

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
REQUEST FOR QUALIFICATIONS
FOR ALTERNATIVE DESIGN-BUILD SERVICES
WORKFORCE HOUSING PROJECT
RFQ # 2425-Bonds03
PROJECT # 1**

Notice is hereby given that Alum Rock Union Elementary School District ("District") is seeking to prequalify design-build entities or design-build teams to submit proposals to design and construct the District's **Workforce Housing Project** ("Project"), in accordance with the alternative design-build statute, Education Code section 17250.60 et seq. Only respondents that have been prequalified by the District in response to this Request for Qualifications ("RFQ") will be eligible to submit proposals in response to the District's subsequent Request for Proposals ("RFP") for the Project.

Respondents to this RFQ shall submit a fully completed and sealed Statement of Qualifications ("SOQ"), using the District's prequalification template for this design-build project, as further described herein, to the address below. Each firm is responsible for the delivery of their proposals. If the proposal is delivered late or to the wrong address, by any delivery method, the bidder bears all responsibility.

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
2930 Gay Ave
San Jose, CA 95127
ATTN: Marc Freitas, Interim Chief of Bonds – Purchasing Department
RFQ # 2425-Bonds03
Project # 1

ALL SOQS ARE DUE BY 2:00 P.M. ON FRIDAY, FEBRUARY 14, 2025, DELIVERED TO THE PURCHASING DEPARTMENT TO OBTAIN A TIME STAMP. Oral, telegraphic, facsimile, telephone, or email SOQs will not be accepted. SOQs received after this date and time will not be accepted and will be returned unopened.

District reserves the right to waive irregularities and omissions in the information contained in any SOQ, and to make all final determinations. District may use other sources of information outside of the SOQs to investigate respondents or to verify answers.

Each SOQ must be certified under penalty of perjury by the respondent. If any information provided by a respondent becomes inaccurate, the respondent must immediately notify District and provide updated, accurate information in writing, under penalty of perjury. District reserves the right to suspend or rescind prequalification at any time based on subsequently learned information.

Questions regarding this RFQ may be directed in writing to the Interim Chief of Bonds – Purchasing Department, Marc Freitas, at marc.freitas@arUSD.org, with copy to Marlon Just-Vargas at mjv@thompsondorffman.com, and must be submitted on or by **5:00 P.M. FRIDAY, JANUARY 17, 2025.**

For the latest information on this RFQ process, please visit <https://www.arusd.org/district/departments/business-services/purchasing/bids>. The District advises interested parties to visit this website regularly to stay up to date on this RFQ process.

I. RFQ SCHEDULE SUMMARY

The District may change the dates on this schedule without prior notice.

DEADLINE	ACTION ITEM
December 16, 2024	Release of RFQ.
January 8, 2025, at 10:00 a.m.	Optional informational meeting/site visit Location: Corner of Lavonne Avenue and Sinclair Drive
January 17, 2025, at 5:00 p.m.	Last day to receive written questions from respondents.
January 31, 2025	Last day for District to issue addenda or answer questions.
February 14, 2025, at 2:00 p.m.	Deadline for submissions in response to RFQ.
<u>Anticipated</u> March 2025	Notice to prequalified respondents.
<u>Anticipated</u> March 2025	Release of RFP to prequalified respondents.

II. PROJECT DESCRIPTION AND SCOPE OF SERVICES

Pursuant to the alternative design-build statute, Education Code section 17250.60 et seq., the District is seeking a design-build entity or team (“Design/Builder”) to design and construct the District’s **Workforce Housing Project** (“Project”). The Project is further defined in the attached **APPENDIX A**, along with the District’s estimated cost and schedule for the Project. The District’s performance specifications, which the selected Design/Builder must adhere to in delivering the Project, are provided in **APPENDIX A**.

The District is seeking proposals from Respondents who can support meeting the goals of the Project and will creatively adhere to the following principles. These are not requirements but are intended to make the District’s desired expectations clear and guide the Project from solicitation through construction.

- **Affordability:** The District seeks to provide quality workforce housing at affordable rental rates in order to increase the ability to recruit and retain teachers and other District employees, with 50% of the units affordable to lower income households in compliance with SB 35 and 100% of the units offered at below-market rates;
- **Schedule:** Respondents are encouraged to identify a strategy for delivering on the timing goals of the District and employing several time saving measures to deliver the housing within 3 years of the Respondent team’s engagement by the District;

- Development Costs: Respondents are encouraged to evaluate and pursue cost reducing measures while maintaining a high-quality design that complements the neighborhood;
- Sustainability: The Project should reflect the District's emphasis on sustainable construction, including designing for efficient energy and water use, building electrification, the use of low-maintenance and durable materials, and/or the use of renewable construction materials; and
- Workforce Housing Park: The Project is envisioned to include an approximately 0.7-acre park as an amenity for Project residents. The park will include a children's play structure, fenced dog run, lawn, and areas for seating.

The District seeks responses that:

- Are clear, concise, and to the point. Respondents are requested to avoid inclusion of extraneous marketing materials, overly detailed specifications, and other materials that increase the size of the submittal without providing meaningful additional information about Respondent's vision and implementation of the Project objectives.
- Articulate a clear understanding of the District's objectives for the development of the subject site. Illustrate the successful track record of the Respondent team (including the general contractor, architect of record, and proposed contractors and partners) in delivering projects on schedule and on budget, and in financing, developing, managing, and maintaining projects like the one described in this RFQ.

The selected Design/Builder must be appropriately licensed in the State of California for architectural, engineering, and construction services as needed to complete the Project. In addition, the selected Design/Builder shall have experience with both design and construction of **multi-family housing projects**, and Title 24 of the California Code of Regulations.

The District has retained Education Housing Partners, Inc. (EHP) to assist District in retaining the selected Design/Builder, to review the schematic designs that will be prepared by the Design/Builder, to manage the preparation of the entitlement application package, and to lead the entitlement process, in coordination with the District and selected Design/Builder. The District expects to pursue project entitlement by utilizing SB 35 in combination with AB 2295. SB 35 requires that at least 50% of the project's units be affordable to lower income households (up to 80% AMI).

All contractors who are part of the design-build team must be registered with the Department of Industrial Relations ("DIR") as required by law. The selected Design/Builder will be required to comply with the Labor Code prevailing wage requirements, skilled and trained workforce requirements, and the District's bonding and insurance requirements. The selected Design/Builder shall be required to be knowledgeable of the City of San Jose's entitlement process and work cooperatively with District staff, the Governing Board, EHP, all other technical consultants, the project inspector, and any program and/or construction manager, if any, retained by the District for the Project, citizens' oversight committee, other District committees, and the community to facilitate timely and professional completion of the Project. The authority having jurisdiction (AHJ) is the City of San Jose. The project is outside the Division of the State Architect's (DSA) jurisdiction.

III. DESIGN-BUILD PROCUREMENT PROCESS

Pursuant to Education Code section 17250.62, procurement of a Design/Builder will follow two (2) phases:

1. Prequalification – First, by this RFQ, the District will prequalify respondents using the template request for statements of qualifications. The significant factors the District reasonably expects to consider in evaluating qualifications are identified in Section VIII, below. The procedure will be as follows:
 - a. District staff will list and rank all respondents to the RFQ. The ranking will be based on the evaluation criteria in **APPENDIX C**.
 - b. District staff will provide the Governing Board a recommendation for the top three respondents to proceed on to the RFP portion of the procurement process, including the basis for the recommendation. The Governing Board will decide whether to accept the recommendation and authorize proceeding to RFP with the top three respondents or to reject the recommendation with instructions to District staff based on the evaluation criteria in **APPENDIX C**.
2. Design-Build Proposals – Second, the District will issue an RFP, inviting only the three prequalified respondents to submit competitive sealed proposals for the Project. The District anticipates offering a stipend in the amount of \$15,000 to those prequalified respondents to cover expenses related to design efforts as part of their proposals. The District will use a best value selection method for evaluating proposals. Further information on the best value evaluation factors will be provided in the RFP. The procedure for final selection will be as follows:
 - a. District staff will evaluate responsive proposals using only the criteria and selection procedures specifically identified in the RFP.
 - b. District staff may, at its discretion, request proposal revisions and hold discussions and negotiations with responsive proposers. The RFP will define applicable procedures to ensure that discussions or negotiations are conducted in good faith.
 - c. District staff will rank responsive proposers based on best value criteria provided.
 - d. The three selected respondents will present their proposals to the Governing Board at a Board meeting to be determined. District staff will provide a recommendation for the top ranked Design/Build team to the Governing Board, including the basis for the ranking based on the evaluation criteria in the RFP. The Governing Board will then make a motion to either take action on the selection of the Design/Builder or defer selection to another Governing Board meeting. If the Governing Board is ready to make a selection after the presentations, then it will decide if it accepts the recommendation by the District or select one of the other Design/Build teams based on the evaluation criteria in the RFP.
 - e. District staff will negotiate the contract provided in the RFP with the selected Design/Build team. If the District and Design/Build team are unable to reach an agreement on the contract terms, the District reserves the right to negotiate

with the next ranked Design-Build team or reject all proposals and re-start the procurement process.

- f. The Governing Board will announce its award the contract, if at all, to the responsible Design/Builder along with a statement regarding the basis of award (i.e. best value). The contract awarded shall be subject to further negotiation and amendment to set a price after open book evaluation of subcontractor bids. If the District and Design/Build team are unable to reach an agreement on the price, the District may terminate the contract.

Per Administrative Regulation 3311.3 any person or entity that has performed or is performing services for District relating to the solicitation of this design-build project will **not** be eligible to submit a proposal as a design-build entity or to join a design-build team.

IV. FULL OPPORTUNITY

No Respondent will be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision-making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status in any consideration leading to the award of the contract. District also affirmatively ensures that Disadvantaged Business Enterprises (“DBE”), Small Local Business Enterprises (“SLBE”), Small Emerging Local Business Enterprises (“SELBE”), and Disabled Veterans Business Enterprises (“DVBE”) shall be afforded full opportunity to respond to this RFQ.

V. LIMITATIONS

This RFQ is neither a formal request for bids, nor an offer by the District to contract with any party responding to this RFQ. The District reserves the right to add additional prequalified respondents for consideration after distribution of this RFQ, if it is found to be in the best interest of the District. All decisions concerning selection of the Design/Builder will be made in the best interests of the District. The issuing of a subsequent RFP and awarding of the contract pursuant to the subsequent RFP, if at all, is at the sole discretion of the District.

The District makes no representation that participation in this RFQ process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any response to this RFQ.

SOQs submitted by respondents are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. The contents, however, may be disclosed to third parties for purpose of verification or investigation. State law requires that the names of respondents applying for prequalification status shall be public records subject to disclosure.

VI. RESTRICTIONS ON LOBBYING AND CONTACTS

From the period beginning on the date of the issuance of this RFQ and ending on the date of the award of the contract, no person, or entity submitting in response to this RFQ, nor any officer, employee, representative, agent, or consultant representing such a person or entity shall contact through any means or engage in any discussion regarding this RFQ, the evaluation or selection process/or the award of the contract with any member of the District, Governing Board, selection members, or any member of the Citizens’ Oversight Committee. Any such contact shall be grounds for the disqualification of the respondent submitting a SOQ.

VII. TEMPLATE FOR STATEMENT OF QUALIFICATIONS

Attached hereto as **APPENDIX B** is the District's design-build prequalification template. Respondent must complete the prequalification template, certify its answers under penalty of perjury, and attach all information requested therein. The completed, certified prequalification template, together with all attachments, constitutes respondent's SOQ.

Each SOQ must be certified under penalty of perjury. If any information provided by a respondent becomes inaccurate, the respondent must immediately notify District and provide updated, accurate information in writing, under penalty of perjury.

VIII. EVALUATION

The District will evaluate all timely submitted SOQs. Each SOQ must be complete. Incomplete SOQs will be considered nonresponsive and grounds for disqualification. The District retains the sole discretion to determine issues of compliance and to determine whether a respondent is responsive and qualified.

Significant factors the District reasonably expects to consider in evaluating qualifications are as follows:

- All required licenses and registration to design and construct the Project, with no recent revocations or suspensions;
- Established performance history, including an absence of criminal or civil violations or significant disputes;
- Capacity to obtain required bonds and insurance of the Project;
- Multi-family design expertise and experience, preferably including workforce housing;
- Multi-family construction expertise and experience, preferably in the City of San Jose;
- Acceptable safety record;
- Enforceable commitment to use a skilled and trained workforce for the Project, as applicable; and
- Financial capacity to complete the Project.

Attached hereto as **APPENDIX C** is the respondent evaluation form the District intends on using during the evaluation process.

District may use other sources of information outside of the SOQs to investigate respondents or verify answers. District's investigation may extend beyond contacting project references identified in SOQs.

After completing its evaluation, the District will notify respondents selected for prequalification.

IX. FINAL DETERMINATION

Prequalification is at the sole discretion of the District. The District reserves the right to waive irregularities and omissions in the information contained in any SOQ, and to make all final

determinations. The District further reserves the right to suspend or rescind prequalification at any time based on subsequently learned information.

The District makes no representation that participation in this RFQ process will lead to an award of contract or any consideration whatsoever. The District reserves the right to seek proposals from or to contract with any firm not participating in this process. The District shall in no event be responsible for the cost of preparing any SOQ or other response to this RFQ.

X. FREQUENTLY ASKED QUESTIONS

Attached hereto as **APPENDIX D** is a list of frequently asked questions.

WE THANK YOU FOR YOUR INTEREST IN THE DISTRICT'S PROJECT!

APPENDIX A

PROJECT DESCRIPTION

Project Name: Workforce Housing Project

Description:

Located in east San Jose, the subject site is an approximately 3.4-acre portion of an approximately 20-acre parcel (APN 481-31-005) located at 2050 Kammerer Ave. The site is currently designated as Public/Quasi-Public in the General Plan and zoned as R2 Two-Family Residential (up to 8 to 16 dwelling units per Acre). The parcel is relatively flat and largely comprised of buildings and grounds currently used by Renaissance Academy at Mathson, as well as a vacant building formally occupied by the MACSA Youth Center. The proposed site area for the workforce housing currently contains an underutilized running track and is otherwise vacant. The overall site vicinity is characterized by residential uses to the north, southeast and southwest, Interstate Highway 680 to the east, and the Mayfair Community Center to the northwest.

A workforce housing community with 78 units has been conceptualized for the site, as detailed in the table below. Three buildings are proposed, totaling 26 units each, organized around a central landscaped commons. The proposed project also includes the construction of an approximately 0.7-acre park for the workforce housing community and a new vehicular access drive from Lavonne Avenue to the workforce housing community entry. (Refer to Appendix A – Attachment 2 – Conceptual Plans.) ***This is conceptual information only. The final project description is subject to change.***

Project Data – Mathson Site Workforce Housing			
Housing Type	Two- to Three-Story Stacked Flats	Building Height	~38’ maximum
Site Area	~3.4 acres (excluding park and access road)	Amenities	Community Room (1,000 SF)
Total Units	78 units (23 du/acre)	Open Space	- Landscaped Commons - ~0.7-acre Park
Unit Mix	24 1 BD/ 1 BA (31%) 6 2 BD/ 1 BA (8%) 39 2 BD/ 2 BA (50%) 9 3 BD/ 2 BA (11%)	Parking Ratio	~2.0 stalls/unit 156 total stalls - 60 garage - 20 carport - 76 uncovered
Average Unit Size	915 SF		

Project Estimate: \$50 million. The project estimate includes hard costs related to site improvements, vertical construction, and General Contractor’s general

conditions/requirements, contingency and fee. It also includes soft costs related to design consultant fees and municipal fees, among others. No structure demolition is required, but the estimate accounts for removal of trees, in compliance with local regulations, and landscape as part of the General Contractor's scope of work. FFEs are included in the project estimate. Funding is sourced via general obligation bonds (i.e. public funding).

Project Schedule: Completion within 36 months of Design/Builder being awarded the project and issued a notice to proceed by the District. Contract award is anticipated to occur in Q2 2025.

Attachments:

1. Project Specifications
2. Conceptual Design Package
3. Preliminary Noise Study
4. Phase 1 ESA
5. Arborist report
6. Preliminary Geotechnical Study
7. Civil Engineering Feasibility Report

APPENDIX B

TEMPLATE FOR STATEMENT OF QUALIFICATIONS

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
PREQUALIFICATION TEMPLATE
DESIGN-BUILD ENTITIES
WORKFORCE HOUSING PROJECT
RFQ # 2425-BONDS03
PROJECT # 1**

This standard prequalification template should be completed by design-build entities or design-build teams seeking to prequalify for the Alum Rock Union Elementary School District ("District") Workforce Housing Project ("Project") in accordance with Education Code section 17250.60 et seq.

As used herein:

- "Design/Builder" refers to both design-build entities and design-build teams.
- "Member" refers to individuals or entities identified as members of the design-build team, including the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.
- "Associates" refers to all current officers, owners, and/or partners of Design/Builder and of any Member.

Wherever additional space is needed to answer a question fully and accurately, attach additional copies of the template pages and/or additional signed sheets as needed.

I. BUSINESS INFORMATION

A. Contact Information

1. Design/Builder Name: _____
2. Primary contact person: _____
3. Principal office address: _____
4. Phone: _____
5. Fax: _____
6. Email: _____

B. Form of Organization

1. The complete Respondent team should be established as an integrated group prior to submitting the response to the RFQ. Team members to be identified include, at a minimum, the General Contractor, the Architect, Engineers, and Mechanical/Electrical/Plumbing Contractors.

2. If the Design/Builder or any Member is a **corporation**:

- a. Date incorporated: _____
- b. Under laws of what state: _____
- c. If a privately held corporation, list all shareholders who will perform work on the project:

Name	Ownership Percentage

- d. Attach a copy of the articles of incorporation.

3. If the Design/Builder or any Member is a **limited liability company**:

- a. Date formed: _____
- b. Under laws of what state: _____
- c. List all LLC members who will perform work on the project:

Name	Ownership Percentage

- d. Attach a copy of the articles of organization.

4. If the Design/Builder or any Member is a **partnership**:

- a. Date formed: _____

b. Under laws of what state: _____

c. List all partners who will perform work on the project:

Name	Ownership Percentage

d. Attach a copy of the partnership agreement.

5. If the Design/Builder or any Member is a **joint venture**:

a. Date formed: _____

b. Under laws of what state: _____

c. List all joint venture members who will perform work on the project:

Name	Ownership Percentage

d. Attach a copy of the joint venture agreement.

6. If the Design/Builder or any Member is a **sole proprietorship**:

a. Date formed: _____

b. Under laws of what state: _____

c. List owner: _____

d. Attach a copy of organizational documents, if any.

C. Financial Capacity

1. Attach an audited financial statement with accompanying notes and supplemental information for the past 2 full fiscal years for Design/Builder and each entity Member (not individual Members). A letter verifying availability of a line of credit may also be attached; however, it will be considered supplemental information only, and is not a substitute for the required financial statement.
2. Is Design/Builder or any Member currently, or has Design/Builder or any Member within the last 5 years been, the debtor in a bankruptcy case?

___ Yes ___ No

If "yes," please attach a copy of the bankruptcy petition and a copy of the bankruptcy court's discharge or any other document that ended the case, if any.

II. LICENSING AND REGISTRATION

A. General Contractor

1. Name of license holder exactly as on file with the Contractors State License Board ("CSLB"): _____
2. License classification(s): _____
3. License #: _____
4. Issue Date: _____
5. Expiration Date: _____
6. Public Works Contractor Registration # on file with the Department of Industrial Relations ("DIR"): _____
7. Has any CSLB license held by the general contractor or its qualifying individual been suspended or revoked within the last 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

8. Has the general contractor changed names or license numbers within the past 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

B. Architect of Record

The architect of record is the architect whose stamp will appear on project documents.

1. Name of license holder exactly as on file with the California Architects Board ("CAB"):

2. License #: _____
3. Issue Date: _____
4. Expiration Date: _____
5. Has any CAB license held by the architect of record been suspended or revoked within the last 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

6. Has the architect of record changed names or license numbers within the past 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

C. Engineer(s)

Engineering services will be dictated by the nature of the project. The Design/Builder should respond for all "in house" engineers that will provide services on the project. If relevant, use additional signed sheets to respond for multiple engineering disciplines.

1. Name of license holder exactly as on file with the Board of Professional Engineers, Land Surveyors, and Geologists ("BPELSG"):

2. License Type: _____
3. Licenses #: _____
4. Issue Date: _____
5. Has any BPELSG license held by the engineer been suspended or revoked within the last 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

6. Has the engineer changed names or license numbers within the past 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

D. Mechanical, Electrical, or Plumbing Contractor(s)

If utilized in the design of the project, respond for all Member electrical, or plumbing ("MEP") contractors. If relevant, use additional signed sheets to respond for multiple MEP contractors.

1. Name of license holder exactly as on file with the Contractors State License Board ("CSLB"): _____
2. License classification(s): _____
3. License #: _____
4. Issue Date: _____
5. Expiration Date: _____
6. Public Works Contractor Registration # on file with the Department of Industrial Relations ("DIR"): _____
7. Has any CSLB license held by the MEP contractor or its qualifying individual been suspended or revoked within the last 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

8. Has the general contractor changed names or license numbers within the past 5 years?

___ Yes ___ No

If "yes," explain on a separate signed sheet.

III. PERFORMANCE HISTORY

1. Has Design/Builder or any Member or Associate 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 ___ No

If "yes," explain on a separate signed sheet, including identifying who was found liable or guilty, the court and case number, the name of the public entity, the civil or criminal verdict, the date, and the basis for the finding.

2. Has Design/Builder or any Member or Associate ever been convicted of a crime involving any federal, state, or local law related to construction or any crime involving fraud, theft, or any other act of dishonesty?

___ Yes ___ No

If "yes," explain on a separate signed sheet, including identifying who was convicted, the name of the victim, the date of the conviction, the court and case number, the crimes, and the grounds for the conviction.

3. At any time in the last 5 years, has Design/Builder or any Member been assessed liquidated damages under a construction contract?

Yes No

If "yes," explain on a separate signed sheet, including the project, owner, owner's address, date of completion, and amount of liquidated damages.

4. At any time in the last 5 years, has Design/Builder or any Member or Associate been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any public works project?

Yes No

If "yes," explain on a separate signed sheet, including the project, the year of the event, owner, owner's address, and basis for the action.

5. At any time in the last 5 years, has a public agency found that Design/Builder or any Member was not a responsible bidder?

Yes No

If "yes," explain on a separate signed sheet, including the project, the year of the event, owner, owner's address, and basis for the finding.

6. In the past 5 years, has any claim exceeding \$50,000 been filed by or against Design/Builder or any Member in court or arbitration concerning work or payment on a construction project?

Yes No

If "yes," explain on a separate signed sheet, including the project name, court or arbitration case name and number, and a brief description of the status of the claim. Include dollar amount of settlements, if any.

7. In the past 5 years, has there been more than one occasion in which Design/Builder or any Design/Builder member was required to pay either back wages or penalties for failure to comply with California prevailing wage laws or federal Davis-Bacon prevailing wage requirements?

Yes No

If "yes," explain on a separate signed sheet, describing the nature of the violation(s), project, owner, and amount paid, if any.

8. At any time during the past 5 years, has Design/Builder or any Member been found to have violated any provision of California apprenticeship laws or regulations, or laws pertaining to use of apprentices on public works projects?

Yes No

If "yes," explain on a separate signed sheet, including date(s) of such findings and attaching the Division of Apprenticeship Standards' final decision(s).

IV. BONDS AND INSURANCE

A. Bonds

1. Attach a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California), which states the current bonding capacity of the Design/Builder (both single job limit and aggregate limit). Also, include A. M. Best rating of bonding company. Note: Design/Builder must have capacity to provide 100% payment bond and 100% performance bond, each issued by an admitted surety insurer, without bonding subcontractors.
2. Provide the name, address, and telephone number of the surety agent: _____

3. List all sureties that have written bonds to the Design/Builder or any Member during the last 5 years:

Name	Address	Date of Bond

4. In the last 5 years, has any surety paid on behalf of the Design/Builder or any Member a result of a default to satisfy any claims made against a payment or performance bond?

Yes No

If "yes," explain on a separate signed sheet, including the amount of each claim, name and telephone number of claimant, date of and grounds for the claim, and present status.

5. If Design/Builder or any Member was required to pay a premium of more than 1 percent for a performance and payment bond on any project in the last 5 years, state the percentage: _____

Explain on a separate signed sheet why Design/Builder or Member was required to pay the premium of more than 1 percent.

6. In the last 5 years, has Design/Builder or any Member been denied bond coverage by a surety company or had no surety bond in place when one was required?

___ Yes ___ No

If "yes," explain on a separate signed sheet, including the name of the surety company and/or period during which Design/Builder or Member had no bond in place.

B. Insurance

1. Does Design/Builder have commercial general liability insurance with a policy limit of at least \$5,000,000 per occurrence and \$10,000,000 aggregate for a California admitted company?

___ Yes ___ No

If "no," provide on a separate signed sheet what policy limits are available to Design/Builder.

2. Does Design/Builder have current workers' compensation insurance as required by the California Labor Code or is Design/Builder legally self-insured pursuant the California Labor Code?

3. Does Design/Builder have professional liability (errors and omissions) insurance with a policy limit of at least \$4,000,000 aggregate from a California admitted company?

___ Yes ___ No

If "no," provide on a separate signed sheet what policy limits are available to Design/Builder.

4. In the last 5 years, has any insurance carrier, for any form of insurance, refused to renew an insurance policy for Design/Builder or any Member?

___ Yes ___ No

If "yes," explain on a separate signed sheet, including the name of the insurance carrier, form of insurance, and year of the refusal.

V. SAFETY

1. Attach a description, not to exceed 1 page, of Design/Builder's worker safety program as applicable to this project.

2. Within the past 5 years, has the California or federal Occupation Safety and Health Administration (“OSHA”) cited and assessed penalties against Design/Builder or any Member, for “serious,” “willful” or “repeat” violations of its safety or health regulations?

___ Yes ___ No

If “yes,” explain on a separate signed sheet, identifying the citation(s), nature of the violation(s), project, and amount of penalty paid, if any.

3. Within the past 5 years, has the Environmental Protection Agency (“EPA”) or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against Design/Builder or any Member or the owner of the project on which Design/Builder/Member was the contractor?

___ Yes ___ No

If “yes,” explain on a separate signed sheet, identifying the citation(s), nature of the violation(s), project, and amount of penalty paid, if any.

4. State the Workers’ Compensation Experience Modification Rate (“EMR”) for Design/Builder and each Member for the past 3 premium years:

Year	EMR

If EMR was 1.00 or higher in any of 3 years, attach a letter of explanation.

5. State the total recordable injury or illness rate and the lost work rate for Design/Builder and each Member for the past 3 years:

Year	Incident Rate	Lost Work Rate

6. Within the past 5 years, has there ever been a period when Design/Builder or any Member had employees but was without workers’ compensation insurance or state-approved self-insurance?

___ Yes ___ No

If "yes," explain on separate signed sheet, including the date(s) and reason(s) for the absence of workers' compensation insurance.

VI. PROJECT EXPERIENCE AND REFERENCES

For purposes of this RFQ, project experience must be based on the experience of the entity, not of only a key member of the staff.

1. How many design-build projects have the general contractor and architect of record for the Design/Builder completed together? (Projects completed via a different project delivery method will not be considered.) _____
2. For the completed design-build projects identified in the preceding answer, state:
 - a. Total dollar value of all contracts: _____
 - b. Dollar value of single largest contract: _____
3. How many California multi-family projects (both under construction and completed) has/have:
 - a. The general contractor for the Design/Builder built in the past 5 years?

 1. How many in the San Francisco Bay Area? _____
 - b. The architect of record for the Design/Builder designed in the past 5 years?

 1. How many in the San Francisco Bay Area? _____
 - c. The engineer(s) for the Design/Builder designed in the past 5 years?

 1. How many in the San Francisco Bay Area? _____
 - d. The MEP contractor(s) for the Design/Builder worked on in the past 5 years?

 1. How many in the San Francisco Bay Area? _____
4. Describe Design/Builder's experience implementing interior and/or exterior noise mitigation measures, particularly for projects in close proximity to a freeway: _____

5. How many projects has the Design/Builder completed where a community workforce agreement was required? _____
6. Has the design-build team completed any LEED certified projects?
 Yes No
 a. If so, what LEED tier(s) were achieved (Certified, Silver, Gold or Platinum)?

7. Has any of the design-build team members worked with Educational Housing Partners, Inc. on other projects?
 Yes No
8. Complete **both** project reference forms attached hereto as **Exhibits A-1 and A-2**. District may, in its discretion, contact project references.
9. Discuss, on a separate attachment not to exceed 2 pages, Design/Builder's specific experience with school district workforce housing, if any, or multi-family housing projects. This discussion may include but is not limited to the projects listed in **Exhibits A-1 and A-2**.
10. Discuss, on a separate attachment not to exceed 2 pages, Design/Builder's specific experience with the entitlement process, in particular, utilizing SB 330 and/or AB 2295, including applying for and complying with, for multi-family projects, preferably in the City of San Jose. This discussion may include but is not limited to the projects listed in **Exhibits A-1 and A-2**.
11. Attach resumes or similar documents, not to exceed 1 page each, showing the experience, training, and qualifications for up to 6 proposed key personnel of the Design/Builder.

VII. PROJECT CONCEPTUAL BUDGET AND TIMELINE

1. Complete conceptual budget form attached hereto as **Exhibit A-3** with the following categories:
 - a. Entitlement Phase
 - b. Design Development/Construction Documents/Permitting Phase
 - c. Construction Phase
 - i. Soft Cost
 - ii. Hard Cost

2. Complete conceptual timeline form attached hereto as **Exhibit A-4** with estimated durations for the following phases:
 - a. Entitlement Phase
 - b. Design Development/Construction Documents/Permitting Phase
 - c. Construction Phase

VIII. SKILLED AND TRAINED WORKFORCE COMPLIANCE

1. By this submittal and completing the form attached hereto as **Exhibit A-5**, Design/Builder hereby acknowledges, agrees, and hereby provides an enforceable commitment to District that:
 - a. Design/Builder and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Public Contract Code section 2600 et seq.; or
 - b. Design/Builder has agreed to be bound by: (i) a community workforce agreement ("CWA") entered into by the District that will bind all contractors and subcontractors performing work on the project to use a skilled and trained workforce; (ii) the extension or renewal of a CWA that was entered into by the District prior to January 1, 2017; or (iii) a CWA entered into by the Design/Builder that will bind the Design/Builder and all its subcontractors at every tier performing work on the project to use a skilled and trained workforce.
2. Discuss, on a separate attachment not to exceed 2 pages, Design/Builder's specific experience with the skilled and trained workforce requirements pursuant to Public Contract Code section 2600 et seq.:

"Apprenticeable occupation" means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations ("Chief") had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

"Skilled and Trained Workforce" means a workforce that meets all of the following conditions:

1. All of the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief.
2. The percentage of either (A) skilled journeypersons employed by Developer or subcontractor to perform work on the Contract or Project who are graduates of an apprenticeship program for the applicable occupation, or (B) hours of work performed by skilled journeypersons employed by Developer or subcontractor to perform work on the Contract or Project who are graduates of an apprenticeship program for the applicable occupation, is at least equal to the percentages set forth in the following chart for the applicable month:

REQUIREMENT	EXCLUDED OCCUPATIONS
0%	Teamster
At least 30%	Acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, terrazzo worker or finisher, and tile layer, setter, or finisher
At least 60%	Remaining apprenticeable occupations

3. For an apprenticeable occupation in which no apprenticeship program has been approved by the Chief before January 1, 1995, up to one-half of the above graduation percentage requirements set forth in the above chart may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation before the Chief's approval of an apprenticeship program for that occupation in the county in which the Project is located.
4. The contractor or subcontractor need not meet the apprenticeship graduation requirements if:
 - a. During a calendar month, Developer or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the Contract or Project; or
 - b. The subcontractor was not a listed subcontractor under Public Contract Code section 4104 or a substitute for a listed subcontractor and the subcontract does not exceed one-half of 1 percent of the price of the prime contract.

IX. ADDENDA ACKNOWLEDGEMENT

1. Complete addenda acknowledgement form attached hereto as **Exhibit A-6**.

X. CERTIFICATION

Design/Builder and all Members must sign. Copy this certification page as needed for each Member.

I certify and declare that I have read all the foregoing answers to this prequalification template; that all answers are correct and complete of my own knowledge and belief. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____, 20__

Name of Design/Builder or Member: _____

Signature by authorized individual: _____

Print Name: _____

Title: _____

EXHIBIT A-1

Design-Build Project References

List the three most recent design-build projects, each with a contract price over \$40 million, completed by the general contractor and architect, preferably as a team, for the Design/Builder. The projects may be public or private. Contact information must be current and viable. (Copy additional sheets.)

1. Project Name: _____
2. Project Address: _____

3. Owner (name and tel. #): _____

4. Architect (name and tel. #): _____

5. Construction Manager (name and tel. #): _____

6. Scope of Work: _____

7. Original Completion Date: _____
8. Actual Complete Date: _____
9. Time Extensions Granted (# of days): _____
10. Initial Contract Value: _____
11. Final Contract Value: _____
12. Reasons for not completing the project within original completion date or contract value (if applicable):

Date: _____, 20__

Signature by authorized individual: _____

Print Name: _____

Title: _____

EXHIBIT A-2

California Multi-Family Housing Project References

List the three most recent California multi-family housing projects, each with a contract price over \$40 million, completed by the general contractor and architect, preferably as a team, for the Design/Builder. The projects may be public or private. Contact information should be current and viable. (Copy additional sheets.)

1. Project Name: _____
2. Project Address: _____

3. Owner (name and tel. #): _____

4. Architect (name and tel. #): _____

5. Construction Manager (name and tel. #): _____

6. Scope of Work: _____

7. Was this a design-build project? _____
8. Original Completion Date: _____
9. Actual Complete Date: _____
10. Time Extensions Granted (# of days): _____
11. Initial Contract Value: _____
12. Final Contract Value: _____

Date: _____, 20__

Signature by authorized individual: _____

Print Name: _____

Title: _____

EXHIBIT A-3

Conceptual Budget

Entitlement Phase

Scope	Budget Amount
Architecture	_____
Landscape Architecture	_____
Civil Engineering	_____
Traffic Engineering	_____
Municipal/Permitting Fees	_____
Other: _____	_____
Reimbursable Expenses	_____
Total	_____

Design Development/Construction Documents/Permitting Phase

Scope	Budget Amount
Architecture	_____
Landscape Architecture	_____
Civil Engineering	_____
Structural Engineering	_____
MEP Engineering	_____
Fire/Life Safety	_____
Acoustical	_____
Geotechnical Engineering	_____
Joint Trench	_____
Exterior Lighting	_____
Sustainability	_____
Waterproofing	_____
Interior Design	_____
Accessibility	_____
Municipal/Permitting Fees	_____
Other: _____	_____
Reimbursable Expenses	_____

Total _____

Construction Phase

Scope	Budget Amount
Soft Cost (Construction Administration)	
Architecture	_____
Landscape Architecture	_____
Civil Engineering	_____
Structural Engineering	_____
MEP Engineering	_____
Fire/Life Safety	_____
Acoustical	_____
Geotechnical Engineering	_____
Joint Trench	_____
Exterior Lighting	_____
Waterproofing	_____
Interior Design	_____
Other: _____	_____
Reimbursable Expenses	_____
Sub-Total	_____
Hard Cost	
Division 01 — General Requirements	_____
Division 02 — Existing Conditions	_____
Division 03 — Concrete	_____
Division 04 — Masonry	_____
Division 05 — Metals	_____
Division 06 — Wood, Plastics, and Composites	_____
Division 07 — Thermal and Moisture Protection	_____
Division 08 — Openings	_____
Division 09 — Finishes	_____
Division 10 — Specialties	_____
Division 11 — Equipment	_____
Division 12 — Furnishings	_____

Division 15 — Plumbing + HVAC	_____
Division 16 — Electrical + Lighting	_____
Division 20 — Mechanical Support	_____
Division 21 — Fire Suppression	_____
Division 22 — Plumbing	_____
Division 23 — Heating Ventilating and Air Conditioning	_____
Division 26 — Electrical	_____
Division 27 — Communications	_____
Division 28 — Electronic Safety and Security	_____
Division 31 — Earthwork	_____
Division 32 — Exterior Improvements	_____
Division 33 — Utilities	_____
Alternate No. 1 – Park Improvements (~0.7 Acres)	_____
Sub-Total	_____
Contingency	_____
Bonds	_____
Insurance	_____
Overhead and Profit	_____
Sut-Total	_____
Total	_____

Date: _____, 20__

Signature by authorized individual: _____

Print Name: _____

Title: _____

EXHIBIT A-4

Conceptual Timeline

Phase	Duration (Calendar Days)
Entitlement	_____
Design Development/Construction Documents/Permitting	_____
Construction	_____
Total	_____

Date: _____, 20__

Signature by authorized individual: _____

Print Name: _____

Title: _____

EXHIBIT A-5

Community Workforce Agreement (CWA) Acknowledgement Form

ALUM ROCK UNION SCHOOL DISTRICT CWA

RFQ # 2425-Bonds03, PROJECT # 1

Alternative Design-Build Services

Workforce Housing Project

See attached CWA.

Please submit a signed copy of this CWA acknowledgement with your RFQ response.

Date: _____, 20__

Signature by authorized individual: _____

Print Name: _____

Title: _____

11.04

Office of Superintendent of Schools

COPY

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

Board of Trustees:

November 30, 2016

**Subject: COMMUNITY BENEFIT AGREEMENT
Measure I & J**

Staff Analysis: A Community Benefit Agreement (CBA), properly drafted and properly managed, can operate to the benefit of the Alum Rock community by providing jobs for our residents, program and financial support for our school community, and labor/management collaboration to move District projects forward without undue interruption or work stoppage. The merits of a CBA will be discussed and action may be taken to adopt a CBA, including direction to the Measure I and Measure J Project Manager/Construction Manager regarding the administration of such CBA. This item was submitted by Trustee Esau Ruiz Herrera.

Action

Submitted by: <u>Hilaria Bauer</u>	Title: <u>Superintendent</u>
------------------------------------	------------------------------

To the Board of Trustees:	Meeting: December 8, 2016 Regular Board Meeting
Recommend Approval	
<u>11.04</u> Agenda Placement	<u>Hilaria Bauer, Ph.D., Superintendent</u> ARUESD Board Approved 12/8/16

DISPOSITION BY BOARD OF TRUSTEES		
Motion by: <u>Andrés Guntoro</u>	Seconded by: <u>Dolores Marguez-Fraust</u>	
Approved: <u>4</u>	Not Approved: <u>0</u>	Tabled: _____
<u>1 absent</u> <u>Esau Herrera</u>		

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT COMMUNITY WORKFORCE AGREEMENT

This Agreement is entered into this 8th day of December, 2016 by and between the Alum Rock Union Elementary School District (hereinafter the "District"), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the **Agreement To Be Bound ("Addendum A")** (referred to collectively herein as "Contractor(s)/Employer(s)"), and the Santa Clara and San Benito Counties Building & Construction Trades Council (hereinafter the "Council") and its affiliated local Unions that have executed this Agreement (referred to collectively herein as "Union" or "Unions").

The purpose of this Agreement is to promote the efficiency of construction operations for the District through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of Projects funded by proceeds from Measure I and/or Measure J bonds.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to meet the needs of the District and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, and will be represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on projects of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the District, the Unions, the Contractor(s)/Employer(s) and the public would be best served if construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s)/Employer(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and to encourage close cooperation among the Contractor(s)/Employer(s) and the Unions so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the

Contractor(s)/Employer(s) and the affected Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, the contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the California Public Contracts Code and all state, local and federal laws; and

WHEREAS, the District has the absolute right to select the lowest responsive and responsible bidder for the award of the construction contract(s) on the Project; and

WHEREAS, the District places high priority upon the development of comprehensive programs for the recruitment, training and employment of District graduates, underrepresented workers and targeted workers, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Project; and

WHEREAS, the District has previously entered into a Construction Careers Agreement for prior projects and has experienced positive benefits with its relationship with the Unions; and the District Board of Directors has approved the use of this Agreement.

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I DEFINITIONS

- 1.1 "Agreement" means this Community Workforce Agreement.
- 1.2 "Agreement to be Bound" means the agreement (attached hereto and incorporated herein as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of performing Project work.
- 1.3 "Completion" means that point at which there is Final Acceptance by the District of a Construction Contract and the District has filed a Notice of Completion. For the purposes of this definition, "Final Acceptance" means that point in time at which the engineer for the District has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents, and the District has executed a written acceptance of the work.
- 1.4 "Construction Contract(s)" means all public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of the Project is done) awarded by the District that are necessary to complete the Project.
- 1.5 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent

entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and that enters into a contract with the District with respect to the construction of any part of the Project, under contract terms and conditions approved by the District and which incorporate this Agreement, and all contractors or subcontractors of any tier.

1.6 "Council" means the Santa Clara and San Benito Counties Building & Construction Trades Council.

1.7 "District" means the Alum Rock Union Elementary School District, its Board of Directors, officers, agents, employees and administrative staff, including managerial personnel.

1.8 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft Union signatory hereto.

1.9 "Project" means all District construction projects paid for in whole or in part out of Measure I and/or Measure J funds. The District and the Council may mutually agree in writing to add additional components to the Project's scope of work covered by this Agreement. Although "Project" is used throughout this Agreement in the singular, it applies to all projects as defined in this Section.

1.10 "Project Manager" means the person(s) or entity(ies) designated by the District to oversee all phases of construction on the Project and the implementation of this Agreement, and who works under the guidance of the District's authorized representative.

1.11 "Union" or "Unions" means the Santa Clara and San Benito Counties Building & Construction Trades Council, AFL-CIO, and its affiliated Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II SCOPE OF AGREEMENT

2.1 Parties: This Agreement applies to and is limited to all Contractor(s)/Employer(s) performing Construction Contracts on the Project (including subcontractors at any tier), and their successors and assigns, the District, the Council and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on the Project. For the purposes of this Agreement, Construction Contracts shall be considered completed as set forth in Section 1.3, except when the District directs a Contractor to engage in repairs, warranty work, modifications or punch list work as required under a Construction Contract with the District, or when a Contractor performs work under a change order for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related

activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, and modular furniture installation. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion unless it is performed by District employees.

2.3.2 This Agreement covers all on-site fabrication work over which the District, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s). This Agreement also covers work done off-site that is specifically dedicated to processing of materials that would otherwise be done on site if space was available (e.g. concrete batch plant, form or panel construction).

2.3.3 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand, or other fill or similar material which is incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the District within ten (10) days of a written request or as required by bid specifications.

2.3.4 In limited circumstances requiring specialized knowledge of particular item(s), this Agreement shall not apply to construction persons designated by a manufacturer as necessary to protect the manufacturer's warranty, provided that the contractor using the manufacturer's construction persons can demonstrate by an enumeration of specific tasks that the work cannot be performed by workers employed under this Agreement. All such work must be identified and discussed by the contractor at the Pre-Construction Conference, and the contractor shall be responsible for requesting a Pre-Construction Conference if necessary to satisfy the requirements of this Section. Any dispute shall be subject to the grievance and arbitration procedures set forth in this Agreement.

2.3.5 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Agreement of Elevator Constructors, the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and all instrument calibration work and loop checking shall be performed under the terms of the

UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIII, XIV of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement.

2.4.1 The Agreement shall not apply to a Contractor/Employer's non-construction craft employees, including but not limited to executives, managerial employees, engineering employees, other professional engineers, supervisors above the level of General Foreman (except those covered by existing Master Agreements), and administrative and management personnel.

2.4.2 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city or other governmental bodies or their contractors, or by public or private utilities.

2.4.3 This Agreement shall not apply to off-site maintenance of leased equipment and on-site supervision of such work.

2.4.4 The District shall not be required to comply with this Agreement for any work performed with its own forces as permitted by the Public Contract Code.

2.5 Award of Contracts: It is understood and agreed that the District has the right to select any qualified bidder for the award of Construction Contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project that are issued on or after the effective date of this Agreement. A copy of all invitations to bid shall be provided at time of issuance to the Council.

ARTICLE III EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Unions and the District agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor/Employer may not be evaded by subcontracting. If the subcontractor refuses to

execute the **Agreement to be Bound**, then such subcontractor shall not be awarded a construction subcontract to perform work on the Project.

3.4 This Agreement shall only be binding on the signatory parties hereto and their successors and assigns and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor/Employer shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any dispute between the Union(s) and the Contractor(s)/Employer(s) respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s)/Employer(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s)/Employer(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule As incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement is inconsistent with a Schedule A, the provisions of this Agreement shall prevail. Where a provision of a Schedule A is not inconsistent with this Agreement, the provisions of the Schedule A shall apply.

ARTICLE IV WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1 The Unions, District and Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or any other facility of the District because of a dispute on the Project. Disputes arising between the Unions and Contractor(s)/Employer(s) on other District projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Project during the interim, with

retroactive payment due within seven (7) calendar days of the effective date of the modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the District and the Contractor/Employer three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer's or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from an Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the District contends that any Union has violated this Article, it will so notify, in writing, the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the parties shall select the arbitrator from the list in Section 13.4. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile, email or telephone to the District and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the District will contact the permanent arbitrator named above, or his alternate, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by facsimile, email or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours

after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with an Arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this Section.

4.2.5 Such award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceedings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or alternate arbitrator identified above no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

ARTICLE V PRE-CONSTRUCTION CONFERENCE

5.1 Timing: Upon request of the District or the Council, the Prime Employer and/or Project Manager shall convene and conduct a pre-construction conference at a time and location mutually agreeable to the Council, with the Unions and with representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and to discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on each subsequently awarded Construction Contract.

5.2 The pre-construction conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and the District may attend at their discretion.

5.3 Pre-Construction Conference: The pre-construction conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 Joint Administrative Committee: This Agreement is intended to provide close cooperation between management and labor. To that end, the District and Council shall each designate two representatives to serve on a Joint Administrative Committee ("JAC"), each of whom may designate an alternate. JAC members may invite participation by a Contractor or Union as needed. The JAC shall meet periodically, at the request of any member, to review progress on the Project and to discuss matters of general concern, such as safety and security. The JAC shall serve as a forum to foster communication between management and labor, and to assist the Unions and the Contractors to complete the Project in an economic and efficient manner without interruption, delays or work stoppages. The JAC shall have no authority to review grievances or disputes involving this Agreement, which are subject to the applicable grievance procedure.

ARTICLE VI NO DISCRIMINATION

6.1 The Contractor(s)/Employer(s) and Unions agree to comply with all anti-discrimination provisions of federal, state and local law, to protect employees and applicants for employment on the Project.

ARTICLE VII UNION SECURITY

7.1 The Contractor(s)/Employer(s) recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All employees who are employed by Contractor(s)/Employer(s) to work on the Project will be required to become members and maintain membership in the appropriate Union on or before eight (8) days of consecutive or cumulative employment on the Project. Membership under this Section shall be satisfied by the tendering of periodic dues and fees uniformly required to the extent allowed by the law.

7.3 Authorized representatives of the Union(s) shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE VIII REFERRAL

8.1 The Contractor(s)/Employer(s) performing construction work on the Project described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 The Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s) (unless such craft construction employees are covered by existing Master Agreements).

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain workers from any source. A Contractor/Employer who hires any worker(s) to perform Covered Work on the Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

8.4 Targeted Hiring: In order to increase construction job opportunities for District graduates, underrepresented workers and targeted workers, the parties shall comply with the Targeted Hiring Agreement attached hereto as **Addendum B**.

ARTICLE IX WAGES AND BENEFITS

9.1 The Contractor(s)/Employer(s) agree to pay contributions to the vacation, pension and other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project, in the amounts designated in the Master Agreement(s) of the appropriate Union(s).

9.2 By signing this Agreement, the Contractor(s)/Employer(s) adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor(s)/Employer(s) authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if made by the Contractor(s)/Employer(s). The Contractor(s)/Employer(s) agrees to execute a Subscription Agreement(s) when such Trust Fund(s) requires such document(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

9.4 Holidays: Holidays shall be in compliance with the applicable Schedule A.

ARTICLE X APPRENTICES

10.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s)/Employer(s) shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

10.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determinations.

10.3 Consistent with the Master Agreements, there shall be no restrictions on the utilization of apprentices in performing the work of their craft, provided they are properly supervised. The Unions agree to cooperate with the Contractor(s)/Employer(s) in furnishing apprentices as requested up to the maximum percentage, in compliance with the applicable Master Agreement and the state-approved apprenticeship standards for that craft.

ARTICLE XI HELMETS TO HARDHATS

11.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractor(s)/Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (the "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XII COMPLIANCE

12.1 It shall be the responsibility of the Contractor(s)/Employer(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractor(s)/ Employer(s) on the Project. The District shall monitor and enforce compliance with the prevailing wage requirements of the state, and the Contractor(s)/Employer(s)' compliance with this Agreement.

ARTICLE XIII GRIEVANCE ARBITRATION PROCEDURE

13.1 Project Labor Disputes: All disputes involving the application or interpretation of the Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article IV (Work Stoppages, Strikes, Sympathy Strikes and Lockouts) and Article XIV (Work Assignments and Jurisdictional Disputes), shall be subject to resolution by the grievance arbitration procedures set forth herein.

13.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or discharged without just cause.

13.3 No grievance shall be recognized unless the grieving party (Local Union or District Council, on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

13.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not settled in Step 1, within five (5) business days of the Step 1 meeting, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved, and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union

representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2, within five (5) business days of the Step 2 meeting, either party may request the dispute be submitted to arbitration or the time may be extended by mutual agreement of the parties. Within five (5) business days after referral of the dispute to Step 3, the representatives shall notify the permanent arbitrator, or if he/she is not available, the alternate arbitrator, for final and binding arbitration. The parties agree that if the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Morris Davis
3. William Engler

13.5 The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties. The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.

13.6 The time limits specified at any step of the Grievance Procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

13.7 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

13.8 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union may request that the District withhold and retain an amount from what is due and owing to the Contractor against whom the grievance is filed, sufficient to cover the damages alleged in the grievance, should the Unions prevail. The amount shall be retained by the District until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an Arbitrator shall so order.

13.9 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

**ARTICLE XIV
WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

14.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this Section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and the District will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

**ARTICLE XV
MANAGEMENT RIGHTS**

15.1 Consistent with the Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that lawful manning provisions in the Master Agreement shall be recognized.

15.2 Consistent with the Schedule A agreements, it is the responsibility of the Contractor(s)/Employer(s) to ensure safe working conditions on the Project and to notify employees of and ensure compliance with the applicable safety laws and regulations on the Project.

**ARTICLE XVI
DRUG AND ALCOHOL TESTING**

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policies contained in the applicable Schedule A.

**ARTICLE XVII
SAVINGS CLAUSE**

17.1 The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

17.2 The parties agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the District from complying with all or part of its provisions and the District accordingly determines that the Agreement will not be required as part of an award to a Contractor/Employer, the Unions will no longer be bound by the provisions of Article IV.

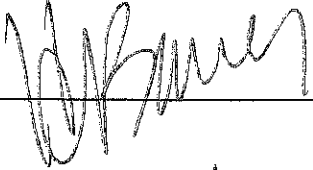
**ARTICLE XVIII
TERM**

18.1 This Agreement shall be included in the bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of Construction Contracts for the Project.

18.2 This Agreement shall become effective on the day it is executed by the District and by the Council.

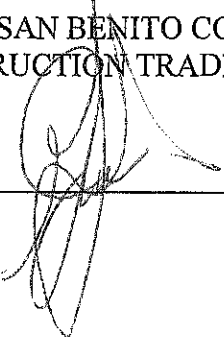
18.3 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed PDF signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

ALUM ROCK UNION ELEMENTARY SCHOOL
DISTRICT

By:  _____

Date: 4/24/17

SANTA CLARA AND SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES COUNCIL

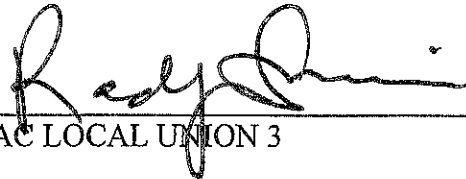
By:  _____
Josué García, CEO

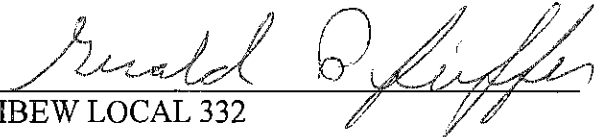
Date: 4/5/17

SIGNATURE BLOCKS FOR UNIONS


ASBESTOS WORKERS LOCAL 16


BOILERMAKERS LOCAL UNION 549


BAC LOCAL UNION 3



IBEW LOCAL 332


ELEVATOR CONSTRUCTORS LOCAL UNION 8

I.U.P.A.T. DISTRICT COUNCIL 16


IRON WORKERS LOCAL 377


LABORERS LOCAL UNION 270



OPERATING ENGINEERS LOCAL 3



OPERATIVE PLASTERERS AND CEMENT MASONS LOCAL UNION 400



PLASTERERS LOCAL UNION 300


ROOFERS LOCAL UNION 95


UNITED ASSOCIATION, PLUMBERS & PIPEFITTERS LOCAL UNION 355


UNITED ASSOCIATION, PLUMBERS & PIPEFITTERS LOCAL UNION 393

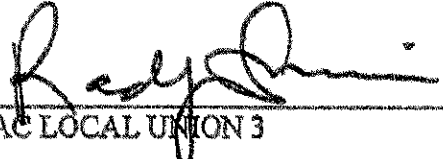

UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483

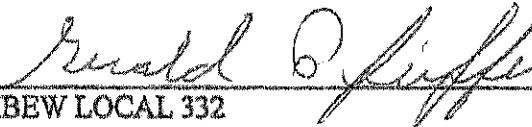

SHEET METAL WORKERS INTERNATIONAL UNION LOCAL 104

SIGNATURE BLOCKS FOR UNIONS


ASBESTOS WORKERS LOCAL 16

BOILERMAKERS LOCAL UNION 549


BAC LOCAL UNION 3


IBEW LOCAL 332


ELEVATOR CONSTRUCTORS LOCAL
UNION 8


I.U.P.A.T. DISTRICT COUNCIL 16

IRON WORKERS LOCAL 377

LABORERS LOCAL UNION 270

OPERATING ENGINEERS LOCAL 3


OPERATIVE PLASTERERS AND CEMENT
MASONS LOCAL UNION 400


PLASTERERS LOCAL UNION 300



ROOFERS LOCAL UNION 95

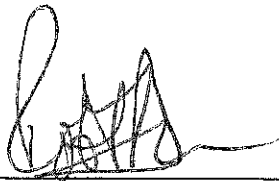
UNITED ASSOCIATION, PLUMBERS &
PIPEFITTERS LOCAL UNION 355

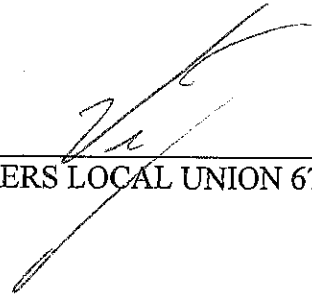

UNITED ASSOCIATION, PLUMBERS &
PIPEFITTERS LOCAL UNION 393

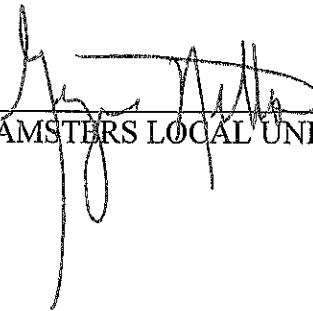
UNITED ASSOCIATION, SPRINKLER
FITTERS LOCAL UNION 483

SHEET METAL WORKERS
INTERNATIONAL UNION LOCAL 104


SIGN, DISPLAY AND ALLIED CRAFTS
LOCAL UNION 510


NORTHERN CALIFORNIA CARPENTERS
REGIONAL COUNCIL, FOR ITSELF AND
ITS AFFILIATES


LABORERS LOCAL UNION 67


TEAMSTERS LOCAL UNION 287

Addendum A
Agreement to be Bound

[Addressee]
[Address]
[City and State]

Re: Alum Rock Union Elementary School District Community Workforce Agreement

Dear Mr./Ms. _____:

The undersigned party confirms that it agrees to be a party to and bound by the Alum Rock Union Elementary School District Community Workforce Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this **Agreement to be Bound**, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements as set forth in Section 9.1, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate Subscription Agreement when such trust funds require such documents.

The obligation to be a party to and bound by this Agreement shall extend to all work covered by the Alum Rock Union Elementary School District Community Workforce Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

Contractor State License Number or Motor Carrier (CA) Permit Number: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

Addendum B
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
TARGETED HIRING AGREEMENT

I. Purpose

As parties to the Alum Rock Union Elementary School District Community Workforce Agreement (“Agreement”), the Alum Rock Union Elementary School District (“District”) and the Santa Clara & San Benito Counties Building Trades Council (“Council”) recognize the mutual needs and the public interest in: (1) increasing training and career opportunities for District graduates, Targeted Workers and Underrepresented Workers in the construction trades through apprenticeship and pre-apprenticeship programs; and (2) developing a pipeline to ensure the continued availability of a skilled, qualified and readily available construction workforce for this and future construction Projects.

In furtherance of these goals, the District and the Council hereby agree to enter into this Targeted Hiring Agreement (“THA”).

II. Definitions

All capitalized terms not defined in this THA are as defined in the Agreement.

Approved Pre-Apprenticeship Program. An Approved Pre-Apprenticeship Program means the Santa Clara County Trades Orientation Program or an equivalent structured, MC-3 certified pre-apprenticeship program; or a Union-sponsored program that serves Underrepresented Workers and is sponsored by Council-approved community based organizations (“CBOs”), the Council itself, affiliate(s) of the Council, the State Building & Construction Trades Council of California, or the North America Building & Construction Trades Council.

Community Workforce Coordinator. The Community Workforce Coordinator means the work2future Workforce Investment Board, or another entity as determined by mutual written agreement of the District and the Council. The Community Workforce Coordinator is responsible for maintaining an up-to-date list of Targeted Workers who are available for work with their current contact information, and will provide this list to any of the Parties upon request.

Covered Contractor. A Covered Contractor means a contractor performing \$250,000 or more of Covered Work on a Project. A Covered Contractor is subject to the Workforce Goal. If a contractor performs less than \$250,000 of Covered Work on a Project, that contractor is not subject to the Workforce Goal, but may nonetheless participate voluntarily in the Workforce Goal.

Targeted Worker. A Targeted Worker is an individual who has completed an Approved Pre-Apprenticeship Program. Prior to working on the Project, a Targeted Worker must be indentured in the applicable Joint Apprenticeship Training Program.

Underrepresented Worker. An Underrepresented Worker is an individual who, prior to commencing work, has at least one of the following barriers to employment: (1) is currently homeless; (2) is currently receiving public assistance; (3) is currently participating in a reentry program or was formerly incarcerated; (4) has been continuously unemployed for the previous one year; (5) has been emancipated from the foster care system; (6) is a veteran of the U.S. military; (7) is an at-risk youth; or (8) is a survivor of labor trafficking.

III. Hiring/Employment Obligations

Consistent with the Master Agreements of the Unions signatory to the Agreement, the Unions' hiring hall procedures, and the applicable Joint Apprenticeship Training Committee ("JATC") rules, standards and procedures, Covered Contractors shall make a good faith effort to meet the following Workforce Goal related to hiring and employment of workers on the Project.

Workforce Goal.

- a) Consistent with the requirements of California Labor Code §§ 1776, 1777.5 and 1777.6, each Covered Contractor shall make a good faith effort to reach the goal of employing one (1) or more Targeted Worker(s) as First Year Apprentice(s) for at least 25% of the Covered Contractor's apprentice hours on the Project, unless the Contractor demonstrates to the Community Workforce Coordinator that the Targeted Worker(s) worked the maximum feasible hours, or shows other good cause. A Targeted Worker may be assigned to work on the Project or on another jobsite at the employer's discretion, provided that the worker is assigned to the same job classification that would apply to a Targeted Worker on the Project.
- b) Nothing in this THA requires a Covered Contractor to hire a particular individual or to retain a particular individual in employment. In the event that a Targeted Worker is hired by a Covered Contractor but does not complete the requisite hours of employment in Section III(a), the Covered Contractor shall make a good faith effort to meet the "Alternate Method to Satisfy Workforce Goal" set forth in Part IV of this THA.
- c) The Community Workforce Coordinator will, upon request, refer names of qualified, available and willing Targeted Workers to the Union and/or Covered Contractor(s).
- d) The Unions agree to cooperate with Covered Contractor(s) in providing available apprentices as requested. All apprentices shall be properly supervised and paid in accordance with provisions contained within the Master Agreements.
- e) In the event that the Community Workforce Coordinator is unable to refer sufficient qualified, available and willing Targeted Workers, this section shall not apply until such time as qualified, available and willing Targeted Workers are available for hire.

- f) The Unions agree to cooperate with the District and CBOs designated by mutual agreement of the District and the Council in conducting outreach activities to recruit and refer Underrepresented Worker applicants to Approved Pre-Apprenticeship Programs for which they are qualified or qualifiable.
- g) Covered Contractors shall maintain electronic records documenting the employment of and hours worked by Targeted Worker(s), and provide such records to the General Contractor, the District or the Community Workforce Coordinator upon request.

IV. Alternate Method to Satisfy Workforce Goal

Covered Contractors who fail to make good faith efforts to meet the Workforce Goal in Part III of this THA may also satisfy the Workforce Goal by demonstrating they have accomplished *all* of the following, subject to the applicable Master Agreement(s), hiring hall procedures, JATC procedures and standards approved by the Division of Apprenticeship Standards of the California Department of Industrial Relations.

Alternate Method.

- a) Make good faith efforts to employ least one (1) first-year apprentice on the Project (or for equivalent work on another jobsite, provided that the apprentice is assigned to the same job classification that the apprentice would have performed on the Project).
- b) Submit a Craft Request Form to the Community Workforce Coordinator offering the opportunity to provide qualified, available and willing individuals with employment consideration for first-year apprentice positions.
- c) Submit a Craft Request Form to the applicable Union(s) requesting the dispatch of qualified, willing and available individuals referred by the Community Workforce Coordinator by name.
- d) Contact the Community Workforce Coordinator and provide the following information for all first-year apprentice job openings on the Project:
 - i. a description of the job, including the trade and any job requirements, such as specific qualifications or skills;
 - ii. the person's name and telephone number at the Covered Contractor's business who will be responsible for answering questions regarding the job opening; and
 - iii. a description of how applicants should apply for the job.

V. Consequences of Non-Compliance

The District and the Council shall oversee compliance monitoring through a Memorandum of Understanding with Working Partnerships. The Joint Administrative

Committee formed by Section 5.4 of the Agreement shall consider allegations of non-compliance by a Covered Contractor. If there is a determination by the JAC that a Covered Contractor has failed to make good faith efforts to meet the Workforce Goal *and* failed to satisfy the Alternate Method, this issue will be referred to the grievance procedure set forth in Article XIII of the Agreement. At any time during the process of compliance review, the JAC shall have the authority to reach a resolution with the Covered Contractor.

VI. Implementation

The JAC shall assist with implementation of and monitoring compliance with the terms of this THA.

AMENDMENT NO. 1
to the
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
COMMUNITY WORKFORCE AGREEMENT

Preamble

This Amendment is made and entered into on this 11 day of August, 2023 by and between the Alum Rock Union Elementary School District (“District”) and the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”), on behalf of itself and its affiliated local Unions that have authorized the Council to enter into this Amendment (“Unions”).

Recitals

Whereas, a Community Workforce Agreement (“Agreement”) was entered into on April 5, 2017 by and between the District, the Council, the signatory Unions, and the contractors and/or subcontractors that have become or shall become signatory to the Agreement by signing the “Agreement to be Bound” thereto; and

Whereas, the Agreement applies to projects funded by the District’s Measure I and J bonds; and

Whereas, the District has continued to experience positive benefits from the Agreement and from an ongoing relationship with the Council and its affiliated local Unions; and

Whereas, the residents of the District area voted in favor of a new bond called Measure S, which reauthorizes the remaining \$71.5 million in Measure J bonds previously authorized by District voters to fund the modernization, renovation, repair, and updating of District facilities; and

Whereas, the parties to the Agreement now mutually desire to amend the Agreement to apply the Agreement to projects funded in whole or in part by Measure S; and

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN AND AMONG THE PARTIES TO AMEND THE AGREEMENT AS FOLLOWS:

- 1) The second paragraph of the Agreement is hereby amended and fully restated as follows:

The purpose of this Agreement is to promote the efficiency of construction operations for the District through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of Projects funded by proceeds from Measure I, Measure J, and/or Measure S bonds.

2) Section 1.9 of the Agreement is hereby amended and fully restated as follows:

“Project” means all District construction projects paid for in whole or in part out of Measure I, Measure J, and/or Measure S funds. The District and the Council may mutually agree in writing to add additional components to the Project’s scope of work covered by this Agreement. Although “Project” is used throughout this Agreement in the singular, it applies to all projects as defined in this Section.

3) Other than as explicitly set forth herein, this Amendment No. 1 shall make no other changes, amendments, modifications, additions or deletions to the Agreement.

4) This Amendment No. 1 shall become effective when the District’s governing board ratifies this Amendment No. 1 and it is executed by the District and the Council.

5) This Amendment No. 1 shall be attached to and included with the Agreement for all intents and purposes, including all bid solicitations or similar documents issued by the District, and shall continue in full force and effect until completion of the Project(s) as defined therein.

Dated: August 26th 2023 SANTA CLARA & SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES COUNCIL

David Bini
David Bini
Executive Director

Dated: August 29, 2023 ALUM ROCK UNION ELEMENTARY SCHOOL
DISTRICT

Kol S
Name: Kolvira Chheng
Title: Asst. Supt., Bus. Svcs.

EXHIBIT A-6

Addenda Acknowledgement Form

The Respondent must complete and sign this form and submit it with the Statement of Qualifications.

Addendum Number (Can be listed on one line or separate lines.)

The undersigned hereby acknowledges receipt of the addenda listed above and has taken the information contained therein into full consideration in the preparation of the response to the RFQ. Failure to acknowledge receipt of each addendum may be cause for rejection of the response to the RFQ.

Date: _____, 20_____

Signature by authorized individual: _____

Print Name: _____

Title: _____

APPENDIX C

RESPONDENT EVALUATION CRITERIA

**ALUM ROCK UNION SCHOOL DISTRICT
 WORKFORCE HOUSING PROJECT
 RFQ NO. 2425-Bonds03
 PROJECT NO. 1
 RESPONDENT EVALUATION CRITERIA**

Respondent Name: _____

CRITERIA ITEM	DESCRIPTION	MAXIMUM POINTS	SCORE
Business Information	Is the complete Respondent team established as an integrated group?	Pass/Fail	
	Is there a conflict of interest?	Pass/Fail	
	Was an audited financial statement with accompanying notes and supplemental information for the past 2 full fiscal years for Design/Builder and each entity Member provided?	Pass/Fail	
Licensing and Registration	Does the Respondent team have a licensed General Contractor?	Pass/Fail	
	Does the Respondent team have a licensed Architect?	Pass/Fail	
	Does the Respondent team have licensed Engineers?	Pass/Fail	
	Does the Respondent team have licensed Mechanical, Electrical and Plumbing Contractors?	Pass/Fail	
Performance History	Has the Respondent been involved in any past or present litigation? If so, what was the dollar value of settlements, if any?	10	
	Acceptable performance history	10	
Bonds and Insurance	Is Respondent able to meet bonding capacity requirements?	Pass/Fail	
	Please provide the name of the bonding company, and its A. M. Best rating, that the design-build team will use for this estimated \$50 million multi-unit housing project. Please include the anticipated amounts of coverage.	5	
	Acceptable insurance capacity	10	
Safety	Respondent's worker safety program	5	
	Safety record	5	
Project Experience and References	General Contractor and Architect experience in design-build projects together	10	
	Design/Builder's specific experience with school district workforce housing, if any, or multi-family housing projects	10	
	Design/Builder's specific experience with the entitlement process, including applying for and complying with, for multi-family projects, preferably in the City of San Jose	10	

**ALUM ROCK UNION SCHOOL DISTRICT
 WORKFORCE HOUSING PROJECT
 RFQ NO. 2425-Bonds03
 PROJECT NO. 1
 RESPONDENT EVALUATION CRITERIA**

Project Experience and References (Cont.)	Please provide completed design/build project examples and owner references. Were the project examples provided completed within the agreed timeframe and original budgeted amount? If not, why?	10	
	How many multi-family housing projects has the design-build team completed together? How many units did each project have? And what was the completed project dollar amount for each development?	10	
	How many projects has the design-build team completed with a Community Workforce Agreement as part of the project?	5	
	Tell us about your experience implementing interior and/or exterior noise mitigation measures, particularly for projects in close proximity to a freeway?	5	
	References	10	
Project Conceptual Budget and Timeline	Hard/soft costs, contingency, overhead and profit	5	
	Estimated durations	5	
Skilled and Trained Workforce Compliance	Respondent agrees to comply with community workforce agreement requirements	Pass/Fail	
	Respondent's experience with the skilled and trained workforce requirements	10	

APPENDIX D

FREQUENTLY ASKED QUESTIONS

APPENDIX D

FREQUENTLY ASKED QUESTIONS

Q1: Based on the stated competitive sealed proposal terminology within the RFP, can you clarify what this means? Is it a contractual hard-bid (for design & construction costs) that the Design-Build team must adhere to throughout the life of the project? Assuming the exclusion of owner requested change orders and unforeseen conditions.

A1: A competitive, sealed proposal means that sealed proposals are submitted to the District (2930 Gay Avenue, San Jose, CA 95127; Attn.: Marc Freitas, Interim Chief of Bonds – Purchasing Department). The proposals are evaluated for adherence to the RFP and whether the proposal offers the best value to the District, taking into account both price and other factors. This is not a hard-bid contract where any proposed changes to the contract renders the proposal non-responsive. The form of agreement that the District intends on using is attached to the RFP and the respondents must provide all of its proposed changes to that agreement, if any, in its proposal. Although the contract is negotiable, the District does not promise to accept the proposed changes and has the right to reject any proposed changes that are not included in the proposal without review.

Q2: Are there any consultants who are precluded from being on the design/build teams? Are consultants who participated in the feasibility phase of the project eligible to be part of the Design/Builder team?

A2: Per Section III – Design-Build Procurement Process of the RFQ, “Per Administrative Regulation 3311.3 any person or entity that has performed or is performing services for District relating to the solicitation of this design-build project will not be eligible to submit a proposal as a design-build entity or to join a design-build team”. The District’s Administrative Regulation 3311.3 conflict-of-interest policy is directed at “[a]ny professional services provider or other consultant retained by the District to provide services related to a design-build project[.]” (Emphasis added.) Subconsultants of EHP were not retained by the District to provide services for the design-build project. In addition, we understand that EHP’s subconsultants have been limited to performing technical analysis at the feasibility/conceptual level and are not in a position to influence District decision-making over the design-build contract. Notably, said feasibility study is available to all respondents.

Q3: Is ARUSD not requiring or considering design-build experience of the Architect?

A3: Design-build experience of the Architect-of-Record is being considered, preferably within the context of in collaboration with the General Contractor, in the proposed design-build team.

Q4: Does the Alum Rock Union School Housing Project have small business or local businesses subcontracting goals?

A4: The District has no specific subcontracting goals or requirements regarding these business classifications.

Q5: What level of community engagement is expected of the design-builder team? How many meetings are anticipated?

A5: Approximately three to six meetings may be anticipated.

Q6: Are there any other sustainability design goals or desired certification (e.g., LEED, Passive House, etc.) beyond CalGreen code minimum?

A6: Specific sustainability goals will be determined during the RFP phase.

Q7: In multiple places, it is requested for a signature of an authorized individual, please define what is meant by authorized individual?

A7: Authorized individual is a person authorized to bind the firm submitting the proposal.

Q8: On page 3 of the Draft Memorandum provided by BKF (JOB #20230967, dated 09-01-2023.) BKF stated, "the project will be required to raise grade 5'± from existing or construction a sewer pump to mitigate cover. Regarding capacity of the existing system, based on cursory review of the existing sewer system, there is a potential that the system in Lavonne Ave may need to be upsized from 6" pipes to 8" pipes depending on the City's review of the sewer system." With this known, and the SOQ requesting "Hard Cost Budget Amounts" per Appendix A-3 "Conceptual Budget", please have the District indicate which of the two BKF options is the Design/Builder to utilize?

A8: For conceptual budget purposes, assume 8-inch pipes.

Q9: The design presented in the RFQ (prepared by SVA) includes floor plans and elevations. Is the design-build team required to implement this specific concept, or is the district open to alternative design proposals?

A9: The District is interested in proposals on how to enhance the existing conceptual design.

Q10: Is the style of architecture presented in the concept design a requirement for the project?

A10: Mediterranean architectural style is a requirement as it has local precedent in San Jose and was directed by the District's Workforce Housing Committee.

Q11: Will the design architect who prepared the concept design be involved in reviewing the project design throughout the anticipated phases of work to ensure adherence to the original design intent.

A11: No.

Q12: Is the project site currently owned by the school district, and will it remain under district ownership after the project is completed?

A12: Yes.

Q13: The RFQ indicates a requirement for entitlements through the City of San Jose. Is submission to and approval by the city planning department required as a condition for the project?

A13: Yes.

Q14: Will the project require additional permits and approvals from the City of San Jose as the Authority Having Jurisdiction (AHJ), such as building permits for construction? Or is the district (DSA) the AHJ?

A14: The authority having jurisdiction is the City of San Jose.

Q15: Is improvement of the running track and play fields part of the scope of work?

A15: No.

Q16: Is demolition of the MACSA Youth center part of the scope of work?

A16: No.