obligation of the Contractor under the Contract Documents. Neither the District's Final Acceptance, the making of Final Payment, any provision in Contract Documents, nor the use or occupancy of the Work, in whole or in part, by District shall constitute acceptance of Work not in accordance with the Contract Documents nor relieve the Contractor or the Contractor's Performance Bond Surety from liability with respect to any warranties or responsibility for faulty or defective Work or materials, equipment and workmanship incorporated therein.

13.3 Guarantee. Upon completion of the Work, Contractor shall execute and deliver to the District the form of Guarantee (Attachment D to Special Conditions). The Contractor's execution and delivery of the form of Guarantee is an express condition precedent to any obligation of the District to disburse the Final Payment to the Contractor and any right of the Contractor to Final Payment.

13.4 Survival of Warranties; Surety Obligations. The Contractor's warranty obligations hereunder shall survive the Contractor's completion of Work under the Contract Documents, the District's Final Acceptance or the termination of the Contract. The obligations of the Surety issuing the Performance Bond shall include assumption and discharge of the Contractor's warranty obligations if the Contractor fails or refuses to perform its warranty obligations

hereunder in strict conformity herewith.

#### **ARTICLE 14: SUSPENSION OF WORK**

14.1 District's Right to Suspend Work. The District may, without cause, and without invalidating or terminating the Contract, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as the District may determine. The Contractor shall resume and complete the Work suspended by the District in accordance with the District's directive, whether issued at the time of the directive suspending the Work or subsequent thereto.

14.2 Adjustments to Contract Price and Contract Time. In the event the District shall order suspension of the Work, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by the District; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible under the Contract Documents; or (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any such adjustment of the Contract Price shall not include any adjustment to increase the Contractor's overhead, general administrative costs or profit, all of which will remain as reflected in the Cost Breakdown submitted by the Contractor pursuant to the Contract Documents. In the event of the District's suspension of the Work, the Contract Time shall be equitably adjusted.

#### **ARTICLE 15: TERMINATION**

15.1 Termination for Cause.

15.1.1 District's Right to Terminate. The District may terminate the Contract upon the occurrence of any one or more of the following events of the Contractor's default: (i) if the Contractor refuses or fails to prosecute the Work with diligence as will insure Substantial Completion of the Work within the Contract Time, or if the Contractor fails to substantially Complete the Work within the Contract Time; (ii) if the Contractor becomes bankrupt or insolvent, or makes a general assignment for the benefit of creditors, or if the Contractor or a third party files a petition to reorganize or for protection under any bankruptcy or similar laws, or if a trustee or receiver is appointed for the Contractor or for any of the Contractor's property on account of the Contractor's insolvency, and the Contractor or its successor in interest does not provide adequate assurance of future performance in accordance with the Contract Documents within ten (10) days of receipt of a request for such assurance from the District; (iii) if the Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment; (iv) if the Contractor repeatedly fails to make prompt payments to any Subcontractor, of any tier, or Material Suppliers or others for labor, materials or equipment; (v) if the Contractor disregards the Laws or requirements of any public entity having jurisdiction over any portion of the Work; (iv) if the Contractor disregards proper directives of the Architect, the Construction Manager, the Project Inspector or District; (vii) Defective/Non-Conforming Work which the Contractor neglects or refuses to correct; or (viii) if the Contractor otherwise violates any provisions or requirements of the Contract Documents. Once the District determines that sufficient cause exists to justify the action, the District may terminate the Contract without prejudice to any other right or remedy the District may have, after giving the Contractor and the Surety at least seven (7) days advance written notice of the effective date of termination. The District shall have the sole discretion to permit the Contractor to remedy the cause for the termination without waiving the District's right to terminate the Contract, or otherwise waiving, restricting or limiting any other right or remedy of the District under the Contract Documents or the Laws.

15.1.2 District's Rights Upon Termination. If the Contract is terminated pursuant to this Article 15.1, the District may take over the Work and prosecute it to completion, by contract or otherwise, and may exclude the Contractor from the site. The District may take possession of the Work and of all of the Contractor's tools, appliances, construction equipment, machinery, materials, and plant which may be on or about the Site, and use the same to the full extent they could be used by the Contractor without liability to the Contractor. In exercising the District's right to prosecute the completion of the Work, the District may also take possession of all materials and equipment at or about the Site or for which the District has paid the Contractor but which are stored elsewhere, and finish the Work as the District deems expedient. In exercising the District's right to prosecute the completion of the Work, the District shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs of completing the Work and the District shall not be required to obtain the lowest price for completion of the Work. If the District takes bids for remedial Work or completion of the Work, the Contractor shall not be eligible for the award of such contract(s).

15.1.3 Completion by the Surety. If the Contract is terminated pursuant to this Article 15.1, the District may demand that the Surety take over and complete the Work. The District may require that in so doing, the Surety not utilize the Contractor in performing and completing the Work. Upon the failure or refusal of the Surety to take over and begin completion of the Work within twenty (20) days after demand therefor, the District may take over the Work and prosecute it to completion as provided for above.

15.1.4 Assignment and Assumption of Subcontracts. The District shall, in its sole and exclusive discretion, have the option of requiring any Subcontractor or Material Supplier to perform in accordance with its Subcontract or Purchase Order with the Contractor and assign the Subcontract or Purchase Order to the District or such other person or entity selected by the District to complete the Work.

15.1.5 Costs of Completion. In the event of termination under this Article 15.1, the Contractor shall not be entitled to receive any further payment of the Contract Price until the Work is completed. If the unpaid balance of the Contract Price as of the date of termination exceeds the District's direct and indirect costs and expenses for completing the Work, including without limitation, attorneys' fees, fees for additional professional and consultant services, and the District's administrative costs, such excess shall be used to pay the Contractor for the cost of the Work performed prior to the effective date of termination with a reasonable allowance for overhead and profit. If the District's costs and expenses to complete the Work exceed the unpaid Contract Price, the Contractor and Surety are jointly and severally liable for payment of such difference to the District.

15.1.6 Contractor Responsibility for Damages. The Contractor and the Surety shall be jointly and severally liable for all damage sustained by the District resulting from, in any manner, the termination of Contract under this Article 15.1, including without limitation, attorneys' fees, and for all costs necessary for repair and completion of the Work exceeding the Contract Price.

15.1.7 Conversion to Termination for Convenience. In the event the Contract is terminated under this Article 15.1, and it is determined, for any reason, that the Contractor was not in default under the provisions hereof, the termination shall be deemed a Termination for Convenience of the District and thereupon, the rights and obligations of the District and the Contractor shall be determined in accordance with Article 15.2 hereof.

15.1.8 District's Rights Cumulative. In the event the Contract is terminated pursuant to this Article 15.1, the termination shall not affect or limit any rights or remedies of the District against the Contractor or the Surety. The rights and remedies of the District under this Article 15.1 are in addition to, and not in lieu of, any other rights and remedies provided by the Laws or under the Contract Documents. Any retention or payment of

monies to the Contractor by the District shall not be deemed to release the Contractor or the Surety from any liability hereunder.

**15.2 Termination for Convenience of the District.** The District may at any time, in its sole and exclusive discretion, by written notice to the Contractor, terminate the Contract in whole or in part when it is in the interest of, or for the convenience of, the District. In such case, the Contractor shall be entitled to payment for: (i) Work actually performed and in place as of the effective date of such termination for convenience of the District, with a reasonable allowance for profit and overhead on such Work, and (ii) reasonable termination expenses for reasonable protection of Work in place and suitable storage and protection of materials and equipment delivered to the site of the Work but not yet incorporated into the Work, provided that such payments exclusive of termination expenses shall not exceed the total Contract Price as reduced by payments previously made to the Contractor and as further reduced by the value of the Work as not yet completed. The Contractor shall not be entitled to profit and overhead on Work which was not performed as of the effective date of the termination for convenience of the District. The District may, in its sole discretion, elect to have Subcontracts assigned pursuant to Article 15.1.4 above after exercising the right hereunder to terminate for the District's convenience.

## **ARTICLE 16: MISCELLANEOUS**

**16.1 Governing Law.** This Contract shall be governed by and interpreted in accordance with the laws of the State of California.

**16.2 Marginal Headings; Interpretation.** The titles of the various Articles of these General Conditions and elsewhere in the Contract Documents are used for convenience of reference only and are not intended to, and shall in no way, enlarge or diminish the rights or obligations of the District or the Contractor and shall have no effect upon the construction or interpretation of the Contract Documents. The Contract Documents shall be construed as a whole in accordance with their fair meaning and not strictly for or against the District or the Contractor.

**16.3 Successors and Assigns.** Except as otherwise expressly provided in the Contract Documents, all terms, conditions and covenants of the Contract Documents shall be binding upon, and shall inure to the benefit of the District and the Contractor and their respective heirs, representatives, successors-in-interest and assigns.

**16.4 Cumulative Rights and Remedies; No Waiver.** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not in lieu of or otherwise a limitation or restriction of duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the District shall constitute a waiver of a right or remedy afforded it under the Contract Documents or at law nor shall such an action or failure to act constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

**16.5 Severability.** If any provision of the Contract Documents is deemed illegal, invalid, unenforceable and/or void, by a court or any other governmental agency of competent jurisdiction, such provision shall be deemed to be severed and deleted from the Contract Documents, but all remaining provisions hereof, shall in all other respects, continue in full force and effect.

**16.6 No Assignment by Contractor.** The Contractor shall not sublet or assign the Contract, or any portion thereof, or any monies due thereunder, without the express prior written consent

and approval of the District, which approval may be withheld in the sole and exclusive discretion of the District. The District's approval to such assignment shall be upon such terms and conditions as determined by the District in its sole and exclusive discretion.

16.7 Gender and Number. Whenever the context of the Contract Documents so require, the neuter gender shall include the feminine and masculine, the masculine gender shall include the feminine and neuter, the singular number shall include the plural and the plural number shall include the singular.

16.8 Independent Contractor Status. In performing its obligations under the Contract Documents, the Contractor is an independent contractor to the District and not an agent or employee of the District.

16.9 Notices. Except as otherwise expressly provided for in the Contract Documents, all notices which the District or the Contractor may be required, or may desire, to serve on the other, shall be effective only if delivered by personal delivery or by postage prepaid, First Class Certified Return Receipt Requested United States Mail, addressed to the District or the Contractor at their respective address set forth in the Contract Documents, or such other address(es) as either the District or the Contractor may designate from time to time by written notice to the other in conformity with the provisions hereof. In the event of personal delivery, such notices shall be deemed effective upon delivery, provided that such personal delivery requires a signed receipt by the recipient acknowledging delivery of the same. In the event of mailed notices, such notice shall be deemed effective on the third working day after deposit in the mail.

16.10 Disputes; Continuation of Work. Notwithstanding any claim, dispute or other disagreement between the District and the Contractor regarding performance under the Contract Documents, the scope of Work thereunder, or any other matter arising out of or related to, in any manner, the Contract Documents, the Contractor shall proceed diligently with performance of the Work in accordance with the District's written direction, pending any final determination or decision regarding any such claim, dispute or disagreement.

16.11 Dispute/Claims Resolution.

16.11.1 Public Contract Code §9204 Claims Resolution Procedures. Claims of the Contractor are subject to the non-binding dispute resolution procedures set forth in Public Contract Code §9204 ("Section 9204") provided, however, that the Contractor's initiation of Section 9204 procedures is expressly subject to the Contractor's prior full and timely compliance with requirements and procedures of the Contract Documents relating to procedures for resolution of claims, change orders, disputes and other matters in controversy under the Contract Documents.

16.11.1.1 Claim Defined. The term "Claim" shall be as defined in Section 9204.

16.11.1.2 Claim Documentation. The Contractor shall furnish reasonable documentation to support each Claim. "Reasonable documentation" includes, without limitation: (i) contractual and legal basis establishing Claim entitlement or merit; (ii) factual basis establishing District liability for the Claim; (iii) detailed breakdown of labor, materials, equipment and other costs included in the Claim; and (iv) detailed basis, including Construction Schedule analysis and fragnets supporting any Contract Time adjustment or Liquidated Damages relief included in the scope of a Claim.

16.11.1.3 District Claim Review Statement. Within forty five (45) days (or such other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the District will conduct a reasonable review of the Claim and provide the Contractor with a written statement identifying the disputed and undisputed portions of the Claim ("Claim Review Statement"). If the District does not provide the Contractor with the Claim Review Statement for any Claim within forty five (45) days (or other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the Claim is deemed rejected in its entirety and thereupon, the Contractor may initiate the Meet and Confer process described below. A Claim deemed rejected pursuant to the foregoing does not constitute an adverse finding of Claim merit or the Contractor's responsibility or qualifications. If the Claim Review Statement identifies any undisputed portion of a Claim ("Undisputed Claim") and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after the issuance date of the Claim Review Statement.

16.11.1.4 Meet and Confer.

16.11.1.4.1 Meet and Confer Demand. If the Contractor disputes any portion of the Claim Review Statement, or if a Claim is deemed rejected by the District not providing the Contractor with the Claim Review Statement within the time permitted under Section 9204, the Contractor may demand an informal conference to meet and confer with the District for settlement of the issues in dispute ("Meet and Confer"). The Contractor's Meet and Confer request must be submitted to the District: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; and (iii) within ten (10) days after the Claim Review Statement is submitted to the Contractor or within ten (10) days after the date the Claim is deemed rejected, as applicable. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to request the Meet and Confer and the Non-Binding Mediation procedures under Section 9204. If the Contractor strictly complies with the foregoing, the District will schedule the Meet and Confer conference within thirty (30) days of the Contractor's Meet and Confer request for settlement of disputed portions of the Claim Review Statement.

16.11.1.4.2 Meet and Confer Statement. Within ten (10) business days after conclusion of the Meet and Confer conference, if any portion of a Claim remains disputed, the District shall provide the Contractor a written statement identifying the disputed and undisputed portions of the Claim ("Meet and Confer Statement"). If the Meet and Confer Statement identifies any Undisputed Claim and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after date the Meet and Confer Statement is issued.

16.11.1.5 Non-Binding Mediation.



- 16.11.1.5.1 Contractor Initiation. The Contractor may request nonbinding mediation ("Mediation") of disputed portions of a Claim identified in the Meet and Confer Statement. The Contractor's Mediation demand must be submitted to the District: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; (iii) within ten (10) days after the Meet and Confer Statement is submitted to the Contractor; and (iv) with specific identification of the disputed Claims issues subject to Mediation. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to demand Mediation procedures under Section 9204.
- 16.11.1.5.2 Mediator Selection. The District and Contractor shall mutually agree to a mediator within ten (10) business days after the date of the Contractor's demand for Mediation. If the District and Contractor do not mutually agree to a mediator, the District and Contractor shall each select a mediator and the District/Contractor selected mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim.
- 16.11.1.5.3 Mediation Procedures. Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the District and Contractor in dispute resolution through negotiation or by issuance of an evaluation.
- 16.11.1.5.4 Mediation Costs. All costs, fees and expenses of the mediator(s) and mediation administration shall be shared equally by the District and Contractor. The foregoing notwithstanding, the Contractor and District shall each bear the costs, fees and expenses of their own attorneys, experts and consultants.
- 16.11.1.5.5 Post-Mediation Disputed Claims. Any Claims issues in dispute after Mediation shall be resolved in accordance with the applicable provisions of the Contract Documents.
- 16.11.1.5.6 Waiver. The District and Contractor may mutually agree to waive, in writing, Mediation under Section 9204 and subject to the Contractor's compliance with Government Code Claim requirements, proceed directly to commencement of a civil action or binding arbitration.
- 16.11.1.6 Payments of Undisputed Claims. If a payment due from the District for Undisputed Claims identified in the Claim Review Statement or the Meet and Confer Statement issued for a Claim is not made within the time established under Section 9204 the overdue portion of such payment shall bear interest at the rate of seven percent (7%) per annum from the date due. The District's credit application of any amount due for an Undisputed Claim against amounts due from the Contractor under the Contract Documents shall be deemed payment of the Undisputed Claim.
- 16.11.1.7 Subcontractor Claims.
- 16.11.1.7.1 Subcontractor Claim Submittal. If a Subcontractor, of any tier (collectively "Subcontractor") lacks legal standing to assert a Claim against the District because privity of contract does not

exist, the Contractor may present the District a Claim on behalf of the Subcontractor ("Subcontractor Claim"). Each Subcontractor requesting submittal of a Subcontractor Claim to the District shall furnish reasonable documentation to support the Subcontractor Claim. Within forty-five (45) days of receipt of a Subcontractor's written request to submit a Subcontractor Claim, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Subcontractor Claim to the District. If the Contractor did not present the Subcontractor Claim, the Contractor shall provide the Subcontractor with a statement of the reasons for not having done so.

16.11.1.7.2 Contractor Certification of Subcontractor Claim. The District's review of Subcontractor Claims is expressly subject to the Contractor's submittal of a duly completed and executed form of Contractor Certification of Subcontractor Claim certifying that the Contractor has thoroughly reviewed the Subcontractor Claim and based on the Contractor's review, certify that: (i) the Subcontractor Claim is made by the Subcontractor in good faith; (ii) the Subcontractor Claim is supported by reasonable documentation establishing entitlement to the relief requested and District liability therefor; and (iii) the Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code §12650 et seq). The form of Contractor Certification of Subcontractor Claim is included in the Contract Documents.

16.11.1.7.3 District Review of Subcontractor Claim. Subcontractor Claims presented by the Contractor to the District are subject to the Section 9204 non-binding dispute resolution procedures set forth above, as modified herein. Requests for the District to conduct Meet and Confer and/or non-binding mediation procedures must be submitted jointly by the Contractor and the Subcontractor submitting the Subcontractor Claim. If Mediation proceedings are initiated in connection with a Subcontractor Claim, mediator and mediation administration fees and costs shall be borne equally by the District, Contractor and Subcontractor.

16.11.1.7.4 Disputed Subcontractor Claims. Subcontractor Claims which are not fully resolved by the Section 9204 non-binding dispute resolution procedures shall be resolved by Section 20104.4 Dispute Resolution Procedures or binding arbitration, as applicable. Commencement of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings in connection with any Subcontractor Claim is subject to compliance with Government Code Claims requirements.

16.11.2 Government Code Claim Requirements. Pursuant to Government Code §930.6, any claim, demand, dispute, disagreement or other matter in controversy asserted by the Contractor, whether on behalf of itself or a Subcontractor, against the District for money or damages, including without limitation Claims or portions thereof remaining in dispute after completion of the Section 9204 non-binding dispute resolution procedures described above are deemed a "suit for money or

damages" and shall be subject to the provisions of Government Code §§945.4, 945.6 and 946 ("Government Code Claims Process"). An express condition precedent to the Contractor's initiation of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings pursuant to the following is the Contractor's compliance with the Government Code Claims Process, including without limitation, presentation of the claim, demand, dispute, disagreement or other matter in controversy between the Contractor and the District seeking money or damages to the District and acted upon or deemed rejected by the District in accordance with Government Code §900, et seq.

16.11.3 Section 20104.4 Dispute Resolution Procedures; Claims Less Than \$375,000. Any Claim, or portion thereof, in dispute after completion of the Section 9204 non-binding dispute resolution procedures and the Government Code Claims Process which is equal to or less \$375,000 shall be resolved in accordance with the civil action procedures established in Public Contract Code §20104.4. Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to Section 9204 procedures shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

16.11.4 Binding Arbitration of Claims Exceeding \$375,000.

16.11.4.1 JAMS Arbitration. Any Claim, or portion thereof in dispute after completion of the Section 9204 procedures and the Government Code Claims Process which exceeds \$375,000 and any other claims, disputes, disagreements or other matters in controversy between the District and the Contractor arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by binding arbitration conducted before a retired judge in accordance with the Construction Arbitration Rules and Procedures of Judicial Arbitration Mediation Services ("JAMS") in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for any arbitration commenced hereunder shall be the regional office of the JAMS closest to the Site.

16.11.4.2 Demand for Arbitration. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. If more than one Demand for Arbitration is filed by either the District or the Contractor relating to the Work or the Contract Documents, all Demands for Arbitration shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the District and the Contractor. The Contractor's Surety, a Subcontractor or Material Supplier to the Contractor and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with the Contractor, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the District and the Contractor, in which case an appropriate severance order shall be issued by the Arbitrator(s).

- 16.11.4.3 Discovery. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference.
- 16.11.4.4 Arbitration Award. The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon the District and the Contractor only if the Arbitration Award is: (i) supported by substantial evidence; (ii) based on applicable legal standards in effect at the time the Arbitration Award is issued; and (iii) supported by written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. Any Arbitration Award that does not conform to the foregoing is invalid and unenforceable. The District and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review, the Court determines either that the Arbitration Award does not fully conform to the foregoing. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be made by the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.
- 16.11.4.5 Arbitration Fees and Expenses. The expenses and fees of the Arbitrator(s) shall be divided equally among all of the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys' fees, witness fees and other costs or expenses incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators' fees but excluding attorneys' fees, to the prevailing party. By this arbitration provision, the District and the Contractor acknowledge and agree that neither shall recover from the other any attorney's fees associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder. The limited exceptions in the Contract Documents that provide attorney's fees for specific issues shall neither be construed as applying to this arbitration provision under California Civil Code § 1717(a) nor be deemed to be "authorized by the Laws."
- 16.11.4.6 Limitation on Arbitrator. The Superior Court for the State of California for the County in which the Project Site is situated has the sole and exclusive jurisdiction, and an arbitrator has no authority, to hear and/or determine a challenge to the commencement or maintenance of an arbitration proceeding on the grounds that: (i) the subject matter of the arbitration proceeding is barred by the applicable statute of limitations; (ii) the subject matter of the arbitration proceeding is barred by a provision of the California Government Claims Act; (iii) the subject matter of the arbitration proceeding is outside the scope of the arbitration clause; (iv) the Contractor has failed to satisfy all conditions precedent to commencement or maintenance of an arbitration proceeding; (v) waiver of the right to compel arbitration; (vi) grounds exist for the revocation of the arbitration agreement; and/or, (vii) there is the prospect that a ruling

in arbitration would conflict or potentially with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

- 16.11.5 Inapplicability to Bid Bond. The arbitration proceedings described above are not applicable to disputes, disagreements or enforcement of rights or obligations under the Bid Bond. All claims, disputes and actions to enforce rights or obligations under the Bid Bond shall be adjudicated only by judicial proceedings commenced in a court of competent jurisdiction.

16.12 Limitation on Special/Consequential Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by the breach or default of the District and shall exclude any and all special or consequential damages, if any. The Contractor expressly acknowledges the foregoing limitation to recovery of only general damages from the District if the District is in breach or default of its obligations under the Contract Documents; the Contractor expressly waives and relinquishes any recovery of special or consequential damages from the District.

16.13 Capitalized Terms. Except as otherwise expressly provided, capitalized terms used in the Contract Documents shall have the meaning and definition for such term as set forth in the Contract Documents.

16.14 Attorney's Fees. Except as expressly provided for in the Contract Documents, or authorized by the Laws, neither the District nor the Contractor shall recover from the other any attorney's fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder. This provision is not intended to expand the parties' right to recover attorneys' fees and the Parties hereby agree to waive, and by entering into the Agreement have waived, any and all right to claim attorneys' fees pursuant to Civil Code § 1717.

16.15 Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in the Contract Documents is deemed to be inserted herein and the Contract Documents shall be read and enforced as though such provision or clause are included herein, and if through mistake, or otherwise, any such provision or clause is not inserted or if not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.

16.16 Prohibited Interests. No employee of the District, who is authorized in such capacity on behalf of the District to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or subcontract in connection with the Work shall become directly or indirectly financially interested in the Work or any part thereof.

16.17 No Third Party Beneficiaries. The Parties do not intend that the Contract Documents confer any right or benefit on any person or entity not a party to the Agreement, whether as a third party beneficiary or otherwise.

16.18 Days. Unless otherwise expressly stated, references to "days" in the Contract Documents shall be deemed to be calendar days.

16.19 Entire Agreement. The Contract Documents contain the entire agreement and

understanding between the District and the Contractor concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements or amendments, whether written or oral. No amendment or modification to any provision of the Contract Documents shall be effective or enforceable except by an agreement in writing executed by the District and the Contractor.

**[END OF SECTION]**

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## SPECIAL CONDITIONS

1. **Application of Special Conditions.** These Special Conditions form a part of the Contract Documents for the Work generally described as: **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS, Bid No. 21E5BX361.**
2. **Drawings and Specifications.** The number of sets of the Drawings and Specifications which the District will provide to the Contractor, pursuant to Article 2.1.3 of the General Conditions is three (3) full size sets and two (2) half size sets. Additional sets of the Drawings and Specifications may be obtained by the Contractor from the District at the cost of reproduction.
3. **Insurance.**
  - 3.0 **Contractor Insurance.** Pursuant to Article 6 of the General Conditions, the Contractor shall obtain and maintain the following insurance coverages with minimum coverage amounts as set forth below:

Policy of Insurance	Minimum Coverage Amount
Commercial General Liability Insurance	Per Occurrence: Two Million Dollars (\$2,000,000)
	Aggregate: Four Million Dollars (\$4,000,000)
Automobile Liability	\$1,000,000
Workers Compensation	In accordance with the Laws
Employers Liability	One Million Dollars (\$1,000,000)
Contractor's Pollution Liability	Not Required
Builders Risk	Provided by District

- 3.1 **Subcontractor Insurance.** Pursuant to Article 6 of the General Conditions, each Subcontractor shall obtain and maintain the following insurance coverages with minimum coverage amounts as set forth below

Policy of Insurance	Minimum Coverage Amount
Commercial General Liability Insurance	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)
Automobile Liability	\$1,000,000
Workers Compensation	In accordance with the Laws
Employers Liability	One Million Dollars (\$1,000,000)
Contractor's Pollution Liability (As applicable, if Subcontractor's work involves SWPPP, the removal of asbestos, the removal/replacement of underground tanks or the removal of toxic chemicals and substances)	Not Required



- 3.2** *Deductable.* Contractor shall indemnify District against District's obligation to pay a deductible under insurance for Builder's Risk maintained by District for the benefit of Contractor; notwithstanding same, Contractor's obligation hereunder with respect to insurance for Builder's Risk shall be for the District's deductible of Fifty -Thousand Dollars (\$50,000).
- 3.3** *Additional Insureds.* Additional insured certificates and endorsements naming Simi Valley Unified School District for all required coverage shall be provided to the District by Contractor.
- 3.4** *Other requirements pertaining to insurance.*

DESCRIPTION OF OPERATIONS **must include the following wording:** "Simi Valley Unified School District, its officers, officials, employees, agents, and volunteers are hereby named as additional insured per endorsement attached."

CERTIFICATE HOLDER **must read as follows:**

Simi Valley Unified School District  
101 W. Cochran Street  
Simi Valley, CA 93065

CERTIFICATE MUST BE SIGNED

ADDITIONAL INSURED ENDORSEMENT (AIE):

ISO form "**CG 20 10 11 85**" or equivalent must be included.

**Name of Person or Organization on endorsement must show:** "Simi Valley Unified School District, its officers, officials, employees, agents, and volunteers."

INSURANCE CARRIER must have a current A.M. Best rating of no less than (financial strength /financial size) A-:VII if Admitted in the state of CA., or A:VIII if Non-Admitted.

- 4. Contract Time.** The Commencement Date for the Work shall be the date set forth in the Notice to Proceed ("NTP Date") issued by the District. The District intends, but cannot assure that the NTP Date will be issued on Monday, June 07, 2021. The Contractor shall achieve Final Completion of the Work within **Fifty-Five (55) Calendar Days**. The failure of a Contractor to achieve Final Completion within such time will subject the Contractor to Liquidated Damages as set forth in these Special Conditions.
- 5. Web-based Software, Schedules and Scheduling Software.** The District, at the sole discretion of the District may require the Contractor to utilize a Web-based software, **Procore**, that the District provides, for Contractor communication and collaboration with the District, Architect, Inspector, Testing Lab, and others, for the entire duration of the Project. Typical items that Contractor will have to transmit using the District's Web-based software include, but are not limited to construction schedules, submittals, RFI's Proposed Change Orders, Payment Applications, E-mails, documents and forms as required by DSA, meeting minutes, daily logs, and reports pertaining to the Project. Contractor shall include in Contractor's bid, all costs associated with Contractor's use of the District's Web-based software. The District shall provide and pay for the Web-based software and any licensing fees associated with the Web-based software. Contractor shall also include in Contractor's bid, any costs for training Contractor's personnel on use of the Web-based software. All Schedules to be provided by Contractor to District under Article 7.3 of the General Conditions shall be provided to District in printed form and electronically using a

software application required by the District. Contractor shall utilize MS Project scheduling software for this Project.

6. **Phases.** A Phase is a period of Contract Time during which Work shall be performed and completed at a discrete location of the Site. In addition to performing Work during normal shifts, Contractor shall perform work during evenings, weekends, and holidays to comply with the requirements set forth in the Table of Phases below without adjustment to Contract Time or Contract Price. The Table of Phases below sets forth the Phases by number, description and location of Work, commencement date, duration in calendar days, and liquidated damages per calendar day for failure of Contractor to achieve completion of a Phase within the duration for that Phase:

TABLE OF PHASES

<u>No.</u>	<u>Description &amp; Location of Work</u>	<u>Commencement Date</u>	<u>Duration in Calendar Days</u>	<u>Liquidated Damages</u>
1	Provide All Submittals	Upon receipt of the Notice of Award	14	\$100
2	Mobilization at Garden Grove Elementary School	Monday, June 07, 2021	1	\$100
3	<b>Construct all Work.</b>	Monday, June 07, 2021	55	\$400

7. **Location of Work.** The Work is located at **Garden Grove Elementary School, 2250 N. Tracy Avenue, Simi Valley California.**

8. **Temporary Fencing & Covers**

**8.0 Chain Link Fencing & Covers.** Contractor shall install and maintain temporary 6- feet high chain link fencing at all areas of Work. Rigid covers shall be placed over any trenches, in addition to securing the area with temporary chain link fencing.

9. **Contractor Access to Site for Performance of the Work:** Contractor shall be provided access to the areas of Work for construction of the improvements. Contractor shall not restrict the public's ordinary and daily use of the sidewalks, walkways, parking lots, drop-off areas, and buildings located immediately next to the areas where the improvements will be constructed. Contractor shall install and maintain all temporary protective measures necessary to accommodate the District's and public's use of these areas, while isolating the areas of work from the District and the public. The District will occupy the parking lot, sidewalks, buildings, and site throughout the duration of the Project.

10. **Site Work and Protections**

**10.0 Protection of Students, Staff, and the Public from Construction Areas.**

**Contractor and all subcontractors shall comply with the most recent recommendations and guidelines issued by the CDC for preventing the transmission of COVID-19.** Contractor shall protect students, staff, and the public from the Work of the Project. Contractor shall install temporary fencing and barricades to isolate the areas of Work from students, staff, and the public, who will be occupying the campus while the work of the Project is taking place. Contractor shall refrain from performing noisy work and dust producing work during the times

when students are taking state tests. Contractor shall obtain the school's state testing schedule from the District Representative prior to commencement of the Work.

- 10.1** *District and Public Access to Parking Lots, Paths-of-travel, Walkways, Buildings, and Site.* Contractor shall implement the work in a manner which allows parents, teachers, District staff, students, and the public to utilize the campus and its parking lots, buildings, vehicular access and drop-off routes, walkways, arteries to, from, and through the campus, while the work of the project is taking place. Contractor shall install and maintain all necessary temporary and protective measures to isolate Contractor's work areas from unauthorized access.
- 10.2** *Reference Drawings.* Reference drawings from the construction of various improvements in the vicinity of the work of the Project shall be requested and obtained from the District for Contractor's review prior to commencement of any digging work.
- 10.3** *Parking Lot and Traffic Mitigation Work.* Contractor shall not disrupt the District's routine use of the school's parking lots and its student drop-off and pickup areas, as well as the entries into and out of each parking lot at the campus. Contractor shall schedule all work and deliveries for times when the parking lots are not being used for drop-off or pickup of students. Contractor shall request and obtain from the District, schedules identifying the times when the parking lot is in use for student drop-off and pickup.
- 10.4** *Trenching, Demolition, Foundation, and Other Work.* All trenching, demolition, foundation, steel erection, paving, landscaping, and other work shall take place within areas secured and fenced by the Contractor. Contractor shall install temporary 6' high chain link fencing around all construction areas. Contractor shall position temporary fencing so as not to impede pedestrian, emergency vehicle, teacher, student, and public access to the sidewalks, parking lot, walkways and buildings. If any work necessitates temporary closure of the public sidewalk, Contractor shall comply with all applicable regulations governing such temporary closure.
- 10.5** *Disposal of Spoils.* Contractor shall properly remove and dispose of all excess soils, debris, and refuse from the project off site, in accordance with applicable regulations.
- 10.6** *Utilities.* Contractor shall not at any time interfere with or impair the normal operation of the utilities of any building or improvement on the campus, including but not limited to electrical, fire alarms, communications, data, water, irrigation, gas, and sewer without the prior written consent of District; notwithstanding receipt of such consent, Contractor shall not disrupt the instructional or administrative functions of the school at any time. Contractor shall provide 3-week's advance notice of the proposed day(s) and time of any Work which may affect any of the utilities, for coordination with the District. Contractor shall schedule such work for times when school is not in session, so that adequate time and resources can be used to restore utilities before school re-opens.
- 10.7** *Coordination of Work with Work of Other Contractors.* Contractor shall fully cooperate with the District and other contractors who may be performing work on other contracts at the campus, at the same time as Contractor is performing the

Work of this project.

## 11. Site Activity Limitations.

- 11.0 Contractor shall regulate the use of its forces and equipment as required against public or unauthorized access to the Work and to protect persons, the Work, and existing facilities from damage or injury.
- 11.1 Contractor shall regulate the use of its forces and equipment to prevent Contractor's activities from interfering with the instructional and administrative functions of the District. Contractor shall not impact the school's normal use of the parking lot and student drop-off and pickup zones and routes.
- 11.2 Contractor shall conform its conduct to the requirements of the City of Simi Valley with respect to work hours and noise levels. Contractor work hours are 7:00 AM – 7:00 PM Monday through Saturday.
- 11.3 Contractor shall limit its Work so as not to disturb persons beyond the boundaries of the Site.
- 11.4 All limitations on Work activities set forth in these Special Conditions shall be incorporated into and reflected in the Construction Schedules prepared by the Contractor pursuant to the Contract Documents.
- 11.5 No adjustment of the Contract Time or the Contract Price will be allowed due to limitations on Work activities at the Site set forth in these Special Conditions.

## 12. Liquidated Damages. The per diem rate of Liquidated Damages for delayed Substantial Completion, delayed submission of Submittals and delayed completion of Punchlist shall be as set forth herein.

- 12.0 *Delayed Final Completion.* The late Final Completion the Work will result in the assessment and withholding of Liquidated Damages for each day of late Final Completion beyond the Contract Time for Final Completion of the Work in the amount of **Four Hundred Dollars (\$400.00)** per calendar day.
- 12.1 *Delayed Phases.* The late completion of each Phase severally will result in the assessment and withholding of Liquidated Damages for each day of late completion of that Phase in the amounts indicated on the Table of Phases.
- 12.2 *Delayed Submittals.* The Contractor shall be subject to assessment and withholding of Liquidated Damages for late provision of submittals for the project in the amount of **One Hundred Dollars (\$100.00) per day per submittal until the submittals have been provided to the District.**
- 12.3 *Withhold of Liquidated Damages.* If at any time the Contractor is subject to assessment of Liquidated Damages for late Final Completion and/or late completion of Submittals, and/or late completion of Phases, or otherwise, the District may withhold such assessments from the Contract Price then or thereafter due the Contractor. If the assessment of Liquidated Damages exceeds the then remaining balance of the Contract Price, the Contractor and the Surety issuing the Performance Bond shall be jointly and severally liable to the District for assessed Liquidated Damages which exceed the then remaining balance of the Contract

Price.

**13. Allowances.**

- 13.0** *Definitions.* For the purposes of this Paragraph, an Allowance is a sum of money allocated for a discrete portion of additional Work. An Allowance Item is labor, materials, tools, equipment, utilities, services, and transportation necessary to complete in a workmanlike manner a discrete portion of additional Work.
- 13.1** *Requirements.* No expenditure for the Work shall be charged against an Allowance without the prior written consent of the District. The Allowance shall be included as a separate line item in the Cost Breakdown set forth at Article 8.2 of the General Conditions. Allowance Items are subject to Article 4.7 of the General Conditions re Submittals. Allowance Items shall be processed as Changes in accordance with Article 9 of the General Conditions. Any portion of the Allowance not expended for additional Work shall be credited to the District's account in accordance with Article 9 of the General Conditions re Changes.
- 13.2** *Performance.* The Allowance which may be expended for all of the Allowance Items for the Work is **Fifteen-Thousand Dollars (\$15,000.00)**. The Allowance Items for the Work are:
- 13.2.0** Removal and disposal of concealed or buried installations at the Site, not identified, depicted, or otherwise described in the Contract Documents, including piping, conduit, and utility services.
  - 13.2.1** Repair, disposal, replacement of concealed or buried building systems not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.2** Repair, disposal, replacement of concealed, buried or damaged building finishes not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.3** Repair, disposal, replacement of concealed or buried hazardous materials not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.4** Repair, disposal, replacement of items and materials identified in the field by the DSA Project Inspector or Regional Field Inspector not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.5** Installation of items and materials identified by the Engineer as required for Structural, ADA Accessibility Compliance, Fire/Life/Safety, or code compliance, not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.6** Repair, abatement, disposal, encapsulation, or replacement of deteriorated building or site elements, systems, or finishes which pose a risk to health or safety, or are required for code compliance, but are not identified, depicted or otherwise described in the Contract Documents.
  - 13.2.7** Other improvements as identified by the District, which are not identified, depicted or otherwise described in the Contract Documents, and are necessary for the proper function of the project.

- 14. Rain Days.** For purposes of Article 7.4.1 of the General Conditions, **Three (3)** Rain Days are expected during the Contract Time for the Work. The Contractor's Construction Schedules prepared pursuant to Article 7 of the General Conditions shall incorporate the Rain Days set forth above. There shall be no adjustment to the Contract on account of unusually severe weather conditions resulting from rainfall until the actual number of Rain Days exceeds the number of Rain Days set forth above.
- 15. Mark-Ups on Changes to the Work.**
- 15.0 Subcontractor Performed Changes.** For the portion of any Change performed by Subcontractors of any tier, the percentage mark-up on allowable actual direct labor and materials costs incurred by all Subcontractors of any tier shall be Fifteen Percent (15%). In addition, for the portion of any Change performed by a Subcontractor of any tier, the Contractor may add an amount equal to Five Percent (5%) of the allowable actual direct labor and materials costs of Subcontractors performing the Change; the foregoing mark-up shall not be applied to the Subcontractor mark-up.
- 15.1 Contractor Performed Changes.** For the portion of any Change performed by the Contractor's own forces, the mark-up on the allowable actual direct labor and materials costs of such portion of a Change shall be Fifteen Percent (15%).
- 15.2 Bond Premium Costs.** In addition to the foregoing mark-ups on the direct costs of labor and materials, a bond premium expense in an amount equal to the lesser of the Contractor's actual bond premium rate of One Percent (1%) of the total actual direct costs of labor and materials (before Subcontractor and Contractor mark-ups) will be allowed.
- 15.3 Exclusions From Mark-Up of Actual Costs.** Mark-ups on the actual cost of materials/equipment incorporated into a Change or for purchase/rental of Construction Equipment shall not be applied to any portion of such costs which are for sales, use or other taxes arising out of the purchase of materials/equipment and/or for purchase/rental of Construction Equipment. Similarly, mark-ups on the cost of labor incorporated into a Change shall not be applied to any portion of payroll taxes, fringe benefits and burdens. Profit, overhead and bond costs shall also be excluded from mark-ups.
- 16. Performance of Changes to the Work.** Contractor is not authorized to perform a Change to the Work unless and until directed by the District to do so. If and when the District directs Contractor to perform a Change to the Work, Contractor shall promptly commence and diligently complete such Work. The price for such Change to the Work shall be in accordance with Art. 9.5 of the General Conditions. If the District directs Contractor to perform the Work on a time and materials basis in accordance with Art. 9.5.1.2, Contractor shall provide the District copies of the records that Contractor is required to maintain under Art. 9.5.1.4. Contractor shall provide the District copies of such records weekly (or more frequently if required by the District) throughout the Contractor's performance of said Work. The District reserves the right to direct Contractor to perform Changes to the Work in a Constructive Change Directive in accordance with Art. 9.7.
- 17. Identification Badges.**
- 17.0 DOJ.** Except when there are no pupils present at the Site, no employee or independent contractor to the Contractor, nor any employee or independent contractor to any Subcontractor, of any tier, shall be permitted access to the Site nor to perform any Work at the Site until: (a) such person has submitted her/his fingerprints to the California Department of Justice ("DOJ") pursuant to Education Code § 45125.1; (b) the DOJ has ascertained, based upon the submitted fingerprints, that the individual has not been convicted of a felony defined in Education Code § 45122.1 and has no criminal felony proceedings (as defined in

Education Code § 45122.1) pending against her/him; (c) the Contractor or Subcontractor engaging the individual for the Work has received written or electronic verification from the DOJ of the absence of felony convictions and pending felony criminal proceedings; and (d) the Contractor or Subcontractor engaging such individual as an employee or independent contractor has submitted a Fingerprint Certification to the District specifically identifying such individual as having been verified by the DOJ as not having been convicted of a felony and not having pending criminal felony proceeding pending against her/him.

- 17.1 *Barriers and Supervision.* The provisions of Education Code § 45125.2(a) notwithstanding, erection and maintenance of physical barriers and/or continuous supervision and monitoring are insufficient measures to comply with the requirements of this Paragraph.
- 17.2 *ID Badges.* In addition to the DOJ fingerprint verification requirements pursuant to this Paragraph, no employee or independent contractor to the Contractor or any Subcontractor, of any tier, shall be permitted access to the Site at any time unless such individual wears, in a prominent visual manner, a photographic identification badge issued by the Contractor. The identification badge shall be prominently worn at all times while at the Site. Any person performing any Work at the Site without wearing a duly issued photographic identification badge will be immediately removed from the Site. The Contractor will issue photographic identification badges only to those individuals who are identified on a Fingerprinting Certification of the Contractor or a Subcontractor which has been submitted to the District.
- 17.3 *Unlawful Activities.* No unlawful activity is permitted at the Site. The sale, use, or consumption of alcoholic beverages or tobacco is not permitted at the Site. The identification badge of any person conducting himself in a manner inconsistent with this Paragraph shall be revoked.
- 17.4 *No Adjustment.* The Contractor's compliance with the requirements of this Paragraph and/or the District's enforcement of the requirements of this Paragraph shall not result in adjustment of the Contract Time or the Contract Price.
18. **Special Activity Days.** One (1) **Special Activity Day(s)** are expected during the Contract Time for the Work, for special instructional and/or administrative activities of the District which will limit or preclude Site access by Contractor. Contractor's Construction Schedules prepared pursuant to Article 7 of the General Conditions shall incorporate the Special Activity Days set forth above. There shall be no adjustment to the Contract Time or the Contract Price on account of limitations on or preclusions to Site access resulting from special District activities until the actual number of Special Activity Days exceeds the number of Special Activity Days set forth above.
19. **District Standards.** In accordance with California Public Contract Code section 3400, a designee of the District has made a finding that particular materials, products, things, and/or services are to be designated in the Contract Documents by specific brand or trade name for the following purpose: in order to match other products in use on a particular public improvement either completed or in the course of completion ("District Standards").
20. **District Tests/Inspections/ Meetings.** The Contractor shall fully cooperate with the District for any testing, inspection, coordination, or meetings required.
21. **Standardized Forms.** Each and every document generated and/or submitted by the

Contractor relating to cost breakdowns, applications for payment, change order requests, requests for information, submittals, verified reports, progress reports, and all other matters relating to the administration of the Work as set forth in the General Conditions, shall be prepared by the Contractor on such forms as may be directed by the District. Unless otherwise expressly provided for in the Contract Documents, all such documents shall be submitted to the District with such frequency, and using Web-based systems as the District may require in its sole reasonable discretion.

22. **Site Verification.** Prior to the commencement of the Work, the contractor shall complete a review of the site, to verify that the Construction Documents are adequate, feasible and complete for providing, performing and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. If any of the existing conditions are in conflict with the construction documents, the contractor shall notify the Architect, the Project Inspector, and the District of same in writing prior to the commencement of the Work.
23. **Permits and Fees.** Notwithstanding Article 2.1.2 of the General Conditions, the Contractor shall be solely responsible for obtaining, and shall pay for any permits required. The Contractor's compliance with the requirements of this Paragraph and/or the District's enforcement of the requirements of this Paragraph shall not result in adjustment of the Contract Time or the Contract Price.
24. **Cost Breakdown.** In addition to the requirements on Cost Breakdown at Article 8.2 of the General Conditions:
  - 24.0 Cost breakdown will be prepared in a manner that separately identifies all costs for each major component of construction. Major components include, but are not limited to caissons, drilling, groundwater mitigation, shoring, structural steel, roof decking, walls and footings, concrete pavement, asphalt pavement, landscaping, etc.
25. **Change Order Proposals.** In addition to the documentation required by Article 9.5.1.4 of the General Conditions, Contractor shall provide the following with respect to Change Order Proposals, as to Subcontractors of every tier: detailed cost breakdown documentation from Subcontractors, on Subcontractors' letterhead, showing Subcontractors' cost breakdown for materials, equipment, and labor, with each Change Order Proposal.
26. **Slurry Backfill at Paved Areas.** Contractor shall backfill any trench that crosses an existing paved area, or area that will receive new pavement, with 1 1/2-sack cement slurry, up to the bottom of the pavement. This requirement applies to areas that have existing concrete pavement, as well as areas that have existing asphalt pavement.
27. **Cleaning.** At all times during Contract Time, Contractor shall maintain the Work areas and all adjoining areas in a neat and clean condition. Broom clean daily, and wet clean once a week on Fridays. Promptly remove and properly dispose of all construction debris.
28. **Rules of Operations.** In addition to any other rules of operations required of the Contractor by the District, Contractor shall comply with the rules of operations set forth in this Paragraph.
  - 28.0 *Vehicles on School Grounds.* This Paragraph applies to the use of vehicles on all school grounds operated by the District.

28.0.0 The District may in its sole discretion bar from school grounds any person



found in violation of the requirements of this Paragraph.

**28.0.1** No vehicle shall be driven more than three (3) miles per hour.

**28.0.2** When children are utilizing play areas, movement of a vehicle must be coordinated with a District representative. A person must walk beside or in front of the vehicle until it reaches the desired location.

**28.0.3** Drivers shall yield the right of way to pedestrians at all times.

**28.0.4** If the driver of a vehicle is alone, the driver must engage an additional person to guide the vehicle to a location that will best protect children. That person must walk beside or in front of the vehicle until it reaches the desired location.

**28.0.5** When directed to stop by any school or District representative, the vehicle will stop immediately and not proceed further without authorization to do so.

**28.0.6** All traffic routes must be pre-authorized by a school or District representative, to prevent damage to school property such as gates, irrigation sprinklers, signs, landscaping, and turf.

**29. Contractor Temporary Trailer.** *Construction Trailer or Field Office.* Contractor is not required to provide a temporary trailer or field office for this project. If Contractor elects to provide a temporary trailer, it shall be at Contractor's sole expense. On-site location of Contractor's temporary trailer shall require approval by the District.

**30. Trailer for District.** (Not required)

**31. Facilities/Services for Project Inspector.** (Not Required)

**32. Contractor Temporary Sanitation Facilities.** Contractor shall provide, secure, and have cleaned at least twice per week, temporary toilet and hand washing facilities for Contractor and for Subcontractors of any tier. Location of temporary sanitation facilities shall be submitted to the District Representative for approval prior to placement.

**33. Security.** In addition to the security requirements set forth elsewhere in the Contract Documents, the Contractor shall:

**33.0** Contractor shall be issued a gate key for access to the site(s). Contractor shall return gate key(s) to the District upon completion of the Work. Contractor shall be subject to a charge of Three-Hundred Dollars (\$300) for loss of a gate key, which may be deducted from retention monies held by the District under this Contract. If the Contractor needs access to the buildings for construction of the work of the project, Contractor shall be issued a key for the buildings at the Site. The key must not be duplicated, and the Contractor is responsible for returning the key to each site's buildings to the District when the Work is completed. If a building key is lost, stolen, or cannot be returned to the District for any reason, Contractor shall be charged \$3,500 per elementary school, \$4,500 per middle school, and \$5,500 per high school for the cost to re-key any school. The keys must not be duplicated, and the Contractor is responsible for returning the keys to the District when the Work is completed.

- 34. Retention.** Any request for Final Payment shall include a request for any retention from Progress Payments previously withheld by the District. Within 60 days after District's receipt of a request for Final Payment, if Final Completion has been achieved in accordance with Art. 7.2.4 of the General Conditions and, if completion has been achieved as that term is used at Public Contract Code section 7107, District shall notify Contractor of the amount, if any, to be withheld from retention pursuant to Public Contract Code section 7107 or section 22300.
- 35. Progress of the Work.** Notwithstanding any other provision of the Contract Documents, if the Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment, tools and/or services to maintain the progress of the Work, the District may, in its sole discretion, after seventy-two (72) hours advance written notice of same from the District to the Contractor, direct, instruct, and authorize a separate contractor selected by the District to furnish such materials, labor, equipment, tools and/or services necessary to maintain progress of the Work. The District may in its discretion deduct the amount of any and all costs, expenses, and/or other charges incurred thereby from the Contract Price then or thereafter due the Contractor.
- 36. Vegetation Removal/Vegetation Trimming.** Removal of vegetation is required as part of the Work of this Contract.
- 37. Existing Improvements/Conditions.**
- 37.0** *Verification of Existing Improvements/Conditions.* Prior to commencement of any portion of the Work, the Contractor shall review the Contract Documents and the existing improvements/conditions in, on or about the area(s) for such portion of the Work to confirm that the actual existing improvements/conditions are consistent with the existing improvements/conditions depicted in the Contract Documents. If any discrepancies exist between actual existing improvements/conditions and those depicted in the Contract Documents, the Contractor shall, prior to commencement of Work in such area notify the District Representative and the Architect, in writing of such variation; as necessary or appropriate, the Contractor shall obtain clarification or direction from the District Representative and/or the Architect to address such variations.
- 37.1** *Damage or Destruction to Existing Improvements/Conditions.* If any portion of the Work results in damage or destruction to any existing improvements or conditions in, on or about the Site, the Contractor shall: (i) notify the District Representative and the Architect in writing within four (4) hours of the occurrence of an event of damage or destruction and (ii) repair, replace or otherwise correct such damage/destruction and restore the existing improvements/conditions to the condition existing immediately prior to such damage or destruction at the sole cost and expense of the Contractor without adjustment of the Contract Price or the Contract Time. The foregoing notwithstanding, the Contractor shall not, and shall not permit others to, backfill or cover-up any damage or destruction to existing improvements/conditions without prior notice by the Contractor to the District of backfilling or covering-up of damage/destruction and the District's authorization to proceed with backfilling or covering-up.
- 37.2** *No Use of Existing Facilities.* The personnel of the Contractor, Subcontractors and other performing Work at the Site shall not use any existing facilities, improvements in, on or about the Simi Valley Unified School District campus, including without limitation, trash/rubbish bins/dumpsters, restrooms, food service areas, loading/storage areas and other similar areas.

- 37.3 Vehicular Access.** Construction activities which limit or prevent access to existing vehicular roadways or existing parking areas shall be performed only during non-school hours. Performance of Work in such areas during non-school hours shall be without adjustment of the Contract Price or the Contract Time, and shall be coordinated with the City of Simi by Contractor when such areas involve public streets.
- 37.4 Fire, Police, Emergency Access.** Each Contractor shall at all times during the Work provide unimpeded vehicular access for the police, fire and other emergency services in and around the Site and adjacent areas. Each Contractor shall provide the District, Construction Manager and any other public agency designated by the District with keys/codes/card keys to any Site perimeter locks.
- 38. Discovery of Archeological Resources.** If, during the Work, the Contractor encounters materials which are or may be an Archeological Resource (as that term is used and defined in California Public Resources Code §21083.2), the Contractor shall take action as set forth herein.
- 38.0 Contractor Responsibility.** Upon encountering such materials, the Contractor shall: (i) immediately cease Work and any other activity which will or may result in disturbances of the area(s) where such materials are encountered; (ii) immediately notify the Architect, Project Inspector and District in writing of the encountering of such materials; and (iii) take appropriate measures, including any directed or authorized by the District to cordon-off the area(s) in which such materials are encountered to prevent access to, and further disturbance of such area(s), pending determination of whether such materials are Archeological Resources and direction from the District regarding resumption of Work in such area(s).
- 38.1 District Investigation.** Upon receipt of such written notice from the Contractor, the District shall promptly investigate and determine whether the materials encountered constitute Archeological Resource(s), and if so, whether such materials are Unique or Non-Unique Archeological Resources. Upon completing such investigation, the District shall notify the Contractor in writing of the results of such investigation, along with direction for resumption of the Work or further suspension of the Work in such area(s), pending completion of archeological mitigation measures.
- 38.2 Contractor Continuation of Work.** If it is determined that the materials are not Archeological Resources or are Non-Unique Archeological Resources (as that term is used and defined in California Public Resources Code §21083.2(h)), the District shall notify the Contractor in writing of such conclusion. Upon receipt of such notice from the District, the Contractor shall immediately resume the Work in the area(s) where potential Archeological Resources were encountered. If it is determined that the materials are Unique Archeological Resources (as that term is used and defined in California Public Resources Code 12083.2(g)), the District shall notify the Contractor in writing of such conclusion. In such event, the Contractor shall defer further Work in such area(s) pending the District's completion of archeological mitigation measures and direction or authorization from the District to resume Work in such area(s).
- 38.3 Adjustment of Contract Time for Encountering Actual or Potential Archeological Resources.** If the Contractor encounters materials which are or may be Archeological Resources and the Work is suspended pending the District's investigation of such materials to ascertain whether or not such materials constitute Archeological Resources and the suspension of Work in such area(s) directly delays

performance of activities on the Critical Path of the then current Master Project Schedule, such suspension of the Work shall be deemed an Excusable Delay (as that term is used and defined in Article 7.4.1 of the General Conditions). The Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Contractor's Critical Path activities are delayed by such suspension. The Contract Price due the Contractor shall not be subject to increase or other adjustment on account of suspension of Work as a result of encountering materials which are or may be Archeological Resources.

- 38.4** *Adjustment of Contract Time for Encountering Unique Archeological Resources.* If the Contractor encounters materials which are determined to be Unique Archeological Resources and the Work is suspended pending the District's archeological mitigation activities and the suspension of Work in such area(s) directly delays performance of activities on the Critical Path of the then current Master Project Schedule, such suspension of the Work shall be deemed an Excusable Delay (as that term is used and defined in Article 7.4.1 of the General Conditions). The Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Contractor's Critical Path activities are delayed by such suspension. The Contract Price due the Contractor shall not be subject to increase or other adjustment on account of suspension of Work as a result of encountering materials which are determined to be Unique Archeological Resources.
- 38.5** *Adjustment of Contract Price.* The extent to which, if any, the Contract Price due the Contractor is subject to adjustment as a result of encountering actual or potential Archeological Resources shall be limited as set forth herein. Adjustment of the Contract Price shall be limited to activities necessary to secure the area(s) in which actual or potential Archeological Resources are encountered from further access or disturbances. The extent of adjustment of the Contract Price shall be limited to the allowable costs and mark-ups thereon for Changes to the Work, as set forth in the Contract Documents.
- 38.6** *Contractor Continuation of Work In Other Areas.* The foregoing provisions shall not excuse nor limit, waive or modify the Contractor's obligation to diligently proceed with performance of Work in all areas of the Site unaffected by the encountering of materials which may be Archeological Resources.
- 39. Similar Conditions.** The intent of the Contract Documents is to provide a fully functional finished product, complete in every respect. Where a specific detail is not shown, the construction shall be similar to that indicated or noted for similar conditions and cases of construction on this project. References of notes and details to specific conditions and locations shall not limit their applicability. Materials for similar use shall be of the same type and manufacturer, unless otherwise indicated or specifically specified to be different in the Contract Documents. Any deviation must be approved in writing, by the Architect prior to incorporation into the Work.
- 40. Applicable Codes.** All work shall conform with the most recent edition of the California Building Code as adopted and amended DSA and the Laws. All Work shall conform to all applicable requirements set forth in Titles 21 and 24 of the California Code of Regulations. No part of the Contract Documents shall be construed as requiring or permitting Work contrary to the requirements of the Laws.
- 41. Handicap Access Regulations.** The Contractor and all Subcontractors shall comply with Title 24 of the California Code of Regulations relating to Disabled Access Regulations and

ADA, Americans With Disabilities Act Regulations whether or not specifically indicated on the Contract Documents. Where existing paths of travel are interrupted due to construction, the Contractor, without adjustment to Contract Price or Contract Time, shall maintain barrier-free paths of travel.

- 42. Conflicts in Drawings and Specifications.** In addition to the provisions of Article 1.12.3 of the General Conditions the following shall apply:

Inclusion of conflicting Items: Where an item or portion of the Work is described in conflicting or different terms, the Contractor shall provide without adjustment of the Contract Price, the highest cost alternative that can be reasonably inferred from the Contract Documents, as determined by the Architect.

- 43. Locked Door Policy.** In addition to the security requirements set forth elsewhere in the Contract Documents, the Contractor must adhere to a Locked Door Policy. No building room, site gate, or fencing shall be left unsecured for any period of time when not occupied by the Contractor and/or after the Contractor's daily work hours.

**[END OF SPECIAL CONDITIONS]**

**RELEASE OF CLAIMS BY CONTRACTOR****Public Contract Code section 7100**

District: Simi Valley Unified School District

Contractor: \_\_\_\_\_

Project: **GARDEN GROVE ES KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**  
**Bid No. 21E5BX361**

In accordance with Public Contract Code section 7100, the Contractor hereby releases all claims against the District arising by virtue of the prime contract for the Project between the Contractor and District, except that specifically excluded from the operation of said release are disputed contract claims made by the Contractor, arising by virtue of the prime contract for the Project between the Contractor and District, in the total sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

Included in the scope of said release by the Contractor are any pass-through claims of the Contractor on behalf of any subcontractor of the Contractor on the Project, of any tier, with respect to, arising out of, or relating to the Project.

The Contractor hereby acknowledges that the Contractor is informed of the contents and meaning of Civil Code section 1542, and the Contractor hereby waives any and all rights or benefits conferred under Civil Code section 1542.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**VERIFICATION**

I, \_\_\_\_\_, declare and state as follows:

I am the \_\_\_\_\_ (title) of \_\_\_\_\_ (name of Contractor), the Contractor named in the foregoing Release of Claims by Contractor. I have read the foregoing Release of Claims by Contractor and know the contents thereof, which I certify to be true to my own personal knowledge. I am authorized to execute and deliver the foregoing Release of Claims by Contractor on behalf of the Contractor.

Executed this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_ at \_\_\_\_\_ (city and state) .

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
(Signature of Declarant)

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**CONTRACTOR CERTIFICATION OF SUBCONTRACTOR CLAIM**

Project Name: \_\_\_\_\_

Project No: \_\_\_\_\_

Pursuant to Article 16.11.1.7.2 of the General Conditions, I certify as follows:

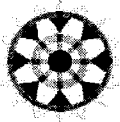
1. The portion of the Claim made on behalf of the Subcontractor to which this certification is attached is made in good faith.
2. I have reviewed the attached Subcontractor Claim and certify that to the best of my knowledge and belief, the amounts claimed for costs, expenses and damages incurred and supporting data submitted to CM/Contractor by the Subcontractor on behalf of any and all subcontractors or suppliers to Subcontractor, of all tiers, or any person or entity under Subcontractor, are accurate and complete. Subcontractor will not submit, after the date of execution of this certification, any such supporting data, including any such new amounts that, to the best of my knowledge and belief, that are not accurate and complete.
3. The amount requested accurately reflects the amount for which the Subcontractor believes the District is liable to Contractor.
4. The Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code §12650 et seq).
5. I am duly authorized to certify the Subcontractor Claim on behalf of the Contractor.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at: \_\_\_\_\_, in the State of California, on \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Print Name)\_\_\_\_\_  
(Title)\_\_\_\_\_  
(Name of Contractor)





## Rules of Conduct

### Project: Garden Grove ES Kindergarten Area Landscape Improvements

Each contractor and subcontractor performing work on this project shall adhere to the following rules of conduct:

1. **All construction personnel will wear masks and appropriate protective gear to prevent transmission of COVID-19. If any worker has symptoms associated with COVID-19, the worker shall not continue working at the site. Continuously ensure that all workers are at least 6 feet away from each other at all times except for when essential assistance is required. Workers to be at least 6 feet apart during lunch and other breaks.**
2. Professional and courteous behavior is expected and will be used at all times.
3. Interaction with students, staff, and/or other visitors is prohibited with the exception of designated administrators.
4. The use of profanity and/or disparaging language will not be tolerated.
5. All contractors, subcontractors, architects, engineers or consultants will be required to wear a badge issued by their company as a means of identification. The badge is to be worn at all times while on the Owner's property. The badge will be visibly noticeable and located on the front of the individual's shirt. All badges are required to be returned to the Owner or designee at the completion of the project as part of the final pay application requirements.
6. All contractors and subcontractors:
  - a. Shall remain in the immediate vicinity of his/her work and will not stray to other areas of the property that do not involve their company's scope of work. All restroom facilities, including student and staff, are not to be used. The contractor is responsible for mobilizing to the construction site, their own portable restroom. Specific rules regarding the portable restroom are indicated in the General Conditions.
  - b. During the regular school year, each school holds classes during daytime hours. Students and staff shall be given unimpeded access to and from the classrooms and administrative areas at all times when classes are being held. Contractors and subcontractors shall not disrupt the existing utilities, which serve the classrooms and administrative offices during the course of the work. Any outages shall be scheduled with the District Project Coordinator at least 1-month in advance of the planned outage.
  - c. Vehicles must be parked each day in the designated area(s). When vehicles need to be removed during school hours, the vehicles shall have lights and flashers

engaged, and a “spotter,” provided by the contractor and/or subcontractor, leading the vehicle off the District’s property. At no time will the vehicle exceed 5 mph.

7. **Simi Valley Unified School District** properties are drug free workplaces. This policy shall be strictly enforced.
8. Alcoholic beverages are prohibited from being brought on or consumed on any portion of the Owner’s property.
9. The use of any tobacco products on the Owner’s property is strictly prohibited.
10. Any lewd, obscene or otherwise indecent acts, words, or behavior by any contractor, subcontractor, architect, engineer or consultant shall not be tolerated.
11. All contractors, subcontractors, architects, engineers or consultants shall conform to a dress code whereby:
  - a. No clothing that contains violent, suggestive, derogatory, obscene or racially based material may be worn. This interpretation will be made by the Owner or designee.
  - b. Garments, accessories or personal grooming artifacts with slogans, graphics or pictures promoting drugs, alcohol, tobacco or any other controlled substances that are prohibited to minors will not be allowed.
  - c. Tank top/mid-drift shirts and shorts of any kind are not allowed while on the Owners property.
12. All contractors, subcontractors, architects, engineers or consultants are responsible for their own means of communication including, but not limited to, telephone, cell phone, fax machine. At no time are the Owner’s communication systems to be used.
13. All contractors, subcontractors, architects, engineers or consultants personal vehicles, as well as work vehicles and equipment, are the responsibility of the individual and/or company. Any damage that occurs to the vehicles and/or equipment while on the Owner’s property is not the responsibility of the Owner and, therefore, any said claims for damages will not be acknowledged.

**Non-compliance with any of the above-stated rules of conduct by any contractor, or subcontractor may be sufficient grounds for immediate removal from the job site and termination of the contract.**

I acknowledge that I am aware of the above-stated rules of conduct and hereby certify that all of my Company’s employees, consultants, suppliers, and/or any subcontractors will adhere to these provisions. I further acknowledge that any delays to the schedule perceived or otherwise, as a result of the Owner/designee removing my employee from the job site, are my company’s responsibility.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

**SUBSTITUTION REQUEST**  
(During the Bidding/Negotiating Stage)

Project: _____ Simi Valley, CA	Substitution Request Number: _____
	From: _____
To: _____	Date: _____
	Bid: _____
Re: _____	Contract For: Simi Valley Unified School District

Specification Title: _____	Description: _____
Section: _____ Page: _____	Article/Paragraph: _____

Proposed Substitution: \_\_\_\_\_

Manufacturer: \_\_\_\_\_ Phone: \_\_\_\_\_

Trade Name: \_\_\_\_\_

Description of attached product information:

**The Undersigned certifies:**

- Proposed substitution has been fully investigated and determined to be equal or superior in all respects to specified product.
- Same warranty will be furnished for proposed substitution as for specified product.
- Same maintenance service and source of replacement parts, as applicable, is available.
- Proposed substitution will have no adverse effect on other trades and will not affect or delay progress schedule.
- Proposed substitution does not affect dimensions and functional clearances.

Submitted by: \_\_\_\_\_

Signed by: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone & E-mail: ( \_\_\_\_\_ )

**Architect's REVIEW AND ACTION**

- ☐ Substitution approved - Make submittals in accordance with Specification Substitution Procedures.
- ☐ Substitution approved as noted - Make submittals in accordance with Specification Substitution Procedures.
- ☐ Substitution rejected - Use specified materials.
- ☐ Substitution Request received too late - Use specified materials.

**Signed by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Supporting Data Attached: ☐ Drawings ☐ Product Data ☐ Samples ☐ Tests ☐ Reports ☐ \_\_\_\_\_

**GUARANTEE, and CERTIFICATION OF NON-ASBESTOS,  
NON-LEAD**

**Bid No.**

Guarantee for the \_\_\_\_\_ project.  
We hereby guarantee that the MATERIALS, PRODUCTS, CABLES, PAINTS, COATINGS and  
IMPROVEMENTS we have installed in this project at \_\_\_\_\_  
do not contain Asbestos or Lead.

Countersigned

\_\_\_\_\_  
(Proper Name)

\_\_\_\_\_  
(Proper Name)

\_\_\_\_\_  
By

\_\_\_\_\_  
By

\_\_\_\_\_  
(Signature of Subcontractor or General Contractor)

\_\_\_\_\_  
(Signature of General Contractor If for  
Subcontractor)

Representatives to be contracted for service:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\_\_\_\_\_  
CERTIFICATION OF NON-ASBESTOS, NON-LEAD

## REQUEST FOR TAXPAYER IDENTIFICATION NUMBER and CERTIFICATION

Please type or Print

<b>Business Name</b>	
<b>Address (Number &amp; Street)</b>	<b>List Account numbers here ((Optional)</b>
<b>City, State, and Zip Code</b>	

**Taxpayer Identification Number (TIN)**

<b>Social Security Number:</b>  _ _ _ - _ _ - _ _ _
---

OR

<b>Employer Identification Number:</b>  _ _ - _ _ - _ _ - _ _ - _ _
---

**Certification** - Under Penalties of perjury I certify that:

- (1) The Number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of failure all interest or dividends, or © the IRS has notified me that I am no longer subject to backup withholding.

**Certification Instructions** - You must cross our item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item (2) does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, contributions to an individual retirement arrangement (IRA) and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct **TIN**.

Please sign here:	
Signature _____	Date _____

**DO NOT** send this form to IRS. Give this form to requester.



SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT ALLOWANCE PROPOSAL AUTHORIZATION

School Name:

Project Name:

To: *Program Mgr*

From: *Contractor*

Tony Joseph

P.O. Number:

Initiation Date:

Allowance Authorization No.:

Project Number:

Bid Number:


Description of Item(s) to be charged to Contract Allowance is as follows:


**Total**

\$

-

A. Original Contract Allowance

B. Net Allowance Disbursements previously authorized

C. Charges to Contract Allowance as a result of this authorization

D. Current Contract Allowance Balance including this authorization

\$ -
\$ -

Contractor

Architect

Project Coordinator

Construction Project Manager

Bond Program Manager

Associate Superintendent, Business & Facilities

Name (Printed)

Name (Printed)

Name (Printed)

JEFF KIPP  
Name (Printed)

TONY JOSEPH  
Name (Printed)

RON TODO  
Name (Printed)

Date

Date

Date

Date

Date

Date



Simi Valley Schools  
COMMUNITY EDUCATION CENTER

Submit Four (4) originals with Contractor's Letterhead

# APPLICATION FOR PAYMENT

TO:	TONY JOSEPH (Bond Program Manager)	SCHOOL NAME:		APPLICATION NO.:	
FROM:		PROJECT NAME:		APPLICATION DATE:	
		PROJECT NO.:		PERIOD TO:	
		ARCHITECT:		CONTRACT START DATE:	
				BID NUMBER:	

## CONTRACTOR'S APPLICATION FOR PAYMENT

1. ORIGINAL CONTRACT AMOUNT	\$	0.00
2. Net Change by Change Orders	\$	0.00
3. CONTRACT AMOUNT TO DATE (Line 1 + Line 2)	\$	0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on Continuation Sheet)	\$	0.00
5. RETAINAGE: a. 5% of Completed Work (Line 4)	\$	-
TOTAL RETAINAGE	\$	0.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$	0.00
7. LESS PREVIOUSLY APPROVED CERTIFICATES FOR PAYMENT (Line 6 from prior Application for Payment)	\$	
8. CURRENT PAYMENT DUE (Line 6 less Line 7)	\$	0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	0.00

## CERTIFICATION

Under penalty of perjury under the Laws of California, I certify that all items, units, quantities and prices for work shown on this payment request are correct; that all work has been performed and materials supplied in full accordance with the terms and conditions of the construction contract on this project; that all of the information set forth herein or attached hereto is a true and correct statement of the Contract Amount and the Contract Time up to and including the last day of the period covered by this invoice, and that no part of the "Current Payment Due" has been received.

Contractor:

(Please print name of company)

(Name and title)

(Contractor's Signature)

(Date)

## REVIEWED AND APPROVED AS PER TERMS OF CONTRACT

Owner Use Only:

TOTAL WITHHOLDS (from Owner Assessment Summary):	\$		(Signature)	(Date)
TOTAL RELEASES (from Owner Assessment Summary):	\$		(Signature)	(Date)
ADJUSTED PAYMENT AMOUNT:	\$		(Signature)	(Date)
Inspector of Record			(Signature)	(Date)
Project Coordinator			(Signature)	(Date)
JEFF KIPP			(Signature)	(Date)
Construction Project Manager			(Signature)	(Date)
TONY JOSEPH			(Signature)	(Date)
Bond Program Manager			(Signature)	(Date)
RON TODO			(Signature)	(Date)
Associate Superintendent, Business & Facilities			(Signature)	(Date)

## Change Order Being Invoiced

## Allowance Being Invoiced

IF SO, PROVIDE:

☐ COP Included

☐ RFI Included

☐ CCD Included (Construction Change Directive)

☐ Drawing Changes Included

☐ Sub-contractor Proposal Included

## Continuation Sheet- APPLICATION FOR PAYMENT

Project Name

APPLICATION FOR PAYMENT containing Contractor's signed Certification must be attached. Use Column I on Contracts where variable retainage for line items may apply.

SCHOOL NAME:

APPLICATION NO.:

PROJECT NO.:

APPLICATION DATE:

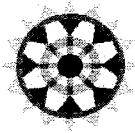
BID NO.:

PERIOD FROM:

PERIOD TO:

A	B	C	D	E	F		G	H	I
Item No.	SUMMARY  Description of Work  Note: (SOV must be itemized in further detail by building and area)	Scheduled Value	Previous Applications	WORK COMPLETED This Application		Stored Mts.	Total Completed & Stored To Date	Balance To Finish	Retainage (5%)
				Work in Place	%				
1	General Conditions						0.00	0.00	0.000
2	Site Work						0.00	0.00	0.000
3	Concrete Pavement						0.00	0.00	0.000
4	Concrete Stairs & Railing						0.00	0.00	0.000
5	Fencing						0.00	0.00	0.000
6	Irrigation Systems						0.00	0.00	0.000
7	Landscaping						0.00	0.00	0.000
8	Other Items						0.00	0.00	0.000
9	Other Items						0.00	0.00	0.000
10	Other Items						0.00	0.00	0.000
11	Other Items						0.00	0.00	0.000
	ALLOWANCES:						0.00	0.00	0.000
	SUBTOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	APPROVED CHANGE ORDERS TO DATE Change Order #1						0.00	0.00	0.00
							0.00	0.00	0.00
							0.00	0.00	0.00
							0.00	0.00	0.00
							0.00	0.00	0.00
	NET CHANGE ORDER SUBTOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	TOTALS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -





SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT

Bid No. \_\_\_\_\_

(Project Name) \_\_\_\_\_

### CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT California Civil Code Section 8132

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

#### Identifying Information

Name of Claimant: Contractor  
Name of Customer: Simi Valley Unified School District  
Job Location:  
Owner: Simi Valley Unified School District  
Through Date:

#### Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: Simi Valley Unified School District  
Amount of Check: \$  
Check Payable to: Contractor Company Name

#### Exceptions:

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release:

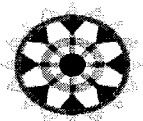
Amount(s) of unpaid progress payment(s): \$

- (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

#### Signature

Claimant's Signature: \_\_\_\_\_ Date of Signature: \_\_\_\_\_

Claimant's Printed Name: \_\_\_\_\_ Claimant's Title: \_\_\_\_\_



SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT

Bid No.:

(Project Name)

### UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

California Civil Code Section 8134

**NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.**

#### Identifying Information

Name of Claimant:

Name of Customer: Simi Valley Unified School District

Job Location:

Owner: Simi Valley Unified School District

Through Date:

#### Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment: \$

#### Exceptions:

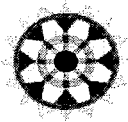
This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

#### Signature

Claimant's Signature: \_\_\_\_\_ Date of Signature: \_\_\_\_\_

Claimant's Printed Name: \_\_\_\_\_ Claimant's Title: \_\_\_\_\_



SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT

Bid No. \_\_\_\_\_

(Project Name) \_\_\_\_\_

### CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

California Civil Code Section 8136

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

#### Identifying Information

Name of Claimant: Contractor  
Name of Customer: Simi Valley Unified School District  
Job Location:  
Owner: Simi Valley Unified School District

#### Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: Simi Valley Unified School District  
Amount of Check: \$  
Check Payable to: Contractor

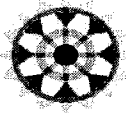
#### Exceptions:

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$

#### Signature

Claimant's Signature: \_\_\_\_\_ Date of Signature: \_\_\_\_\_  
Claimant's Printed Name: \_\_\_\_\_ Claimant's Title: \_\_\_\_\_



SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT

Bid No. \_\_\_\_\_

(Project Name) \_\_\_\_\_

### UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

California Civil Code Section 8138

**NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.**

#### Identifying Information

Name of Claimant: \_\_\_\_\_

Name of Customer: Simi Valley Unified School District

Job Location: \_\_\_\_\_

Owner: Simi Valley Unified School District

#### Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

#### Exceptions:

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_

#### Signature

Claimant's Signature: \_\_\_\_\_ Date of Signature: \_\_\_\_\_

Claimant's Printed Name: \_\_\_\_\_ Claimant's Title: \_\_\_\_\_



# SIMI VALLEY UNIFIED SCHOOL DISTRICT

## CHANGE ORDER PROPOSAL (COP)

School Name:

Project Name:

To: Name & Title

From: Contractor

Date:

COP Number:

Project Number:

Bid Number:

### Description of Work:

#### A. Subcontractor Cost of the Work:

	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -

Subtotal A: \$ -

#### B. Contractor Cost of the Work:

Payroll Costs (See attached supporting documentation.)	\$ -
Materials and Equipment (See attached supporting documentation.)	\$ -
Consultant Costs (See attached supporting documentation.)	\$ -
Supplemental Costs (See attached supporting documentation.)	\$ -

Subtotal B: \$ -

#### C. Contractor Fee: (As per General Conditions)

Subtotal C: \$ -

Total = (A + B + C)

Total: \$ -

☐ The proposal would ☐ Increase ☐ Decrease the Contract Time by  calendar days.

☐ The proposal does NOT affect the Contract Time.

Contractor's Signature:

Printed Name & Title

Date

Follow all applicable procedures and provide all appropriate documentation as required by the Contract Documents.



## CHANGE ORDER (CO)

From:

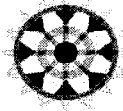
Date:

Bid Number:

\$

## Project Manager Initials:

Change Order 6.30.5  
Rev. 08/20/19



SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT

### CONSTRUCTION DIRECTIVE (CD)

School Name:

Project Name:

To: (Contractor)

From:

Date:

CD Number:

Project Number:

Bid Number:

You are hereby directed to proceed as follows:

#### Description:

#### Proposed Adjustments:

1 The proposed basis of adjustment to the Contract Sum or Guaranteed Maximum Price is:

- ☐ Lump Sum increase/decrease of \$ \_\_\_\_\_
- ☐ Unit Price of \$ \_\_\_\_\_ per \_\_\_\_\_
- ☐ As provided in Section 7.3 of the General Conditions
- ☐ As follows: On a time and material basis with a "not to exceed" amount of \$ \_\_\_\_\_

2 The Contract Time is proposed to (be adjusted). The proposed adjustment, if any, is (an increase of \_\_\_\_\_ days)

If Contractor contends that this Construction Directive establishes a basis for any adjustment in the Contract Amount, Milestones and/or Contract Time, the Contractor shall submit, pursuant to Section 9.3 of the General Conditions, a detailed written statement (utilizing the Change Order Proposal form) within **30 days** of the date of issuance of this CD.

#### Authorized By:

Architect: \_\_\_\_\_  
(Signature)

Dated: \_\_\_\_\_

Project  
Coordinator: \_\_\_\_\_

Dated: \_\_\_\_\_



**SIMI VALLEY UNIFIED SCHOOL DISTRICT**  
**DAILY EXTRA WORK REPORT**  
for Construction Directive(s) Issued by the District

To Owner:

SIMI VALLEY UNIFIED SCHOOL DISTRICT

From Contractor:

School:

Project:

SUBJECT:

CCD Number:

Report No:

Date:

Bid No:

Page \_\_\_\_\_ of \_\_\_\_\_

**Description of Work in Progress:**

**Building / Area of Work:**

**Personnel; By Name, Trade, Classification and Hours:**

**Equipment and Operator; By Name, Type, Model, Number and Hours:**

**Materials; By Type and Quantities:**

Bond Program Manager:

TONY JOSEPH

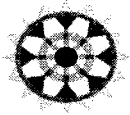
Dated:

Project Coordinator:

NAME

Dated:





SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT REQUEST FOR INFORMATION (RFI)

School Name:

Project Name:

To: (Architect)

From:

RFI Number:

Date:

Project No.:

Bid Number:

Drawing Number Detail

Specification Section

Page

**Request:**

Request Issued by:

Contractor's Signature

Name (Printed)

Date

**Response:**

Response Issued by:

Architect's Signature

Name (Printed)

Date

Response Reviewed by:

Project Coordinator's Signature

Name (Printed)

Date

**This Form Cannot Modify Contract Amount or Milestones and/or Contract Time.**





SimiValleySchools  
SIMI VALLEY UNIFIED SCHOOL DISTRICT

## SIMI VALLEY UNIFIED SCHOOL DISTRICT OWNER ASSESSMENT SUMMARY

School Name:		Date:	
Project Name:		Payment Application No.:	
Contractor:		Project Number:	
Issued By:	SVUSD Bond Office	Bid Number:	
Issued To:	Accounts Payable		

In accordance with the Contract Documents,  
the OWNER may withhold the following assessments from payment to the CONTRACTOR:

Current Payment Due (Line 8 from the Application for Payment):

The following assessments will be **WITHHELD** from the monthly payment to the CONTRACTOR:

**Stop Notices** (attach copy of Notice of Withhold)

CLAIMANT	for	x 1.25 =	\$	-
CLAIMANT	for	x 1.25 =	\$	-
CLAIMANT	for	x 1.25 =	\$	-
CLAIMANT	for	x 1.25 =	\$	-

**Prevailing Wage Violations**

\$ -

**Certified Payroll submission penalties**

\$ -

**Liquidated Damages:** \_\_\_\_\_ days x \$ -

\$ -

**Punchlist Items** (attach copy of Punchlist)

\$ -

**Other** (Specify and attach documentation)

\$ -

**Total Amount to be WITHHELD:** \$

The following prior assessments will be **RELEASED** and included in the monthly payment to the CONTRACTOR:

**Stop Notice RELEASES** (attach copy of Releases)

\$ -

CLAIMANT	for	\$	-
CLAIMANT	for	\$	-
CLAIMANT	for	\$	-
CLAIMANT	for	\$	-

**Other** (Specify and attach documentation)

\$ -

**Total Amount to be RELEASED:** + \$ -

**Adjusted Payment:**

**Adjusted Payment Authorized By:**

TONY JOSEPH, Bond Program Manager

Date

**TABLE OF CONTENTS**  
**GARDEN GROVE ELEMENTARY SCHOOL**  
**LANDSCAPE IMPROVEMENTS**

Section 01 10 10	Bid Alternate Work (THIS WORK IS REQUIRED AS PART OF THE BASE BID)
Section 01 10 20	Fencing and Protection
Section 02 41 10	Miscellaneous Removals
Section 04 22 10	Masonry
Section 32 13 13	Concrete Work
Section 32 14 13	Concrete Pavers
Section 32 31 16	Handrails
Section 32 40 10	Drain Line
Section 32 40 12	Under-Walk Drain
Section 32 84 23	Irrigation System
Section 32 91 16	Jute Netting
Section 32 93 33	Planting
Section 32 94 43	Tree Grates
Section 32 90 20	Landscape Maintenance

Appendix

Encroachment Application and Permit

Detail – Curb and Gutter Barrier

Detail – Parkway Drain

Detail – Typical Curb Drain

**SECTION 01 10 10  
BID ALTERNATE NO. 1**

**PART 1      GENERAL**

**1.01    SECTION INCLUDES**

This section includes requirements for the bid alternate work.

Bid Alternate No. 1 includes the removal of the existing concrete stairs, handrails and concrete curb and the installation of new concrete stairs, handrails and curb work.

**Contractors shall include the price for Bid Alternate No. 1 in the BID PROPOSAL AMOUNT on the Bid Proposal. The District has determined that all of the Bid Alternate No. 1 Work is required, and shall be included in the BID PROPOSAL AMOUNT for this project.**

**1.03    RELATED SECTIONS**

Section 00 42 00 - Bid Proposal  
Section 02 41 10 – Miscellaneous Removals  
Section 32 13 13 – Concrete work  
Section 32 31 16 – Handrails

**END OF SECTION 01 10 10**

**SECTION 01 10 20 .  
FENCING AND PROTECTION**

**PART 1        GENERAL**

**1.01    SECTION INCLUDES**

This section includes requirements for temporary fencing and protection of the work area.

**1.02    SUBMITTALS**

Submit for approval, all catalog cuts and or specification sheet for all fencing products.

**1.03    QUALITY ASSURANCE**

Fencing shall be installed by a qualified fence company with experience in the installation of temporary fencing.

**PART 2        PRODUCTS**

**2.01    TEMPORARY FENCING**

Temporary fencing shall be 6 feet high chain link fence fabric attached to post and frames in a secure manner. Barb wire and or razor wire is not allowed.

**PART 3        EXECUTION**

**3.01    FENCE LAYOUT**

Contractor shall submit to the District for approval, a schematic fence layout showing the location of fence panels and method of attachment of panels and post. This plan must be approved by the District prior to start of the work.

**3.02    FENCE INSTALLATION**

- A.     Install fencing and post so that no damage occurs to the existing underground conduits or paving. Immediately repair all damage to the existing conditions that may occur as a result of the fence installation.
- B.     If fencing panels have post with a horizontal support frame, make sure they are visually apparent to prevent any trip hazard.

### 3.03 FENCE REPAIR

Immediately repair any damage to the fencing that may occur.

**END OF SECTION 01 10 20**

**SECTION 02 41 10  
MISCELLANEOUS REMOVALS**

**PART 1      GENERAL**

**1.01    SECTION INCLUDES**

This section includes specifications for the removal of the existing concrete paving, asphalt paving, landscaping, and miscellaneous items.

**1.02    REFERENCE STANDARDS**

The "Greenbook" Standards and Specifications for Public Works Construction as referenced in the Specifications.

**1.03    IMPORT SOIL**

The source of any required Imported soil shall be tested and approved by the District prior to any delivery.

**1.04    DISPOSAL OF MATERIALS**

Remove items such as landscape materials, concrete paving, asphalt paving, and all other miscellaneous items scheduled to be removed shall be properly disposed of as they accumulate. Do not store or permit debris to accumulate on the site.

**PART 2      PRODUCTS**

(Not Used)

**PART 3      EXECUTION**

**3.01    INSPECTION**

- A.    Prior to starting, inspect the site with the District Inspector to verify all removals required to complete the work.
- B.    Examine surfaces for conditions that will adversely affect execution, permanence, and quality of work of this Section.
- C.    Do not proceed with work until unsatisfactory conditions have been corrected.
- D.    Locate existing active utility lines and provide for their protection.



### 3.02 CLARIFICATION

Drawings do not indicate all objects existing on site. Before commencing work, verify with the District any existing items that may affect the work.

### 3.03 PROTECTION OF UTILITIES

- A. Preserve and maintain, in working condition, all active utilities traversing the site. Re-route or remove and cap those which interfere with work of this Project. Coordinate extent of this work with the District.
- B. Expeditiously repair damaged utilities at no cost to the District.

### 3.04 PROTECTION OF EXISTING PLANTS

Protect existing trees, not otherwise indicated to be removed, against unnecessary cutting, or breaking, skinning, and bruising of bark. Avoid smothering of trees with stockpile building materials or excavated materials within drip line.

### 3.05 DISPOSAL

- A. All debris resulting from demolition and removals shall become the property of the Contractor to dispose of or salvage. Debris shall not be allowed to accumulate on site unless the District specifies a site location and security requirement. The Contractor shall be responsible for its prompt removal from the site and disposal in a legal manner.
- B. Prevent debris from migrating outside of construction areas.
- C. Maintain safe pedestrian access, at all times, on all walkways adjacent to the fence removals.

**END OF SECTION 02 41 10**

**SECTION 04 22 10  
MASONRY**

**PART 1 GENERAL**

**1.01 SECTION INCLUDES**

This section includes general requirements for the masonry seat wall work.

**1.02 SUBMITTALS**

- A. Obtain written approval from the District for the following prior to use:
1. Brick Sample (submit a minimum of five pieces).
  2. Concrete mix design for footings.
  3. Mortar mix design.
  4. Grout mix design and color.

**1.03 DELIVERY AND STORAGE**

Store all materials in a site location that has been approved by the District. Keep all materials clean, safe and protect from any damage.

**1.04 QUALITY ASSURANCE**

Masonry work shall be constructed by a Licensed Masonry Contractor with a valid California C-29 License.

**1.05 INSPECTIONS**

Each phase of the work must be inspected and approved by the District Inspector prior to the start of the next phase.

**PART 2 PRODUCTS**

**2.01 CONCRETE BLOCKS**

Masonry units shall be Angelus block, precision, 8816, color fawn or equal, ASTM 90.

**2.02 CAP**

Block seat wall cap shall be Angelus 10 x 4 x 8 mushroom cap, color fawn, or equal.

**2.03 REINFORCING STEEL**

Reinforcing Steel for Masonry work shall be deformed and shall conform to ASTM A-615, Grade 60, with #3 ties, 40 grade, and free of loose rust and materials that reduce bond. All reinforcing steel shall be positioned as indicated on Drawings.

## 2.04 MORTAR

- A. Mortar proportions shall conform to CBC Table 2103A.2, Type "S".
- B. Mortar color shall be type S, Angelus block, Spec-Mix color to match fawn color.

## 2.05 GROUT

Grout shall conform to Table 2103A.3 of the CBC and ASTM C-476, Table 1, and shall have a minimum compressive strength at 28 days of 2,000 PSI.

# PART 3 EXECUTION

## 3.01 MASONRY

- A. Masonry work shall conform to Chapter 21A of the California Building Code.
- B. Cut units with masonry saws.
- C. Reserve unobstructed vertical continuity of cells.
- D. Grout all cells solid.
- E. Fractional parts of masonry units are prohibited where whole units can be used.

## 3.02 REINFORCING STEEL

Lap splices of reinforcing steel in masonry shall be 48 bar diameters with a minimum of 24 inches, whichever is greater.

## 3.03 GROUT

Grout shall be properly consolidated by "puddling" or mechanical vibrators. All reinforcing steel and embedded items shall be properly secured in position prior to grouting. Grout all cells. Five (5) feet is maximum grout lift.

## 3.04 DOWELS

Provide vertical dowels with standard hooks at bottom for all vertical reinforcing, unless otherwise noted on Drawings.

## 3.05 HORIZONTAL STEEL

Horizontal steel shall be in lintel or channel blocks.

## 3.06 JOINTS

Joints shall be tooled concave.

### 3.07 CLEAN-UP

- A. At completion of the work in this Section, make a thorough inspection of installed masonry and verify that units have been installed in accordance with the provisions of this Section.
- B. Make necessary adjustments.
- C. Clean-up and disposal of all Work-related materials shall be the responsibility of the Contractor.
- D. Restore adjacent areas to original condition and remove excess dirt and any unused materials from the site.

**END OF SECTION 04 22 10**

## **SECTION 32 13 13 CONCRETE WORK**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

This section includes general requirements for the concrete paving, concrete curbing, and concrete footings for the seat wall.

#### **1.02 QUALITY ASSURANCE**

For concrete finishing use only trained and experienced concrete finishers.

#### **1.03 SUBMITTALS**

- A. Mix design shall be submitted to the District Inspector for approval prior to pour. The mix design shall show the mix identification number and the applicable proportions, weights, and quantities of Portland cement, aggregate, water, and admixtures. The mix design submittal shall also include the size and source of aggregate, the type and source of Portland cement, the branch and designation of admixtures, and the type of construction for which the concrete is used.
- B. Submit manufacturer's specifications and catalog cut sheet on all specified materials required for the concrete work

### **PART 2 PRODUCTS**

#### **2.01 CONCRETE**

- A. Concrete for paving (walks), shall be hardrock with a minimum compressive strength at 28 days of  $f'c = 2,500$  PSI and conform to ASTM C-94.
- B. Concrete for curbs and footings for the seat-wall shall be hardrock with a minimum compressive strength at 28 days of  $f'c = 3,000$  PSI and conform to ASTM C-94.
- C. Cement: ASTM C-150, Type I or II, low alkali.
- D. Aggregate: ASTM C-33, non-reactive, 1 inch maximum.
- E. Slump: Maximum slump - 4 inches.

#### **2.02 CONCRETE FINISH**

- A. Walks – finish for walks shall be medium broom.
- B. Concrete curbs – shall be sacked smooth.

## 2.03 REINFORCING STEEL

- A. All reinforcing bars shall be free of rust, grease, mill scale or any material which might affect its bond to concrete. All bar bends shall be made cold.
- B. Reinforcing steel for Concrete Work shall be deformed and shall conform to ASTM A-615, Grade 60. No 3 bars may be grade 40. All reinforcing steel shall be positioned as indicated on Drawings.

## 2.04 EXPANSION JOINTS

Expansion joints shall be non-bituminous, ½" thickness, meeting ASTM Standard D-1751. (Homex 300 or equal).

## 2.05 CURING COMPOUND

Provide liquid curing compound, ASTM C-309, clear.

## 2.06 BASE

Base (rock base) shall be crush rock base material.

## 2.07 SEALER

Sealer shall be a water base clear penetrating sealer.

# PART 3 EXECUTION

## 3.01 SURFACE CONDITIONS

- A. Take adequate precautions for mixing, placing, finishing, curing, and protecting concrete during unfavorable weather conditions.
- B. Prior to all work of this Section, carefully inspect the installed work of all other trades and verify that all such work is complete to the point where this installation may properly commence.
- C. All concrete shall be properly consolidated during placement. All reinforcing steel and embedded items shall be securely tied in place to prevent displacement during concrete placement. Support reinforcement on blocks.
- D. Verify that concrete may be placed to the lines and elevations indicated on the Drawings, with all required clearance from reinforcement.
- E. Layout paving surfaces to slope and drain to planting areas at a minimum of 1%. Walkways shall not have a cross slope greater than 2% and the slope in the direction of travel shall not exceed 5%. Layout must be approved by the District Inspector prior to pour. Where concrete paving is poured adjacent to existing concrete, continue the existing slope across the new concrete section.

### 3.02 PREPARATION

- A. Remove all wood scraps and debris from the areas in which concrete will be placed.
- B. Thoroughly clean the areas to ensure proper placement and bonding of concrete.
- C. Thoroughly wet the forms or oil them; remove all standing water.
- D. Thoroughly clean all transporting and handling equipment.
- E. Compact base to 90% relative compaction per ASTM D-1557.

### 3.03 PLACING CONCRETE

- A. Convey concrete from mixer to place of final deposit by methods that will prevent separation and loss of materials.
- B. For chuting, pumping and pneumatically conveying concrete, use only equipment of such size and design as to ensure a practically continuous flow of concrete at the delivery and without loss or separation of materials.
- C. Deposit concrete as nearly as possible in its final position to avoid segregation due to re-handling and flowing.
- D. Place concrete as dry as possible consistent with good workmanship, never exceeding the maximum specified slump.
- E. Place concrete at such a rate that concrete is, at all times, plastic and flows readily between bare bars.
- F. When placing is once started, carry it on as a continuous operation until placement of the panel or section is complete.
- G. Thoroughly consolidate all concrete by suitable means during placement, working it around all embedded fixtures and into corners of forms.
- H. During placement, thoroughly compact the concrete by hand tamping and by mechanical vibration.

### 3.04 TOLERANCE

Concrete planes shall be checked with a ten-foot straight-edge in two directions. There shall be no high spots or low spots greater than 1/8" in ten feet. All edges shall be straight and true.

### 3.05 SACKING

The face of concrete curbs shall be sacked to produce an even textured surface by filling all pits and air holes.

### 3.06 SCORE LINES AND EXPANSION JOINTS

- A. Score lines shall be straight and shall be of the proper alignment as shown on the Drawings. The score depths shall be approved prior to finishing.
- B. Expansion joints shall be straight, in line and plumb.

### 3.07 CURING AND PROTECTION

Freshly deposited concrete shall be protected from pre-mature drying and excessively hot or cold temperatures and shall be maintained without drying at a relatively constant temperature for the period of time necessary for the hydration of the cement and proper hardening of the concrete. Apply liquid curing compound as soon as finishing is complete, within 2 hours, and in accordance with Manufacturer's directions.

**END OF SECTION 32 13 13**



**SECTION 32 14 13  
CONCRETE PAVERS**

**PART 1        GENERAL**

**1.01    SECTION INCLUDES**

This section includes requirements for the installation of the concrete pavers.

**1.02    SUBMITTALS**

Submit four (4) samples of each concrete paver specified to the District for approval. Concrete pavers must be full size and represent the colors to be supplied.

**1.03    PRODUCT HANDLING**

Concrete pavers shall be delivered and unloaded at job site on pallets and bound in such a manner that no damage occurs to the product during hauling, handling or unloading at the job site.

**1.04    QUALIFICATIONS**

ICPI certified installers shall be utilized for the construction of the concrete pavers.

**PART 2        PRODUCTS**

**2.01    CONCRETE PAVERS**

- A.     Concrete pavers shall be concrete interlocking paving units and shall conform to ASTM C-936.
- B.     Concrete pavers shall be interlocking concrete pavers manufactured by Angelus Block, style – Holland, color – Sand, stone, and mocha.
- C.     Pattern: running bond with the three colors evenly placed throughout.

**2.02    BASE**

Base for Interlocking Pavers shall be crushed rock, 3/8" to 1/2" size, open graded of same size and conform to ASTM D-1863, clean free of clay particles or other contaminants.

**2.03    BEDDING SAND**

Shall be clean construction sand conforming to ASTM C-33.

**2.04    JOINT SAND**

Shall be Alliance Super Sand (polymeric sand), color beige.

- I. Cutting of paving stones shall be done with either a double-bladed breaker or a masonry saw.

#### 3.04 CLEAN-UP

- A. Upon completion of the work in this Section, make a thorough inspection of installed masonry and verify that units have been installed in accordance with the provisions of this Section.
- B. Make necessary adjustments.
- C. Clean-up and disposal of all work-related materials shall be the responsibility of the Contractor.
- D. Contractor shall restore adjacent areas to original plane and remove excess dirt from site.

**END OF SECTION 32 14 13**

## SECTION 32 31 16 HANDRAILS

### PART 1 GENERAL

#### 1.01 SECTION INCLUDES

This section includes requirements for the handrails at the new concrete stair location.

#### 1.02 BID ALTERNATE

**This work is part of Bid Alternate No. 1. The District has determined that Bid Alternate No. 1 shall be included in the Bid Proposal Amount for this project. The District requires replacement of the handrails and stairs as part of the Work of this project.**

#### 1.03 RELATED WORK

Section 32 13 13 Concrete Work

#### 1.04 QUALITY ASSURANCE

The Contractor shall provide laborers and supervisors who are thoroughly familiar with the type of construction involved and materials and techniques specified.

#### 1.05 SUBMITTALS

- A. Submit shop drawings to scale showing elevation of the metal handrail with all welding callouts, corner radius fittings, pipe dimensions, and pipe quality.
- B. Submit Manufacturer's product data on all materials used to complete the work

#### 1.06 PRODUCT HANDLING AND STORAGE

Upon receipt at the job site, all materials shall be checked to ensure that no damages occurred during shipping or handling. Materials shall be stored in such a manner to protect against damage, weather, vandalism and theft.

### PART 2 PRODUCTS

#### 2.01 STEEL POST

Shall be 1 ½" diameter extra strong (Schedule 80) galvanized pipe.

#### 2.02 STEEL PIPE RAILS

Shal be 1 ½" diameter Schedule 40 galvanized pipe.

## 2.03 CORNER RADIUS TUBE PARTS

Use manufactured radius tube corners to fabricate the rail turns. Jansen Ornamental supply 1 ½" diameter Schedule 40 galvanized pipe or equal.

## 2.04 GALVANIZED PIPE

Shall be hot dipped as per ASTM a123. File and sand all surfaces to create a smooth gripping surface.

## 2.06 ANCHORING CEMENT

Shall be non-shrink grout meeting ASTM C-199 such as "Superflow Rock" or equal.

# PART 3 EXECUTION

## 3.01 PREPARATION

New handrails shall be laid out by the Contractor in accordance with the construction plans, reviewed and approved by the District prior to concrete coring.

## 3.02 CONCRETE CORING

Core with coring machine to create a clean circular hole for the pipe posts leaving a 1/2 inch space around the post for non-shrink grout.. Verify post locations and take precaution to avoid hitting rebar.

## 3.04 POST

Set in cored hole with non-shrink grout and support vertical until grout is set.

## 3.05 CLEANING

The Contractor shall clean the job site of excess materials at the end of each day.

**END OF SECTION 32 31 16**

**SECTION 32 40 10  
DRAIN LINE**

**PART 1      GENERAL**

**1.01    SECTION INCLUDES**

This section includes general requirements for the installation of the area drain, drain line and connection to the existing storm drain.

**1.02    SUBMITTALS**

Submit manufacturer's specifications and catalogue cut sheets for the area drain, drain line, saddle tee and all materials required to complete the work.

**PART 2      PRODUCTS**

**2.01    CATCH BASIN**

Shall be Brooks product 12" x 12" catch basin, with galvanized bolt down grate, 1212-T12 with 1212 base.

**2.02    DRAIN LNE**

Shall be PVC solvent weld, solid, 6 inch, ASTM D-2729. Pacific plastics or equal.

**2.03    SADDLE TEE**

Shall be a flexible saddle tee with a 6-inch branch, as manufactured by GPK Products or equal. Saddle must fit the existing storm drain line.

**PART 3      EXECUTION**

**3.01    INSTALLATION**

- A.    Verify the existing storm drain line location and size then submit shop drawing showing the tie in.
- B.    Slope the new 6-inch drain line a minimum of 2% to the existing storm drain.
- C.    Connect saddle to the existing storm drain line with stainless steel pipe straps.
- D.    All work must be inspected and approved by the District Inspector.

**END OF SECTION 32 40 10**

## **SECTION 32 40 12 UNDER-WALK DRAIN**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

This section includes general requirements for the installation of the under-walk drains (park way drains) that connect site drain lines to the street gutter. There are two locations, one is a demo and rebuild of a parkway drain and the other is a new under-walk curb drain.

#### **1.02 PERMIT REQUIREMENTS**

This work is within the City of Simi Valley right-of-way and requires a separate encroachment permit. The Contractor shall complete the City's required permit application form and pay the permit fees.

#### **1.03 SUBMITTALS**

Submit manufacturer's specifications and catalogue cut sheets for the area drain, drain line, and all materials required to complete the work.

### **PART 2 PRODUCTS**

#### **2.01 DRAIN LNE FOR CURB DRAIN**

Shall be PVC solvent weld, solid, 3-inch, ASTM D-2729. Pacific plastics or equal.

#### **2.02 CATCH BASIN**

The catch basin behind the new concrete curb wall shall be Brooks concrete basin 12" x 12" and 12" x 18" with concrete bases and galvanized bolt down grates.

#### **2.03 PARKWAY DRAIN BOX**

Shall include all materials as per the City of Simi Valley's Standard Parkway Drain 152-2.

#### **2.04 INCIDENTAL MATERIALS**

Provide all necessary pipe and fittings to make the connection from the catch basins to the parkway drain and drain lines.

## PART 3 EXECUTION

### 3.01 INSTALLATION

- A. Verify the location of the new and existing under-walk drain (parkway drain) with the City Inspector and the District Inspector.
- B. The existing under-walk (parkway drain) is to be demolished and replaced with a new parkway drain as per City of Simi Valley Standard Plan No. 151-2. This work required demo and repair of the existing curb and gutter and the concrete sidewalk.
- C. The new curb drain shall be installed as directed by the City Inspector. This drain shall include the coring of the existing curb and installing two (2) three-inch PVC drain lines as per the City of Simi Valley's Standard 'Typical Curb Drain'.

**END OF SECTION 32 40 12**

## **SECTION 32 84 23 IRRIGATION SYSTEM**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

This section includes requirements for the installation of the Irrigation System.

#### **1.02 RELATED SECTIONS**

32 93 33 – Landscape Planting

#### **1.03 REQUIREMENTS OF REGULATORY AGENCIES**

Secure all permits and licenses necessary for the work. Give all notices and comply with all laws, ordinances, rules and regulations concerning the installation of the sprinkler system as drawn and specified.

#### **1.04 SITE CONDITIONS**

- A. Prior to beginning any work, the Contractor and the District Inspector shall participate in a thorough irrigation system review of the project site. All remote control valves shall be turned on and observed in operation by both the Contractor and SVUSD Representative. Any existing defects will be listed in detail identifying the specific valve station number and describing the exact broken or non-functioning irrigation component noted during the site review. At the conclusion of the irrigation review, the Contractor shall generate a summary of the items identified by both parties listing all remote control valves operated, identifying if the valve performed without any defects or specifically identifying any observed defects or non-functioning components, such as broken heads, clogged nozzles, non-operating valve solenoids, broken piping, or other noted defects. The completed summary of items noted shall be listed on a document called 'Existing Irrigation System Observations'. This document shall be signed by the Contractor and submitted to the SVUSD Representative for a confirming signature. The mutually signed 'Existing Irrigation System Observations' document shall be sent to the attention of the Landscape Architect for inspection purposes at the conclusion of the construction work. If requested by the SVUSD Representative, the Contractor shall provide a list of the existing defective irrigation components noted with a detailed written proposal to repair each item identified on the list. A copy of this proposal will be sent to the Landscape Architect. This additional work proposal must be reviewed and approved in writing by the SVUSD and formally presented to the General Contractor before the Landscape Subcontractor can begin any additional repair work. The mutually signed 'Existing Irrigation System Observation' document shall be used as a guide to identify any collateral damage caused to the existing irrigation system as a result of new construction performed on site by the Contractors. Any damage caused to the existing irrigation system not specifically identified on the 'Existing Irrigation System Observation' document shall be repaired or replaced at the Contractor's expense. In the event that the



Contractor does not participate or perform the existing irrigation site review, any existing irrigation equipment or components damaged on the project site noted by the Landscape Architect during the final irrigation system review shall be repaired or replaced by the Contractor at their expense to the satisfaction of SVUSD.

- B. Do not willfully install the sprinkler system as indicated on the drawing when it is obvious in the field that unknown obstructions or grade differences exist that might not have been considered in the engineering. Such obstructions or differences should be brought to the attention of the District Inspector.
- C. Before excavating for sprinkler lines, locate all underground utility lines so that the proper precautions may be taken to avoid damage to such utilities. In the event of a conflict between underground lines, promptly notify the District who will arrange for the relocation of one or the other. Failure to follow this procedure places the responsibility upon the Contractor for making any and all repairs for damage of any kind at his own expense.
- D. Provide necessary safeguards and exercise caution against injury or defacement of any existing site improvements. Contractor shall be responsible for any damage resulting from his operations and shall repair or replace such damage at his own expenses. No trucks or vehicles of any kind shall be allowed to pass over sidewalks, curbs, etc., unless adequate protection is provided.
- E. Existing Trees
  - 1. Exercise all possible care and precautions to avoid injury to tree roots, trunks and branches. All excavating within drip line of trees shall be done very carefully and by hand pick and shovel if it appears that large roots are within trenching zones.
  - 2. Alter alignment of pipe to avoid large tree roots, 2-inch and larger in diameter.
  - 3. Wrap exposed and bridging tree roots with several layers of burlap and keep moist. Close all trenches within drip lines, within 24 hours.
  - 4. All severed roots 1-inch and larger shall be hand pruned with sharp tools and painted with acceptable horticultural seal.

#### 1.05 MATERIAL LIST

Submit to the District for acceptance, five (5) copies of all materials and equipment, including Manufacturer's names and catalog numbers, to be furnished and installed under this contract within 10 days after the award of the contract.

#### 1.06 RECORD DRAWINGS

- A. Provide and record daily a complete record set of prints on bond which shall be corrected to show changes from the original drawings and specifications and the exact installed locations, sizes and kinds of equipment. Prints for this purpose may be obtained from the District. Keep this set of drawings on the site and use only as a record set.

- B. Use these drawings as work progress sheets. Make neat and legible annotations thereon as the work proceeds, showing the work as actually installed. Keep these drawings available at all times for inspection and in a location designated by the District.
- C. Before the date of the final inspection, transfer all information from the record prints to a clean set of prints procured from the District. Make work neat, in ink and subject to review and acceptance of the District. District will scan final drawings into a permanent electronic record document.
- D. Dimension from two permanent points of reference such as building corners, sidewalks or road intersections, the location of:
  - 1. Connection to existing water lines.
  - 2. Connection to existing electrical power.
  - 3. Gate valves.
  - 4. Routing of sprinkler pressure lines and control wiring.
  - 5. Electric control valves.
  - 6. Quick coupling valves.
  - 7. Other related equipment as directed by District.

#### 1.07 TESTS AND SITE OBSERVATIONS

- A. All tests shall be made in the presence of the District; at least forty-eight (48) hours notice shall be given for tests.
- B. Record drawings must be current and shall be verified by the District at the time of all observations.
- C. Site observations for all items pertaining to the work of this Section shall be performed by the District.
- D. Specific site observations for valve assemblies, sprinkler coverage, control wires and splices and any other observations deemed necessary by the District shall be performed by the District.
- E. An open trench main line check for pipe quality and depths shall be performed by the District.
- F. Head Layout - using flag marker layout all drip emitter, tree flood bubblers, and spray heads in field prior to trenching. Review head layout with District and Landscape Architect and perform adjustments in field as directed prior to installing irrigation.
- G. Center load pipe with small amount of backfill to prevent arching and whipping under pressure. Leave joints exposed for observation during pressure test. No water shall be permitted in the pipe until the above has been accomplished and a period of at least 24 hours has elapsed for solvent weld setting and curing.

Main lines to be tested up to valve at 125 pounds pressure and there shall be no leaks. Furnish force pump and pressure gauge. Lateral lines of system to be tested at line pressure with risers capped. Tests to be for 2 hour period and verified by the District.

- H. Backfill quality and compaction of trenches shall be verified by the District. Do not backfill trenches until all tests have been completed and accepted.
- I. Perform a coverage test in the presence of the District to determine if the water coverage for planting areas is complete and adequate. Furnish materials and perform all work required to correct any inadequacies of coverage due to deviations from drawings, or where the system has been willfully installed as indicated on the drawings when it is obviously inadequate, without bringing this to the attention of the District.
- J. The coverage test shall be completed and the irrigation system modified if necessary and accepted, prior to the start of the planting operations.
- K. The entire system shall be checked out thoroughly and completely by the Contractor, five (5) days prior to the final observation. All heads shall be properly aligned and adjusted for coverage and cleared of any foreign materials. All valves shall be properly adjusted. Sprinkler controller valve chart shall be checked for accuracy.
- L. At the end of the Maintenance Period, a final observation shall be made by the Contractor and District to check out the entire system.
- M. Final inspection prior to acceptance:
  - 1. Operate each system in its entirety for the District at time of final inspection. Rework any items deemed not acceptable to the District.
  - 2. Deliver to the District all accessories, charts, record drawings, and equipment as required before final inspection.

#### 1.08 GUARANTEE

- A. The entire sprinkler system shall be guaranteed for a period of one (1) year from date of final acceptance.
- B. Should any portion of the irrigation system malfunction due to poor workmanship or defective materials, corrections shall be promptly made by the Contractor at his own expense.
- C. Any damage to paving, plating, or other developments due to the settlements of improperly compacted trench soil, shall also be promptly repaired at the Contractor's expense, to the satisfaction of the District.

## PART 2 PRODUCTS

### 2.01 GENERAL

- A. Irrigation materials shall be in accordance with Subsection 212-2 in the SSPWC "Greenbook" and as specified herein.
- B. The irrigation products specified on the drawings in these specifications are selected to match existing products in use. Substitutions are permitted only when product name is followed by or equal.
- C. Use only new materials of brands and types as noted on the drawings and as specified.

### 2.02 MATERIALS

- A. PVC primer and solvents - as recommended by Manufacturer. John-Manville, Lasco, or Pacific Western.
- B. Main Line Fittings - Schedule 40, PVC Type 1, Grade 1, Cell Classification 12454-B, side gated, Lasco Spears, or approved equal.
- C. Lateral non-pressure line fittings - Schedule 40, PVC Type 1, Grade 1, Cell Classification 12454-B, side gated, Lasco or approved equal.
- D. Nipples and Risers - PVC Schedule 80.
- E. Pipe, Main Line shall be PVC Schedule 40 for size 1 ½" or less, solvent weld pipe in conformance with ASTM D-1785, D-1784. Mainline 2" and larger shall be Class 315 PVC.
- F. Pipe, Lateral Non-Pressure Lines shall be PVC Schedule 40, solvent weld in conformance with ASTM D-1785, D-1784.
- G. Thread Sealant shall be smooth, non-hardening sealant, compatible with the pipe materials specified. Do not use Teflon tape.

## PART 3 EXECUTION

### 3.01 GENERAL

Irrigation materials shall be in accordance with Subsection 308-5 in the SSPWC "Greenbook" and as specified herein.

### 3.02 WORKMANSHIP AND INSTALLATION.

#### A. Layout and Adjustments

1. The drawings are diagrammatic to the extent that many offsets, special fittings and exact locations of the equipment are not shown. The locations of all valves, heads, lines, etc., shall be installed, however, as accurately as possible to the locations that are indicated on the drawings.
2. The locations of main lines are indicated as bordering walks, curbs and fences shall be placed as close as possible. Locate lines within planting areas wherever possible.
3. All indicated locations of heads and equipment are placed with careful consideration to overlap, protection of the premises, lights, proposed tree locations and general layout. Coordinate installation of sprinkler irrigation materials, including pipe, so there is no interference with utilities, other construction, or difficulty in planting trees and shrubs. Layout sprinkler heads and make any minor adjustments required due to differences between site and drawings. Adjustments shall be accomplished, maintaining proper sprinkler head coverage and overlap of sprinkler throws.

#### B. Connections

1. All connections shall be made into existing lines as indicated on the drawings.
2. Field verify existing line types in the field.

#### C. Cutting and Patching

1. When piping crosses concrete paving and asphalt paving, sawcutting is required. Cut AC paving and/or concrete with concrete sawcutting tools straight and in those locations approved by the District.
2. Remove concrete and/or AC, base and soil to the required depth for mainlines.
3. Concrete walks shall be backfilled entirely with compacted sand. Compact to 95% and patched with new concrete.
4. AC paving shall be backfilled entirely with a 1-sac sand slurry mix. Compact to 95% and patch with new AC paving.
5. Concrete paving shall be received medium broom finish.
6. Remove from site any excavated soil.

#### D. Trenching and Backfilling

1. Trench and excavate as necessary to install the system. Excavated material shall be neatly arranged so as to cause a minimum of inconvenience to pedestrian and vehicular traffic. No soil shall be placed on concrete paving without an adequate moisture proof membrane to protect paving.
2. Trenches for all pipe shall be open vertical construction with firm level bottom and sufficiently wide to provide free working space around the work installed and to provide ample space for backfilling and tamping.

3. Depth of trenches shall be sufficient to provide a minimum cover above the top of the pipe as follows:
    - a) Mains and control wires: 24-inches minimum cover.
    - b) PVC laterals: 12-inches minimum cover.
  4. When two (2) pipes are to be placed in the same trench, provide a minimum of 6-inch horizontal clearance. Place pipe side by side; do not install one pipe on top of another.
  5. After the installation is complete and the required tests and inspections have been made and approved, the excavations and trenches shall be backfilled with clean soil, free of rubbish, rocks, and pebbles larger than one-half inch.
- E. Plastic Pipe
1. Do not install multiple assemblies on plastic lines. Provide each assembly with its own outlet.
  2. Install assemblies specified herein in accordance with respective detail. In absence of detail drawings or specifications pertaining to specific items required to complete work, perform such work in accordance with best standard practice.
  3. Clean PVC pipe and fittings before installation. For solvent weld pipe use installation and solvent welding methods as recommended by the pipe and fitting manufacturer. For gasketed pipe installation follow detailed assembly instructions furnished by the manufacturer.
  4. On PVC to metal connections, work the metal connections first. Use non-hardening sealant on all threaded joints. Screw hand tight and ½ turn by wrench. Where threaded PVC connections are required, use threaded PVC adapters into which the pipe may be welded.
  5. Pipe shall have a firm, uniform bearing, for the entire length of each pipe line, to prevent uneven settlement. Pipe shall be snaked from side to side of trench bottom to allow for expansion and contraction. One additional foot per 100 foot of pipe is the minimum allowance for snaking. Never lay PVC pipe when there is water in the trench or when the temperature is 32° F or below.
  6. Use 45° fittings at all changes in depth of pipe. Coupling to be of same materials and wall thickness as pipe.
- F. Sprinkler Controller
1. Install auto controller assembly as per plans and manufacturer's specifications.
  2. Electrical wiring and work shall conform to the codes and ordinances of all governmental agencies having jurisdiction. Exposed conduits and fittings shall be of one type and finish. Running threads shall not be used.
- G. Sprinkler Heads
1. Prior to installing heads, flush laterals and risers with full line pressure. Repeat whenever system is opened up for repairs or replacements. Start flushing operation at the highest point of delivery and work to the lowest.
  2. Align all part circle heads so that no spray shall hit building walls or concrete paving.

3. Adjust all spray nozzles so that there will be no amount of overspray, and so that the entire set will be as evenly balanced as possible.
4. Install with each lawn area sprinkler head, a "Triple Swing" joint with Schedule 80 PVC nipples and threaded ells.
5. Install all tree bubblers and drip emitters on PVC flexible hose with two (2) solvent weld male adapters.

### 3.03 FIELD QUALITY CONTROL

#### A. Adjustment to System

1. Flush and adjust all sprinkler heads for optimum performance and to prevent overspray onto walk, roadways, and buildings wherever possible.
2. Select the best degree of arc to fit existing site conditions.
3. Set all sprinkler heads perpendicular to finished grades unless other designated on the drawings.

### 3.04 TESTING AND INSPECTION

- A. Do not allow or cause any work of this section to be covered up or enclosed until it has been inspected, tested, and approved by the District. Before backfilling the main line, and with all control valves in place, but before lateral pipes are connected, completely flush and test the mainline, and repair all leaks. Flush out each section of lateral pipe before emitters are attached.
- B. Make all necessary provisions for thoroughly bleeding the line of air and debris. Before testing, fill the line with water for a period of at least 24 hours.

### 3.05 FINAL INSPECTION

Thoroughly clean, adjust and balance all systems. Demonstrate the entire system to the District proving that all remote control valves are properly balanced, that all emitters are properly flowing and that the entire system is installed and is workable, clean, and efficient.

**END OF SECTION 32 84 23**

**SECTION 32 91 16**  
**JUTE NETTING**

**PART 1        GENERAL**

**1.01    SECTION INCLUDES**

      This section includes general requirements for the installation of the jute netting.

**1.02    SUBMITTALS**

      Submit manufacturer's specifications for the jute netting material and staples.

**PART 2        PRODUCTS**

**2.01    MATERIALS**

- A.     Jute netting rolls, 48" w x 225' long. Shall be 100% biodegradable, brown, open weave made from jute fibers woven into a jute mesh blanket. Each roll weight must be approximately 92 pounds.
- B.     Jute netting staples shall be galvanized 11 gauge 6" long minimum staple.

**PART 3        EXECUTION**

**3.01    SITE CONDITION**

      Jute netting shall not begin prior to the acceptance of fine grading.

**3.02    INSTALLATION**

- A.     Prepare the soil by grading or ranking area free of clods and large stones. Do not compact if using soil before grading.
- B.     The jute netting shall be installed at the bottom 4-foot area adjacent to the new concrete curb at the bottom of the slope.
- C.     Jute shall be applied by unrolling down the slope or in the direction of water flow. Always bring jute netting down to level area before termination, fold 6" under and secure with staples.
- D.     Secure Jute at the top edge toeing it into the slope 6" deep. Reinforce with a row of staples spacing each about a foot apart and covering with soil.



- E. Place staples 18" to 24" apart throughout to secure netting to ground. All staples must be driven flush with soil surface. Always overlap the edges 2" to 6". At the end of each roll, fold back 4" to 8" of netting. Overlap this 4" to 8" over the start of the roll. Securely staple the two layers to the ground.

**END OF SECTION 32 91 16**

## **SECTION 32 93 33 PLANTING**

### **PART 1 GENERAL**

#### **1.01 SECTION INCLUDES**

This section includes requirements for the installation of the plant material.

#### **1.02 RELATED SECTIONS**

Section 02 41 10 – Miscellaneous Removals  
Section 32 91 16 – Jute Netting  
Section 32 84 23 – Irrigation Systems  
Section 32 90 20 – Landscape Maintenance

#### **1.03 SUBMITTALS**

- A. Furnish material invoices indicating the quantities of fertilizers, soil amendments, and all materials delivered to the job site. Material invoices must be approved by the Landscape Architect prior to incorporating soil amendments. Certificates shall be prepared by the supplier or distributor and shall indicate the quantities and qualities of materials used.
- B. Plant Material – Submit clear photos of all plant material specified taken and the source. Indicate plant material height and spread measured at the source. Photos must clearly show the plant quality and size. The Landscape Architect will determine if the photos meet the specifications and if further site inspection at the nursery is required or if another source is required to produce the specified plant material.

#### **1.04 PROTECTION**

- A. Contractor shall check or locate existing structures, electric cables or conduits, utility lines and other existing features or conditions above or below ground level that might be damaged as a result of the operation. Questions or conflicts arising out of such examination prior to or during operation shall be immediately directed to the attention of the District for necessary action or decisions before resuming operation. Contractor shall be responsible for repair or replacement at no cost to the District for features or conditions damaged through failure to comply with the above procedures.
- B. Protect existing trees and tree roots from any damage that may be caused as a result of any planting or irrigation operations.

#### **1.05 ALTERNATES**

Alternates will not be permitted, except where indicated, and as approved by the Landscape Architect.

## 1.06 LANDSCAPE ON-SITE OBSERVATIONS

- A. The Contractor shall notify the district and the Landscape Architect forty-eight (48) hours in advance for all required On-Site Observations. The final On-Site Observation shall require seven (7) days advance notice.
- B. The Contractor shall submit for approval a complete work schedule indicating tentative dates for On-Site Observations.
- C. Record drawings shall be current and present at the time of On-Site Observations and shall be updated on a weekly basis.
- D. Landscape On-Site Observations shall be required for the following phases of Work:
  - 1. Job start meeting.
  - 2. Finish grading - When all fine grading work is complete, notify the Landscape Architect for approval prior to proceeding with the planting.
  - 3. Soil Preparation - furnish certificates for soil amendments at this time. Quantities must be reviewed by the Landscape Architect prior to incorporating into soil. When all soil preparation work is complete notify the Landscape Architect for approval prior to proceeding with the work.
  - 4. Irrigation System Review - See Irrigation Section.
  - 5. Review plant material for quality prior to planting. The Landscape Architect has the right to reject any plant material that it deems unacceptable at time of delivery.
  - 6. Review planting during the planting process.
  - 7. Review planting after installation.
  - 8. Pre-maintenance - When all Work has been completed a pre-maintenance walk thru shall be conducted and the contractor must receive approval from the District prior to starting the maintenance period.
  - 9. Maintenance - Notify the District and the Landscape Architect after the maintenance period has progressed for thirty days for a review of all work and make all corrections that are deemed necessary.
  - 10. Final Review - After the ninety-day (90) maintenance period is complete notify the District and the Landscape Architect for a final review of all work. All work must receive approval from the District and the Landscape Architect prior to being deemed complete and or filing a notice of completion.

## 1.07 QUALITY

All plant material shall have a growth habit normal to the species and shall be sound, healthy, vigorous and free from insect pests, plant diseases, sun scalds, fresh bark abrasions, excessive abrasions, or other objectionable disfigurements. Tree trunks shall be sturdy and well "hardened off." All plants shall have normal well-developed branch systems, and vigorous and fibrous roots systems which are neither root- nor pot-bound and are free of kinked or girdling roots.

## 1.08 GUARANTEE

All plant material shall be guaranteed for one year. This guarantee is in addition to, and not a limitation of, other rights the District may have under the Contract Document.

## PART 2 PRODUCTS

### 2.01 MATERIALS – LANDSCAPE

- A. Trees: varieties, sizes and quantities, as noted on plans.
- B. Tree Stakes: Tree Stakes shall be 3" diameter Lodgepole pine, pressure treated with Chemonite (ACZA) @ .40 pounds per cubic foot, for in-ground rating. Stakes shall be 10 feet long. Horizontal supports shall be 1x6 cedar.
- C. Tree Ties: Tree Ties shall be virgin flexible vinyl, meeting ASTM-D-412, with U.V. inhibitor. 24" inches long. (Cinch Ties or eq.)
- D. Soil Amendments: Organic soil amendment shall be Agromin "Agromend", or equal.
- E. Shrubs: varieties, sizes and quantities as noted on the plans.
- F. Concrete Mow Strip shall be 2500 psi concrete.
- G. Pre-Emergent Herbicide: Shall be Ronstar as approved by the District.
- H. Backfill Material shall be:
  - 1. 1/3 organic soil amendment
  - 2. 2/3 existing site soil.
  - 3. Commercial Fertilizer (15-15-15), 1 lb./cu. yd.
  - 4. Iron, Zinc, Manganese, 1 oz. /cu. yd.
- I. Soil preparation materials per 1,000 square feet:
  - 1. Three cubic yards of organic soil amendment
  - 2. Commercial Fertilizer (15-15-15), eight pounds

## PART 3 EXECUTION

### 3.01 SITE CONDITION

No plant materials shall be planted until all operations in conjunction with the installation of the irrigation system have been approved by the District and the Landscape Architect. Final grades shall be established, and the planting areas shall be properly prepared and graded.

### 3.02 GROUND PREPARATION - ALL AREAS

- A. After the Site Clearance and Preparation has been approved by the District planted areas shall be thoroughly cultivated to a depth of six inches to reduce any compaction, which occurs as a result of construction. Protect existing tree roots.
- B. Stones or rocks over 1" in size, construction refuse, and other deleterious material shall be removed from the site, safely and legally disposed of.
- C. Apply soil preparation materials to all planting areas and thoroughly incorporate into the top six inches of soil.
- D. Wet soil thoroughly and allow to settle. Repeat this compaction procedure until soil is stable enough to permit aeration and drainage for plant material.
- E. Finish grade all planting areas to a smooth, uniform surface ready for planting. Finish grade shall be one inch below finish grade of adjacent paved surfaces unless otherwise noted on Drawings.
- F. Install a strip of jute netting at the bottom of the slope and as detailed. Refer to specification section 32 30 10 Jute netting.

### 3.03 TREE STAKING

Stake each tree with four lodge pole stakes, firmly set into the grade and in alignment forming a square. Secure the four poles with 1x6 cedar horizontal supports, attach with deck screws. Secure tree trunk with cinch ties. Tree planted in the metal tree grate shall be staked with the single metal stake as detailed.

### 3.04 PLANTING - TREES & SHRUBS

- A. Trees and shrub planting shall comply with details on drawings.
- B. Make necessary adjustments and excavate pits of square outline and vertical sides for all plants. Scarify sides and bottoms of all plant pits. Set trees vertical.
- C. At all times protect roots and root ball of plants from drying.
- D. If directed by the Landscape Architect the Contractor shall prune plants in accordance with standard horticultural practice.

**END OF SECTION 32 93 33**

**SECTION 32 94 43  
TREE GRATES**

**PART 1      GENERAL**

**1.01    SECTION INCLUDES**

This section includes general requirements and specifications for the installation of the metal tree grate shown on the drawings and details.

**1.02    SUBMITTALS**

Submit manufacturer's product information, catalogue cut sheets, for the metal tree grate and all ancillary items required to complete the work. Note that the tree grate and frame may have delivery time requirements.

**PART 2      PRODUCTS**

**2.01    TREE GRATES AND FRAME**

Shall be Urban Accessories, 4'-0" square, type S, pedestrian, Boston pattern, complete with frame.

**2.02    TREE STAKE**

Tree stake shall be "Mega Grate Stake" 8 feet long by 1-1/4" diameter as manufactured by J.R. Partners.

**2.03    POWDER COATING**

Tree Grate, Frame, and Stake shall be powder coated black.

**2.04    OTHER MATERIALS**

All other materials not specifically described, but required for a complete and proper installation, shall be new, free from rust, best quality of their respective kinds.

**PART 3      EXECUTION**

**3.01    FIELD MEASUREMENTS**

Make all required measurements in the field to ensure proper and adequate installation.

**3.02    FRAME**

Wet set frame in concrete band and set the top edge of the frame flush with the concrete band.

### 3.03 TREE GRATE

Adjust the tree grate so that it sets flush with the frame and adjacent concrete band and does not move when walking on top.

**END OF SECTION 32 94 43**

**SECTION 32 90 20  
LANDSCAPE MAINTENANCE**

**PART 1        GENERAL**

**1.01    SECTION INCLUDES**

This section includes general requirements for the landscape maintenance.

**1.02    MAINTENANCE PERIOD**

Once all landscape work is complete and approved by the District and all punch list items have been corrected and approved by the District, the Contractor will receive a written letter authorizing the start of the ninety-calendar day Landscape Maintenance period.

**1.03    MAINTENANCE PERFORMAMNCE REVIEW SCHEDULE**

The Contractor shall schedule an on-site review with the District Inspector and the Landscape Architect to review the condition of the landscape area being maintained every (30) days during the maintenance period. If any deficiencies exist, a punch list will be issued for the Contractor to address immediately. Failure to perform any punch list item in a timely manner (within 5 business days), shall delay payment for that portion of the maintenance period until the identified punch list item has been corrected. If the project is being maintained in a professional manner, SVUSD reserves the right to waive progress inspections during the (90) day maintenance period.

**1.04    FINAL LANDSCAPE APPROVAL AND TURNOVER TO THE DISTRICT**

At the end of the ninety-day maintenance period, the Contractor shall schedule an on-site inspection with the District Inspector and the Landscape Architect to determine if the landscape planting and irrigation is ready for the District to accept. If the landscape is not ready for acceptance, a punch list will be prepared for the Contractor to complete and the maintenance period will extend until the punch list items have been approved by the District Inspector.

**1.05    MAINTENANCE INSPECTION NOTIFICATIONS**

A minimum of 48 hours is required when scheduling a maintenance on-site review.

**1.06    REQUIREMENTS OF REGULATORY AGENCIES**

Any required spraying work shall be done in accordance with governing agencies and the District policies. No spraying shall occur without prior written approval from the District.



## PART 2 PRODUCTS

- 2.01 All materials used in conjunction with the maintenance work shall conform to the material requirements originally specified for the work. Apply at manufacturer's recommended rate.

## PART 3 EXECUTION

### 3.01 PEST AND DISEASE CONTROL

- A. Provide rodent, insect, pest and disease control services at the first sign or symptom of infestations, or as directed by the District.
- B. Notify the district at the first sign or symptom of pest or disease.
- C. Perform pest and disease control services in accordance with the District policies.

### 3.02 TREE AND SHRUB CARE

- A. Tree pruning shall include the removal of broken, dead, or crossed branches and removal of sucker growth. Tree guys and staking shall be visually inspected and maintained in a secure manner.
- B. All walkways shall be kept clear for safe pedestrian passage.
- C. Shrub care shall include the clearance of mulch and any debris that accumulates around the shrub crown.
- D. Shrub areas shall be keep weed free by manually removing any weeds that appear on the weekly visit.
- E. If any plant dies for any reason or is damaged for any reason during the maintenance period the contractor shall replant as originally specified at no cost to the District.

### 3.03 IRRIGATION SYSTEMS

- A. Irrigation system maintenance shall include, operating, adjusting, and repairing the irrigation system to perform as designed.
- B. On each visit, visually and hydraulically inspect the irrigation system to insure that no sprinkler breakage has occurred, no foreign matter is clogging the sprinkler heads and that sprinkler coverage and arc of sprays is proper, and shall correct any other inadequacies that might impair the proper performance of the irrigation system. Minor irrigation repairs shall be accomplished by the weekly maintenance crew as needed with the like kind materials unless otherwise authorized by the District.

- C. Malfunctioning valves shall be brought to the attention of the District for approval of appropriate repair.
- D. Notify the District immediately of any system failure or disruption in order that steps can be taken to rectify the problem.

#### 3.04 HARDSCAPED AREAS

Maintain all hardscape areas weed-free. Use of chemicals is elective with Contractor, subject to prior approval the District Inspector, and shall conform as specified. The use of toxic chemicals shall require proof of proper permit for use on this jobsite. Weed control shall be performed as often as needed or required.

#### 3.05 IRRIGATION SCHEDULING

At least once every two weeks, the Contractor shall review water requirements of the project by probing in at least one area covered by each sectional valve and ascertaining the anticipated water requirements, adjusting the automatic controller accordingly. Particular attention shall be given to avoid applying more water than the soil can absorb at one time. Where more water is required than the soil can take at one time, Contractor shall set the automatic timer for repeat cycles at short intervals to satisfy the ultimate water demand. In no cases shall water be allowed to run across the surface of the ground.

**END OF SECTION 32 90 20**

**APPENDIX**  
**GARDEN GROVE ELEMENTARY SCHOOL**  
**KINDERGARTEN AREA LANDSCAPE IMPROVEMENTS**  
**SVUSD BID NO. 21E5BX361**

Encroachment Application and Permit

Detail – Curb and Gutter Barrier

Detail – Parkway Drain

Detail – Typical Curb Drain