Request for Qualifications # 0495-434

Progressive Design-Build Construction Services

Sacramento City Unified School District

Exhibits

Exhibit A1:	**Criteria Documents**
Exhibit A2:	**District Design Standards**
Exhibit B:	**SOQ Form**
Exhibit C:	**District Conflict of Interest Provisions**
Exhibit D:	**SCUSD Project Labor Agreement**
Exhibit E:	**Form Design-Build Agreement**
Exhibit F:	**Map for Location to Submit SOQs**
Exhibit G:	**District Boundaries and Zip Codes**

I. INTRODUCTION

The Board of Education of the Sacramento City Unified School District ("District") is inviting interested Design-Builders to submit a Statement of Qualification ("SOQ") for the purpose of pre-qualifying as prospective Progressive Design-Build proposers for design and construction of the Will C. Wood Middle School Modernization ("Project"), located at 6201 Lemon Hill Avenue, Sacramento, CA 95824.

This Request for Qualifications ("RFQ") is the first of a two-step process to select a Design-Builder for the Project. First, all interested design-builders ("Respondents") must submit an SOQ on the form and in the format provided by the District. After the SOQs have been evaluated, the District will select/short-list between three and five of the highest rated Respondents, to receive a Request for Proposals ("RFP"). Second, the District will evaluate the Proposals submitted in response to the RFP to identify the successful Design-Builder to whom the design-build contract for the Project will be awarded based on a determination of which Proposal provides the best value to the District for the Project. A more detailed description of the selection process is set forth in Section VIII below.

The District reserves the right to find any SOQ that is incomplete or otherwise fails to respond to all requirements of this RFQ non-responsive and to give it no further consideration. The District also reserves the right to request clarification and/or additional information from any Respondent.

Except as provided, communication with the District, including without limitation its Selection Committee or any Board member, with regard to the substance of the RFQ or any SOQ is prohibited until after the District has announced the short-listed Respondents or announced that it is rejecting all SOQs and not continuing with the design-build process.

Neither this RFQ nor the identification of qualified Respondents for any purpose creates any obligation whatsoever, either express or implied, for the District to award any contract. The selection of a Design-Builder is subject to approval by the District's Board of Education ("Board").

II. CRITICAL DATES

Submittal Due Dates:

Respondents shall submit SOQs in the format specified in Section VII below, which shall include the form attached hereto as **Exhibit B**. Respondents shall submit nine (9) copies and a separate electronic (pdf) copy of the SOQ on a flash drive **no later than 2:00pm on December 2nd, 2025** to:

Sacramento City Unified School District
District Office – Contracts Office (see attached map as **Exhibit F**)
5735 47th Avenue
Sacramento, CA 95824
Attn: Tina Alvarez-Bevens

SOQs submitted in any other manner, including any SOQ sent in hard copy only, emailed, delivered to the wrong location, or faxed, will not be considered. SOQs not received by the deadline will not be considered. The District assumes no responsibility if the SOQ is not timely received.

SOQs will not be opened/reviewed until the SOQ deadline. Respondents are responsible for ensuring that SOQs are complete. Following opening, the District will evaluate and score all SOQs and will identify and notify those Respondents that have been qualified to submit in response to the Request for Proposals.

Mandatory Pre-SOQ Conference

A mandatory pre-SOQ conference will be held on **November 6th, 2025, 2:00pm** at **Will C. Wood Middle School, 6201 Lemon Hill Avenue, Sacramento, CA 95824.** Attendance for the duration of meeting is mandatory for a Respondent to be short-listed. Failure to attend will render any SOQ non-responsive and ineligible for short-listing. An additional pre-Proposal conference will be held for short-listed Respondents following issuance of the RFP.

RFQ Milestone Dates:
The procurement is expected to progress according to the following timeline, but the District reserves the right to change key dates and actions as the need arises:

- **October 22nd, 2025** – RFQ issued and uploaded to District's web site https://www.scusd.edu/departments/business-and-operations/contracts-department/rfp-rfq
- **November 6th, 2025, 2:00pm** – **Mandatory** pre-RFQ conference and site walk at 6201 Lemon Hill Avenue, Sacramento, CA 95824.
- **November 14th, 2025, 2:00pm** – Deadline to submit RFQ questions via email
- **November 21st , 2025, 2:00pm** – RFQ Addenda issued and posted to District website
- **December 2nd, 2025, 2:00pm – Deadline to submit SOQ**
- **December 4th, 2025** – Short-list published and RFP issued to short-list
- **December 11th , 2025, 2:00pm** – **Mandatory** pre-proposal conference at 6201 Lemon Hill Avenue, Sacramento, CA 95824.
- **December 18th, 2025, 2:00pm** - Deadline to submit RFP questions via email
- **December 19th, 2026, 2:00pm** – RFP Addenda issued and posted to District website
- **January 12th, 2026** – 90-Minute Confidential Meetings
- **January 20th, 2026, 2:00pm – Proposals due**
- **January 29th, 2026** – Anticipated interview date (if applicable)
- **January 30th, 2026** – Anticipated District notification to intended awardee
- **February 19th, 2026** – Anticipated date of Board action on award

III. PROJECT DESCRIPTION

The Project consists of the wholesale replacement and modernization of Will C. Wood Middle School, located at the intersection of 63rd Street and Lemon Hill Avenue in Sacramento, California. It is intended that all existing buildings are to be modernized and replaced along with all site support amenities, hard courts, playgrounds and play fields within the context of the existing school property.

The design and construction for the Project shall adhere to the District's Facilities Master Plans' Guiding Principles for design, which are included with the design standards attached hereto as **Exhibit A2**.

The expected cost of the Project, including both design and construction, is not to exceed **$98,500,000**.

The contract duration is approximately **Fifty-Four (54) months** and will be further defined in the RFP. Liquidated damages will apply to late completion, and the amount of the liquidated damages will be identified in the RFP.

The Design-Builder is required to hold a California Contractor's License, **Class B**, which is current, valid and in good standing with the California Contractor's State License Board, and is required to be registered with the Department of Industrial Relations ("DIR") pursuant to Labor Code section 1725.5. The Architect and Principal Engineers are required to be licensed in the State of California and in good standing.

The District has engaged Studio W Architects as its architectural firm to assist in the development of design criteria specific to the Project, preliminary plans, building layouts, and/or other development criteria. Accordingly, Studio W Architects shall not be eligible to participate with any Respondent. Any Respondent proposing Studio W Architects, or any individual affiliated with Studio W Architects, as part of its design team shall not be selected for submittal of a Proposal. *See also* **Exhibit C**, identifying other conflict-of-interest prohibitions on participating as part of a Respondent.

IV. SCOPE OF DESIGN-BUILDER'S WORK

The Design-Builder will be responsible for all design, permitting, agency review and approval (including, without limitation, Division of the State Architect ["DSA"], County of Sacramento Building and Planning Division, and other agencies with authority), construction, and close-out of the Project (including DSA), in accordance with the design criteria provided by the District. Such services shall include, without limitation:

- Provide project management of Design-Builder's work activities from design to permitting and agency approvals through completion of construction and close-out, including DSA final close-out. The District will pay all agency fees, except that, for DSA fees, the District will pay only the fees for initial DSA approval or that are necessary for owner-requested changes; all other DSA fees shall be the responsibility of the Design-Builder.

- Provide full design and engineering services (including, without limitation, geotechnical and survey services) necessary to complete the design and secure approval for the Project from all agencies (including, without limitation, DSA) and in accordance with the District's design standards and criteria documents attached as **Exhibits A1 and A2 hereto**. Design services generally required are evaluation of the site and of the design criteria documents and other Project-related information; preparation of a preliminary schedule and preliminary estimate; coordinating and obtaining all planning permits; preparing design development documents, including supporting the District's design review process; attending design review meetings and resolving review comments to the satisfaction of the District; preparing construction documents; securing design approval of DSA and other agencies; preparing bid packages and bidding the trade work (as addressed further below); preparing and submitting an acceptable Guaranteed Maximum Price ("GMP") proposal within the District's expected cost range for the Project and based on the bids/proposals received for the trade work; and performing all construction administration services through final completion of the Project. .

- Provide accurate and timely estimates of Project costs, as described in the Design-Build Agreement.

- Developing the GMP will include some or all of the following, without limitation: value engineering, detailed cost estimating during the design phase to meet the District's budget, development of the different trades' scopes of work, bidding, and preparation of a GMP proposal. A minimum of three bids is expected for each trade, except that, for work to be performed by the Design-Builder or any prequalified subcontractor listed in the Proposal, the Design-Builder shall submit sufficient information to establish that its price is competitive and reasonable for the area. It is the District's goal to obtain a minimum participation of 20% of the construction cost from local (within District boundaries) subcontractors and suppliers (*see* **Exhibit G** for District boundaries and zip codes), and the District has a 3% Disabled Veteran Business Enterprise ("DVBE") goal that must be met or that the Design-Builder must make good faith efforts to meet.

- Provide all construction work necessary to complete the improvements. Construction services generally required are execution of subcontracts; provide on-site support and logistics, including but not limited to temporary construction office trailers and equipment (including space for the DSA Inspector); supervise and direct the work; ensure a safe project/site; participate in project meetings; manage the construction costs, including ensuring requested use of contingencies and allowances meet the contract requirements prior to submission of a request for approval to the District Representative; coordinate the work with the different subcontractors in an efficient manner; update the monthly and 3-week look-ahead construction schedules; coordinate equipment commissioning, start-up, and acceptance testing; training; prepare record construction documents; and close-out of the project. Depending on the selected best value design approach, we are open to collaborating with the design-build team to determine whether students will remain on site during construction or if temporary relocation will be necessary.

- Provide construction planning, phasing and scheduling during design and through construction completion.

- Develop and maintain a Project schedule that incorporates all tasks and approvals of all involved parties necessary to complete the Project within the contract durations.

- Provide preconstruction and construction quality assurance.

The Design-Builder will be required to use the District's Project Management software (currently Trimble Unity Construct) for all Contract Administration responsibilities. Design-Builder will be responsible for the Internet connectivity on site.

V. ADDITIONAL INFORMATION

A. Questions and Other Communication Regarding the RFQ:

Except as provided, communication with the District regarding the substance of this RFQ or any SOQ outside of the pre-SOQ conference, including without limitation communication with its Selection Committee or any Board member, is prohibited until after the District has announced the short-listed Respondents or announced that it is rejecting all SOQs and not continuing with the design-build process. Notwithstanding the foregoing, potential Respondents may direct questions related to this RFQ to both of the following:

Sacramento City Unified School District
Contracts Office
Robert Aldama (Robert-aldama@scusd.edu) and
Tina Alvarez-Bevens (Tina-alvarez-bevens@scusd.edu)

and

Meredith Collins and Isacc White
Innovative Construction Services
meredith@icscm.com / isaac@icscm.com

All questions are to be emailed with the subject line of **RFQ 0495-434**.

The District will reply to questions, which may be combined or restated for clarity, by addenda. Addenda will be uploaded to the District website and emailed to Respondents who attended the pre-SOQ conference. It is the responsibility of the Respondent to check the District website for updated information prior to the SOQ and Proposal due dates. The District is not responsible if any Respondent does not receive any email communication, including any communication including an Addendum. Questions received after the deadlines noted in this RFQ may not be answered. Only questions answered by a formal written Addendum will be binding.

Respondents shall submit questions regarding any ambiguity, uncertainty, or other perceived flaw in this RFQ as soon as the issue is identified, but no later than the deadline to submit questions prior to the SOQ deadline. Respondents invited to submit Proposals may ask additional questions, ***or request any proposed changes to the Design-Build Agreement***, by the deadline to submit questions before Proposals are due. Any such issue which is not raised prior to the specified deadlines to submit questions shall be waived, and the District will not consider any challenge based on the contents, structure, or terms of this RFQ after the deadline.

The District shall not be obligated to respond to any question unless it is submitted in writing. The District shall be bound only by written responses to questions contained in an addendum to the RFQ. Oral responses, or email responses, shall not be binding on the District.

B. Investigation of Respondent's Qualifications:

The District may investigate the qualifications of, and/or information provided by, all firms under consideration to confirm any part of the information furnished by the Respondents or any Respondent's responsibility. Qualification of Respondents will be reviewed based on the submitted SOQ and any other information available to the District. The District reserves the right to request additional information at any time, which, in its sole opinion, is necessary to assess whether the Respondent's competence, number of qualified employees, business organization, and financial resources appear adequate to perform the required services for the District.

C. Reservation of the District's Rights:

The District reserves the right to find any SOQ that is incomplete, not in the required format, or otherwise fails to respond to all requirements of this RFQ non-responsive, and to give it no further consideration. The District reserves the right to waive any immaterial deviation from the requirements of this RFQ. The District may request clarification and/or additional information from any Respondent.

The District reserves the right to short-list any number of Respondents based on the District's sole discretion and judgment of the qualifications and capabilities of the Respondents, applying the evaluation and selection criteria stated herein. The District also reserves the right to cancel the RFQ at any time, to modify any requirements contained within the RFQ, to request a revised response from all Respondents, and/or to reject all SOQs. Neither this RFQ, nor the identification of short-listed Respondents creates any obligation whatsoever, either express or implied, for the District to award any contract or for the Board to approve any proposed contract award.

D. Addenda:

In its discretion, the District may, at any time, issue one or more Addenda to this RFQ revising or clarifying requirements of this RFQ or the Project, which may include extending the date that SOQs are due and/or responding to questions about this RFQ. The District will post all Addenda to its website (https://www.scusd.edu/departments/business-and-operations/contracts-department/rfp-rfq) Respondents are responsible for verifying that they have obtained all Addenda. Each Respondent must, in its SOQ, acknowledge each Addendum that has been issued. **Failure to acknowledge any Addendum in the SOQ may render the Respondent ineligible to be short-listed,** unless the Addendum does nothing other than extend the SOQ deadline. In no event shall the District be responsible for any failure of a Respondent to verify that it has received all Addenda.

E. Cost of Responding to the RFQ and RFP:

Each Respondent is responsible for any and all costs that it incurs in connection with responding to this RFQ, including, without limitation, costs associated with preparation and submission of an SOQ and expenses associated with responding to further inquiries from the District. The District will not reimburse any Respondent for any such costs or expenses. The District may, at its sole option, elect to pay a stipend to the short-listed proposers who are not selected as the successful Design-Builder for the Project. Any such stipend will be identified in the RFP and, if provided for, shall be the District's sole financial commitment for any and all costs incurred in connection with responding to the RFP, including without limitation, expenses associated with travel to any presentation, interview, negotiation, or other meeting.

F. Privacy and Confidential Information:

Information in the completed SOQ that is not a public record pursuant to the California Public Records Act Government Code sections 7920.000 *et seq.* ("Act") shall not be open to public inspection.

The District will open and review SOQs privately to assure confidentiality and to avoid disclosure of the contents to competing Respondents prior to and during the review and evaluation process. However, upon notification of intent to award the design-build agreement or rejection of all Proposals without the intent to reprocure a design-build project, portions of the contents of the SOQs may become subject to release to the extent required by the Act.

G. Non-Discrimination:

The District is an equal opportunity employer. The successful Respondent agrees that there shall be no discrimination in employment against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, marital status, family status, or other prohibited category in connection with or related to the performance of District contracts.

VI. CONTRACT PARAMETERS

A. Prevailing Wages and Public Works Registration:

Notice is hereby given that this Project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code. As a result, the successful Design-Builder shall be required to pay its workers on this Project a sum not less than the general prevailing rate of per diem wages and not less than the general prevailing rate for holiday and overtime work for work of a similar character in the locality in which the Project is performed, as provided under California Labor Code Sections 1726-1861. These rates are set forth in a schedule that may be found on the California Department of Industrial Relations homepage (www.dir.ca.gov). Design-Builder also shall be required to post copies of prevailing wage rates at the job site, The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Respondents also must be registered with DIR pursuant to Labor Code Section 1725.5 by the due date for SOQs. Failure of a Respondent to be registered by that date will render its SOQ non-responsive and preclude short-listing to submit a Proposal. The Respondent and its selected subcontractors, truckers, and any suppliers and/or vendors subject to California's prevailing wage laws are required to be registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 at the time of Proposal submittal for members of the design-build team, or by the bidding deadline for trade work awarded after award of the Design-Build Agreement.

B. Education Code Section 17250.62(c)

In accordance with Education Code Section 17250.62(c), the District has entered into a project labor agreement ("PLA"), attached as **Exhibit D** hereto, that will bind all contractors and subcontractors performing work on the Project to use a "skilled and trained workforce," as defined in Public Contract Code section 2601(d). By submitting an SOQ in response to this RFQ, Respondent agrees to be bound by the District's PLA. Under the PLA, all qualified Respondents are permitted to bid for and be awarded the Project without regard to whether they are otherwise parties to collective bargaining agreements. When developing the GMP, the selected Design-Builder shall award subcontracts for the work without regard to whether the subcontractors are otherwise parties to collective bargaining agreements. The Design-Builder will be required to provide the District with periodic reports of its and its subcontractors' compliance with the skilled and trained workforce requirements to ensure compliance with the PLA.

C. Budgets / Costs:

The District will require an open book policy with the Design-Builder. The District, through itself or its authorized agents and consultants, expects to have access to design information, subcontractor/supplier information (bids, actual contracts, associated change orders, and correspondence), value engineering back-up, contingency breakdown and tracking, general conditions breakdown and tracking, actual costs for bonds and insurance, and all of Design-Builder's financial and cost records for the Project.

VII. SOQ FORMAT AND CONTENT

Respondents must submit a fully completed form attached as **Exhibit B** hereto and provide all required materials in the format specified. Respondents must submit information for 1) the General Contractor, 2) the Architect of Record, and 3) all relevant principal engineers, including the Structural Engineer, Civil Engineer, Mechanical Engineer, Electrical Engineer, Plumbing Engineer, Low Voltage/Technology Engineer, and Landscape Architect. **Exhibit B must be signed under penalty of perjury by every member of Respondent (the design-build entity), or the Respondent will not be selected to submit a Proposal.**

Exhibit B shall be scored "Pass/Fail." Other questions are scored as specified below.

Additionally, the District may, in its sole discretion, contact references provided by Respondents on **Exhibit B**.

The SOQ should be clear, concise, complete, well organized, and demonstrate both Respondent's qualifications and its ability to follow instructions.

SOQ submittals are to be submitted via the District website and shall not exceed t**hirty-five (35)** pages, with a minimum type size of 12 point Times New Roman or equivalent. The Submittal cover page, Table of Contents, Tabs, Addenda (if any), completed Exhibit B, and resumes (not to exceed 3 pages each), are excluded from the page count. Each section below shall be bookmarked. ***QR codes and website hyper-links will not be considered.***

All Respondents shall follow the order and format specified below. Please tab each section of the SOQ and bookmark the pdf to correspond to the numbers shown below under "Body of Submittal."

1. Submittal Cover

Include the RFQ's title and submittal due date, the name, address, e-mail address, fax number, and telephone number of Respondent, including each member of the Design-Build entity. Include Respondent's point of contact with contact information including email address.

2. Table of Contents

Include complete and clear listings of heading and pages to allow easy reference to key information and bookmark sections reflected in the Table of Contents.

3. Body of Submittal and Points

For purposes of the following, "associates" shall mean an entity's officers, directors, qualifying individual(s) for a contractor, and owners of more than 10% of the company.

For purposes of the following, "Contractor" generally shall refer to the Respondent, unless the Respondent intends to have a different legal entity serve in the role of general contractor for purposes of construction of the Project.

The following sections should be included in the order listed	**Points**
1. A cover letter signed by an officer of Respondent or signed by another person with authority to act on behalf of and bind Respondent. Indicate contact person(s) for the Project. Acknowledge all addenda in the cover letter. The letter shall clearly indicate that the individual(s) signing for the Respondent has carefully read and understands the requirements of this RFQ, and that, if selected to submit a Proposal, Respondent intends to submit a Proposal for the Project. If Respondent is a joint venture, a principal or officer of each member of the joint venture must sign the cover letter. The cover letter shall include a certification in substantially the following form: "By submitting this SOQ, [Respondent] hereby commits that, if selected to submit a Proposal for the Project and if selected as the Design-Builder, it and its subcontractors at every tier will use a 'skilled and trained workforce' in accordance with Public Contract Code sections 2600 *et seq.* to perform all work on the project that falls within an apprenticeable occupation in the building and construction trades. [Respondent] certifies under penalty of perjury, under the laws of the State of California, that all information provided in its SOQ, including without limitation in exhibits and attachments thereto, is true and correct." **Failure to include such a certification shall make the SOQ non-responsive and unavailable for short listing.**	**Pass/Fail**
2. All issued addenda. It is the responsibility of Respondents to check the District's website to ensure that they have received all addenda.	**Pass/Fail**

3.	Respondent must hold a California Contractors License, Class **B – General Building Contractor**, which is current, valid, and in good standing with the California Contractor's State License Board and be registered with the DIR. Provide the following information for the license: • Name of license holder, exactly as on file • License classification(s) • License number	**Pass/Fail**
	• Date issued • Expiration date • DIR registration number	
4.	Completed **Exhibit B** form, with required attachments.	**Pass/Fail**
5.	Describe the proposed Design-Builder. At a minimum, include the following: a. Is the proposed Design-Builder an integrated Design-Build company, joint venture, partnership, etc. b. Indicate key firms that committed to perform the work, including the capability and capacity of each firm, company size, services provided, geographic location, number of employees and other information that would be considered important to adequately describe each firm. c. Indicate previous experience in working with these partners on other projects. d. Describe the proposed organization and the roles and responsibilities for the firms for both design and construction. e. Provide an organizational chart, showing the proposed team's organizational structure with lines identifying participants who are responsible for major functions to be performed and their supporting relationships in managing, designing and constructing the Project. f. Describe the Design-Builder's ability to self-perform construction work. g. Identify whether the key firms have a local office and, if so, where. h. Identify the Experience Modification Rate ("EMR") for the most recent three-year period in an average of 1.00 or less for each member of the team.	**15 Points**

6.	Describe the history of any disputes and performance problems encountered by any member of the team. At a minimum, discuss any of the following that have occurred and, if they have occurred, please explain. If any of the following ***have not*** occurred, state "N/A" or similar in response to the item. A response to each of the following sub-issues is required: a. Suspension or revocation of any license held by the Contractor, the Architect, any Primary Engineer, or their associates, or suspension or revocation of any of their credentials or registrations required to perform the services required on the Project, within the last ten years. (Less 1-5 points per incident, depending on the reason, the company, and when the incident occurred.) b. CAL OSHA or Federal OSHA finding against Contractor or its associates of any "serious," "willful" or "repeat" violations of its safety or health regulations in the past five years. (Less 1 point per incident, up to 5 points.) c. EPA, any Air Quality Management District, or any Regional Water Quality Control Board finding against Contractor or its associates or the owner of a project on which Contractor was the prime contractor in the past five years. (Less 1 point per incident, up to 5 points.)	**25 Points** Loss of points from the total possible is specified for each issue. If the total score for this factor would be negative, then the Respondent will not be pre-qualified to submit a Proposal.

d. In the past five years, any violation by Respondent of any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works projects, or the laws requiring use of a "skilled and trained workforce" on certain public works projects. "Skilled and trained" violations should be counted as one (1) violation per project, with a maximum of 2 points lost for skilled and trained violations. (Less 1 point per incident up to a maximum of 5 points.) e. Payment by the Contractor, the Architect, or any Primary Engineer of liquidated damages of $100,000 or more in the last five years. (Less 1 point per incident. The District retains discretion to subtract additional points for any incident in which liquidated damages over $150,000 were paid, up to a maximum of 5 points for this category.) f. Termination of the Contractor, the Architect, any Primary Engineer, or their associates for cause or default on a design or construction contract within the last ten years. (Less 10 points if the termination was in the past 5 years; less 5 points if the termination was more than 5 years ago.) g. In the past five years, cancellation of any insurance policy or refusal of any insurance company to renew an insurance policy held by the Respondent, the Contractor, the Architect, or any Principal Engineer due to non-payment of premiums or losses claimed. (Less 3 points per incident.) h. Any finding by any public entity in the past five years that the Respondent, the Contractor, the Architect, or any Principal Engineer was not a "responsible" bidder or proposer. (Less 5 points per incident, unless based solely on lack of required experience.) i. Any finding by a court or arbitrator in the past ten years that the Respondent, the Contractor, the Architect, any Principal Engineer, or any of their associates was liable for making any false or fraudulent claim or material misrepresentation to a public agency or entity. (Less 10 points if the finding was in the last 5 years; less 5 points if over 5 years ago.) j. Withdrawal for any reason from a design-build proposal by the Contractor, the Architect, or any Principal Engineer after an award to a design-build team that included that company. (Less 3 points per incident.) k. Any claims in excess of $250,000 (aggregate, if multiple issues) made in the past ten years which were either a) asserted by the Respondent, the Contractor, the Architect, or any Principal Engineer against a project owner in arbitration or litigation and compromised for 40% or less than the amount asserted or b) asserted against the Respondent, the Contractor, the Architect, or any Principal Engineer by a project owner in arbitration or litigation and compromised for 60% or more than the amount asserted. (Less 1-5 points per incident, depending on the amount of the claim and portion of the claim agreed to in settlement.)	
7. Identify the Key Personnel proposed to work on the Project, including the following information: • Name • Position on the Project • Employer • Applicable licenses and certifications (including DBIA certification) • Key responsibilities • Relevant experience, including any experience on projects involving one or more other Key Personnel	**25 Points** Scoring in this category will be based primarily on experience and expertise of the Key Personnel

	Attach résumés (in an appendix) for each identified Key Person. Projects referenced on résumés should include contract value, start and finish dates, delivery method (*e.g.,* design-build, lease-leaseback, design-bid-build, etc.), and role in the project. At a minimum, the above information shall be provided for the following: • Project Principal/Executive in Charge • Project Manager • Quality Assurance/Control Manager • Project Superintendent • Safety Manager • Lead Project Scheduler • Design Team Manager • Lead Architect • Lead Engineer(s) **By listing Key Personnel, Respondent is committing that they will be provided in the roles specified if Respondent is selected for the Project.** No substitution of personnel identified will be allowed without the District's approval.	
8.	Identify Respondent's proposed General Contractor's experience with constructing similar projects for PK-12 school districts in California completed in the last 10 years. Please include brief project description, contracting method (design build, lease-leaseback, design-bid-build, etc.), constructed values, dates (start and completion), owner, and, for projects completed in the last 5 years, names and contact information for owner and architect/engineer representatives. "Similar" projects are projects for public schools where the contractor acted as the general contractor and where the construction cost was $75 million or more. If the design firm has fewer than 6 similar projects, then it may include similar projects for Community Colleges, CSU, or UC campuses.	**30 Points**
9.	Identify Respondent's design firm's experience with designing similar projects for PK-12 school districts in California in the last 10 years. Please include brief project description, project delivery method, design cost, original contract amount for construction and final contract amount for construction (with explanation, if appropriate), date of submittal to DSA, and names and contact information of owner representatives for projects within the past 5 years. "Similar" projects are projects for public schools requiring plan approval by DSA and where the construction cost was $75 million or more. If the design firm has fewer than 10 similar projects, then it may include similar projects for Community Colleges, CSU, or UC campuses.	**20 Points**
10.	Identify Respondent's experience with similar design-build projects for PK-12 school districts in California, California Community Colleges, CSU campuses, or UC campuses completed in the last 10 years. Highlight projects where some or all of Respondent's proposed team members worked together as part of the design-build team, particularly where the Respondent worked with the same architect and/or architectural firm. Include a brief project description, project delivery method, GMP (with explanation, if the GMP changed), dates of contract performance, and names and contact information of owner representatives for projects within the past 5 years. Clearly identify any and all such projects where the construction cost exceeded the original estimated or budgeted construction cost, identifying the initial estimated or budgeted cost, the amount by which the construction cost exceeded that original amount, and the reasons for exceeding the initial amount. Provide at least one current contact name and contact information for each such project.	**20 Points**

“Similar” projects are projects for public schools requiring plan approval by DSA	
and where the construction cost was $75 million or more.	

11.	Describe Respondent's proposed approach to providing design-build services to the District, including how Respondent will effectively complete the project on schedule and within budget, including, without limitation: • Describe how the Respondent would manage the Project during design. Include discussion of all trades you plan to include, and discuss how you will involve those trades. • Discuss how you will work collaboratively with the District during design. • Describe experience with and strategy for cost estimating and ensuring that actual construction costs are reasonably close to the final pre-construction estimate. Describe your process for value engineering or other cost saving strategies if bid construction costs exceed the District's construction budget. • Describe the proposed processes for handing field problems and assuring the Designer of Record involvement throughout the construction period. • Describe the process for interacting with the District's Construction Manager and consulting team to ensure conformance with the design criteria and intent for the Project. • Describe processes for cost control, managing the project budget and dealing with out-of-scope work items. • Describe capabilities for project scheduling. Include software programs utilized and experience of personnel in these programs. Discuss briefly the plan for scheduling of this Project, both during design and in construction. • Describe the worker safety program and how construction safety would be managed for the Project. • Describe how the Contractor will comply with "skilled and trained workforce requirements," including stating whether the Contractor operates its own State-approved apprenticeship program. • Include any creative methodology or technology that Respondent uses, or unique resources that Respondent can offer. Topics should include discussion of past experience with innovative project delivery techniques likely to promote the goals of the District. Emphasis should be placed on the team's ability to work in a deeply collaborative manner as part of the District's team, and specifically how this will change the individuals' roles from those typically required in public school construction.	**30 Points**
12.	Discuss capabilities, experience, and intent for using virtual modeling, clash-detection, and Building Information Modeling (BIM).	**10 Points**

TOTAL Maximum Points: 175 Points

VIII. SELECTION PROCESS

The purpose of this RFQ is to enable the District to develop a short-list of Respondents who will be invited to submit Proposals in response to an RFP and who shall be evaluated for final selection so that the District may select the most qualified firm that provides the best value to the District and with whom the District intends to contract for the design and construction of the Project. A review and selection committee composed of key District officials and consultants will review and evaluate all SOQs based on the scoring criteria identified above. The total scores will

be used to rank the Respondents and to create the short list of up to three Respondents. The evaluation committee shall discuss whether to include up to the next two highest rated additional Respondents on the short list. Respondents not on the short-list will not be eligible for further consideration on this Project.

The District reserves the right, in its sole discretion, to cancel this RFQ, issue a new RFQ, reject any or all SOQs, seek or obtain data from any source that has the potential to improve the understanding and evaluation of responses to this RFQ, seek and receive clarifications to an SOQ, and waive any deficiencies, irregularities or technicalities in considering and evaluating the SOQs.

Respondents on the short-list will be invited to submit a Proposal in response to an RFP. If the District invites fewer than 5 Respondents to submit proposals and any of the Respondents on the short-list declines to submit a Proposal, then the District may invite the next one or two highest rated Respondent(s) to submit Proposals. The District will evaluate the Proposals submitted in response to the RFP, based on the criteria stated in the RFP, to identify the successful Design-Builder to whom the design-build contract for the Project will be awarded based on a determination of which Proposal provides the best value to the District for the Project.

In conducting the RFP process, the District may elect to conduct confidential discussions with all Respondents prior to the Proposal due date and/or to interview Respondents following submittal of Proposals. Factors the District intends to consider in determining which Proposal provides the best value to the District will be set forth in greater detail in the RFP but may include, without limitation:

- Technical design expertise
- Construction expertise with similar projects
- Life cycle costs over 15 years or more
- Acceptable safety record
- Schedule
- Project features and functions
- Architectural aesthetics and proposed design approach
- Price, including design cost, general conditions, and fee (overhead and profit)

END OF RFQ #0495-434

EXHIBIT A1

CRITERIA DOCUMENTS

DESIGN-BUILD CRITERIA FOR REPLACEMENT/ MODERNIZATION OF WILL C. WOOD MIDDLE SCHOOL

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

OCTOBER 3, 2025

STUDIO W ARCHITECTS

Sacramento City Unified School District

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STUDIO W ARCHITECTS

Sacramento City Unified School District

PROJECT TEAM

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT (OWNER)

Chris Ralston, Assistant Superintendent, Facilities Support Services
Chris-Ralston@scusd.edu
916.643.7400

Matt Juchniewicz, Director II, Facilities Design & Construction
Matthew-Juchniewicz@scusd.edu
916.643.7400

STUDIO W ARCHITECTS (CRITERIA DESIGN TEAM)

Brian P. Whitmore, AIA, LEED AP, President & CEO
BrianW@studiow-architects.com
916.254.5602

Chris Garcia, AIA, Senior Associate, Client Leader
ChrisG@studiow-architects.com
916.254.5615

PROJECT DESCRIPTION

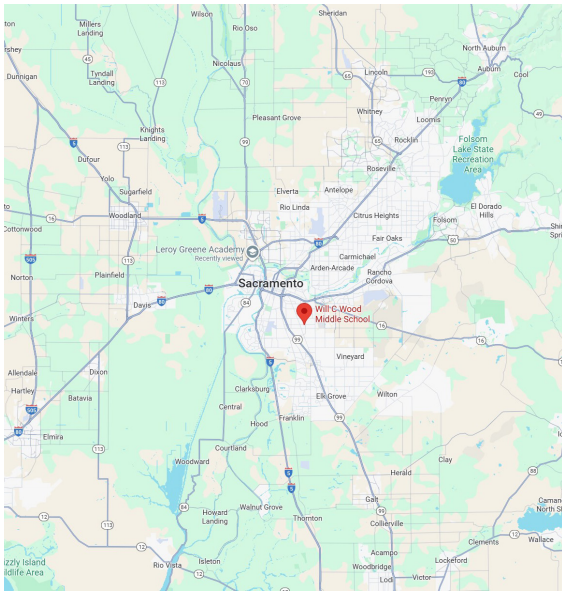
The Will C. Wood Middle School Replacement Project consists of the modernization of the existing Will C. Wood Middle School, located at the intersection of Lemon Hill Ave and 65th St Expy in Sacramento, California. The District is interested in a cost effective design-build approach that makes the most sense for the District's building program, school and eductional goals while attracting and retaining families. Therefore the District is interested in soliciting all ideas regarding replacement, modernization or a combination thereof. It is intended that the student population will remain onsite during construction such that construction of the new facilities may occur outside the footprint of the existing facilities or may consider a multi-phase approach to construction that has the least impact to student learning on campus.

STUDIO W ARCHITECTS

Sacramento City Unified School District

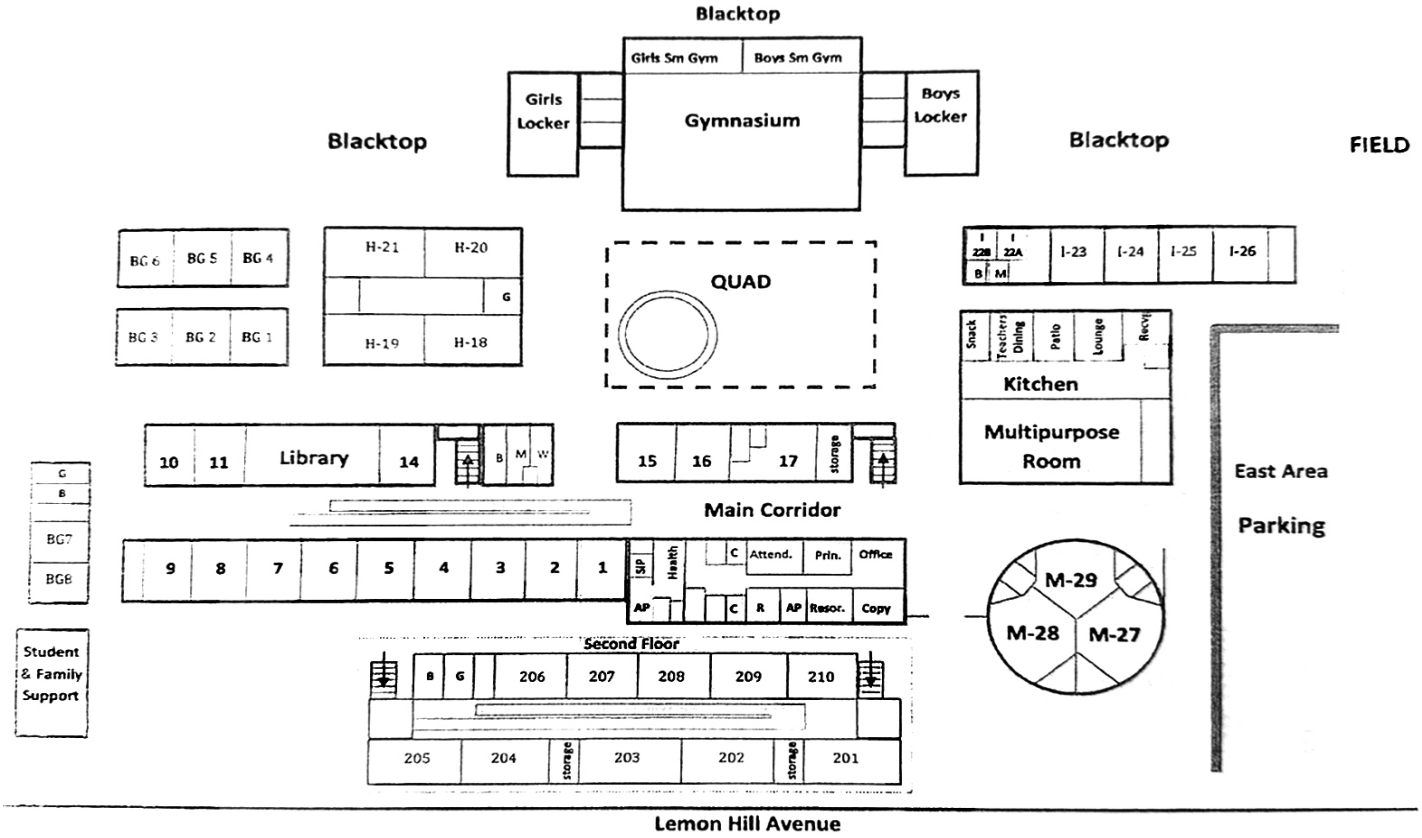
EXISTING CONDITIONS

The existing 18.93-acre site consists of multiple buildings constructed beginning in 1960. This includes parking, playgrounds, hardcourts and numerous trees. 65th St Expy is a major north/ south thoroughfare to the east of the site and Lemon Hill Ave consists of a two lane arterial road to the south where the primary entrance to the site now occurs. It has (2) speed humps and (1) cross walk. There is a lighted intersection on the southeast corner of the property. Residential properties border the north and west property lines.



EXISTING CONDITIONS

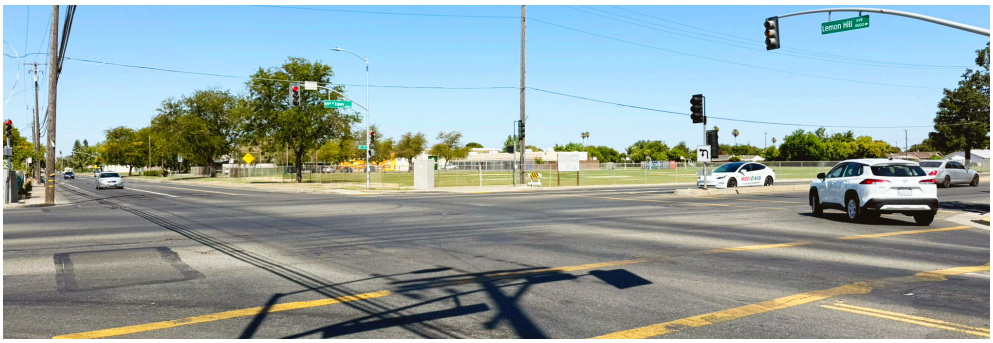
Will C. Wood Middle School
Site Area: 18.93 Acres
Year Built: 1960
A.P.N. 038-0031-001, 038-0031-002,
038-0031-004, 038-0031-006



EXISTING SITE PHOTOS

ADJACENT STREETS

LEMON HILL AVE AND 63RD ST INTERSECTION



LEMON HILL AVE AND 65TH ST INTERSECTION

EXISTING SITE PHOTOS

DROP OFF/STREET INTERSECTION

EXISTING DROP-OFF ENTRY - NORTHWEST

EXISTING DROP-OFF EXIT - NORTH

EXISTING DROP-OFF EXIT - NORTHEAST

EXISTING SITE PHOTOS

CAMPUS INTERIOR

QUAD WITH SHADE STRUCTURE AND OUTDOOR SEATING

GARDEN AND OUTDOOR SEATING

PLANTING ALONG CORRIDORS

PLAY COURTS

SOUTH END OF PLAY COURTS

NORTH END OF PLAY COURTS

GUIDING PRINCIPLES FOR DESIGN

When asked about the guiding principles for design, the school site leadership expressed the following:

SAFETY & SECURITY

Will C. Wood Middle School should be a safe and secure environment for learning.

MODERN LEARNING

Will C. Wood Middle School should offer modern learning environments featuring furniture and technology that is flexible and adaptable.

BALANCE

Will C. Wood Middle School should offer an environment that balances education and socialization.

CAREER TECHNICAL ED

Will C. Wood Middle School shouldprovide spaces that support the school's career technical education pathways.

ATHLETICS

Will C. Wood Middle School should support a multitude of middle school atheltics and physical education.

INCLUSIVITY

Will C. Wood Middle School should offer an environment that is inclusive to students of all backgrounds and cultures.

ENROLLMENT

The enrollment at Will C. Wood Middle School has been relatively flat in recent years at approximately 829 students (Fall of 2024). The intent for the replacement project is to accommodate approximately 850 students in grades 7-8.

Will C. Wood
SPARTANS

SITE PROGRAM NARRATIVE

The desired site should support modern and desirable places to learn, play and grow. It should not only support the families of Lemon Grove, but also attract families from other areas who desire a high quality education. The site should also act as both as an area for sports and physical education while also support community (shared) use. This includes the following amenities:

- New parent drop off and parking area separate from staff parking and bus loading
- Separate vehicle traffic areas for parents, staff and buses
- Outdoor quad or amphitheater space of some kind to accomodate student socialization and events
- Safe bike storage area
- Shaded areas for outdoor learning and socialization
- Fields for both school and community use with a synthetic running track
- Tennis, Volleyball and Pickleball courts
- Outdoor areas for learning including robotics and science curriculum
- New perimeter fencing with separate areas to secure the school versus community shared space
- One primary point of entry with visibility from the administration area

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
Admin Building	12,114	1	12,114
Classroom Buildings	38,839	1	38,389
After School Building	2,960	1	3,210
Gymnasium	18,891	1	18,891
Multi-Purpose Building	13,461	1	13,461
Careers Building	6,803	1	6,803
Outdoor Learning Areas	48,962	1	48,962
Parking/Drop Off Area	83,298	1	83,298
Hard Court Area	80,429	1	80,429
Play Fields / Track Area	261,693	1	261,693
Remaining Landscape and Multi-Use Areas	257,141	1	257,341
Total Area Allocation: 824,591 sf (18.93 Acres)			

SITE PROGRAM DIAGRAM

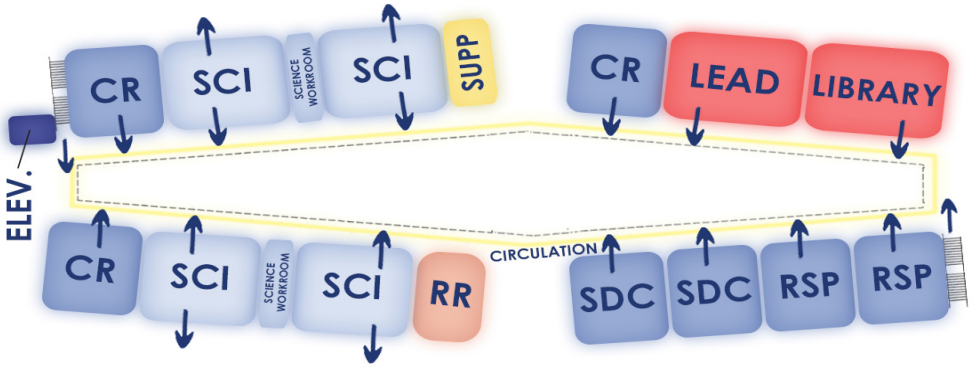
Site diagram for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

CLASSROOM BUILDING

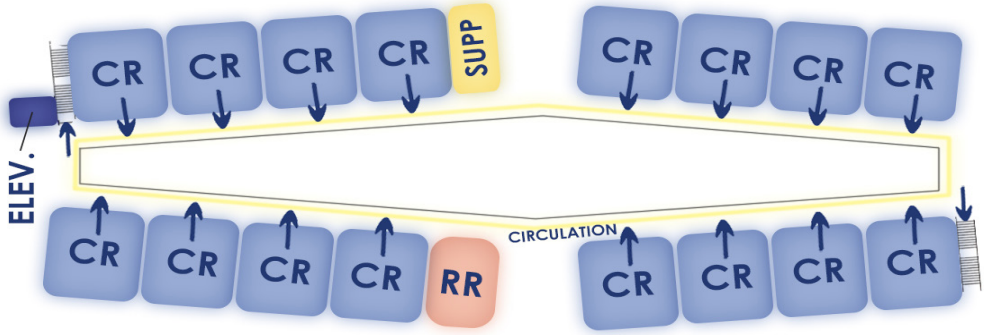
Description	Area Allocation (sf)	# of Spaces	Total Area Allocation (sf)
Standard Classroom	960	19	18,240
Science Classroom	1,325	4	5,300
ELD Lab	varies	2	2,308
SDC Inc Restroom & Changing	1,055	2	2,110
RSP	500	2	1,000
Leadership/ELA Classroom	1,188	1	1,188
Science Workroom	355	2	710
Staff Workroom	525	2	1,050
Library/Media	2,500	1	2,500
Electrical	240	2	480
Data	244	2	488
Custodial	150	2	300
Restrooms	varies	6	1,766
Elevator	150	1	150
Machine Room	150	1	150
Storage	varies	2	658
			Total Area Allocation: 38,398 sf

DIAGRAM

LEVEL 1



LEVEL 2



Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

STUDIO W ARCHITECTS

Sacramento City Unified School District

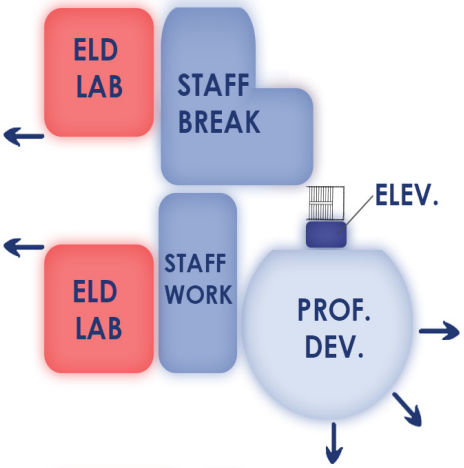
ADMIN/WELLNESS

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
Staff Workroom	347	1	347
Staff Break Room	1,645	1	1,645
Open Staff Collaboration Space / Pre-Function	882	1	882
Professional Development Center	2,290	1	2,290
Wellness Spaces (dist. throughout)	505	varies	505
Office	varies	11	1,785
Lobby	1,100	1	1,100
Attendance	205	1	205
Meeting Room	varies	4	884
Nurse/ Health Aide	250	1	250
Electrical	varies	2	270
Data	varies	2	334
Custodial	79	1	79
Restrooms	varies	8	849
Elevator	1	1	125
Machine Room	1	1	110
Student Locker Room	1	1	141
Storage	varies	4	511
Circulation	1,298	1	1,298
			Total Area Allocation: 12,114 sf

DIAGRAM

LEVEL 1

LEVEL 2

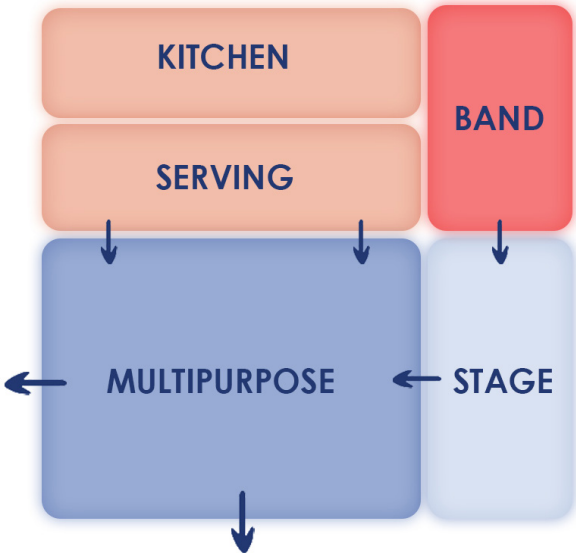


Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

MULTIPURPOSE

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
Multi-Purpose (inc. storage)	5,381	1	5,381
Platform	1,907	1	1,907
Kitchen	2,229	1	2,229
Serving	2,229	1	2,229
Band	1,715	1	1,715
			Total Area Allocation: 13,461 sf

DIAGRAM

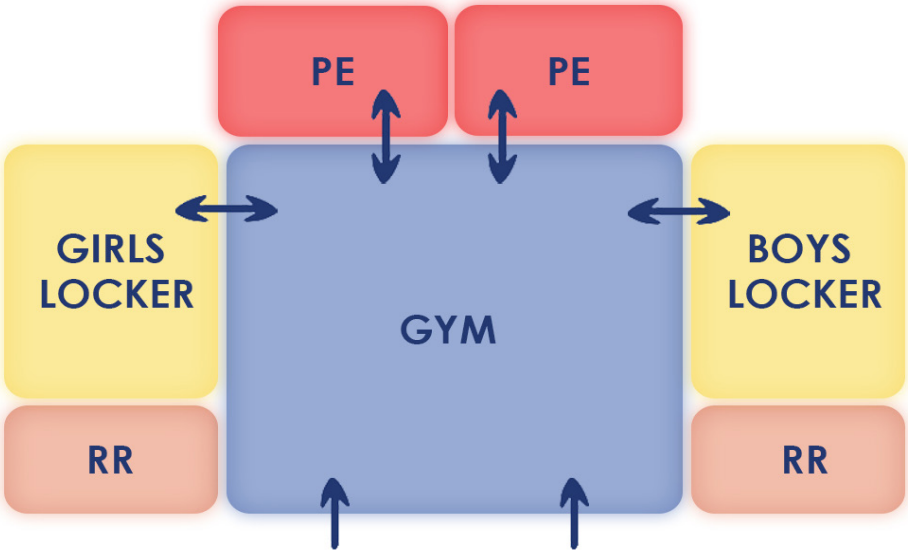


Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

GYMNASIUM

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
Gymnasium (inc. storage)	8,210	1	8,210
Restrooms	varies	4	1,516
Girls Lockers	2,767	1	2,767
Boys Lockers	2,767	1	2,767
PE Classroom	1665	2	3330
Circulation	300	1	300
			Total Area Allocation: 18,891 sf

DIAGRAM

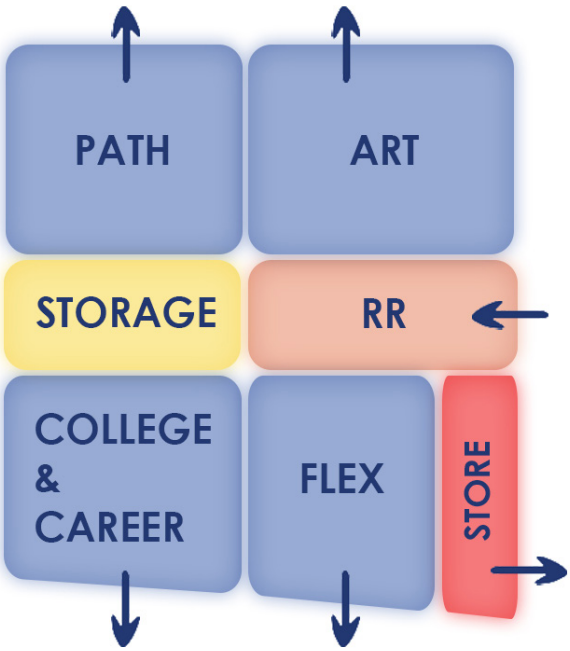


Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

CAREERS

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
Art	1,374	1	1,374
Pathways Class (Add. CTE/ VAPA)	1,216	1	1,216
College & Career Readiness	1,292	1	1292
CTE/ VAPA Flex Room	1,145	1	960
Student Store	474	1	474
Storage	varies	4	687
Restrooms	400	2	800
			Total Area Allocation: 6,803 sf

DIAGRAM

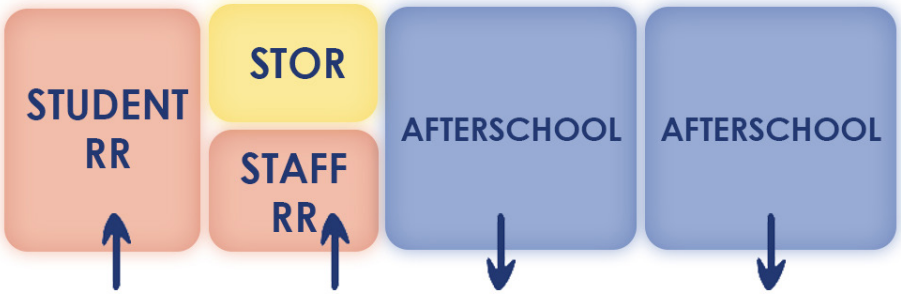


Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

AFTERSCHOOL

PROGRAM			
Description	**Area Allocation (sf)**	**# of Spaces**	**Total Area Allocation (sf)**
After School Program (near MP/ Front of School)	1,000	2	2,000
Restrooms	varies	4	940
Storage	270	1	270
			Total Area Allocation: 3,210 sf

DIAGRAM



Floor Plan diagrams for example purposes only. The design-build team is encouraged to develop options that best represent SCUSD and the campus.

EXHIBIT A2

DISTRICT DESIGN STANDARDS

(Attached Separately)

EXHIBIT B

SOQ FORM

SOQ FORM

I. INFORMATION ABOUT DESIGN-BUILDER

General Contractor Name: _____

Architect of Record Name: _____

Structural Engineer Name: _____

Civil Engineer Name: _____

Mechanical Engineer Name: _____

Electrical Engineer Name: _____

Plumbing Engineer Name: _____

Low Voltage/Technology Engineer Name: _____

Landscape Architect Name: _____

Other Principal Engineer Name (specify expertise): _____

Design-Build Entity Contact Person: _____

Address: _____

_____

Phone: _____Fax: _____E-mail: _____

DIR Registration Number: _____

Insurance Company: _____

Insurance Co. Agent: _____ Agent's Phone: _____

Insurance Co. Address: _____

If the Design-Build Entity is a privately-held corporation, limited liability company, partnership, or joint venture, then identify all shareholders, partners, or members known at the time of submitting the SOQ who will perform work on the Project: _____

_____

If the Design-Build Entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or the agreement committing to form the organization must be included with the SOQ or the Entity will not be included on the short list of Proposers.

A. General Contractor

Company Name:_____
(as it appears on license)

Check One: Corporation _____
Partnership _____
LLC _____
Sole Prop. _____
Joint Ven. _____

Date of formation/incorporation: _____

Contractor DIR Registration Number: _____

Contractor License Numbers held by Company, with classifications and expiration dates:

_____

Contact Person: _____

Address:_____

Phone:_____Fax:_____E-mail: _____

If Company is a sole proprietor or partnership, identify Owners(s) of Company as follows:

Name	Position	Years with Co.	% Ownership

Contractor's Bonding Co./Surety: _____

Surety Agent: _____ Surety Agent's Phone: _____

Surety's Address: _____

Company's Bonding Capacity: _____

Has there been a change in the Company's Surety within the last three (3) years? Yes____No____
(If yes, identify other sureties and explain on a separate signed page.)

Has there been a change in ownership of the Company within the last three (3) years? Yes____No____
(If yes, explain on a separate signed page.)

NOTE: A publicly-traded corporation is not required to answer this question.

Has the Company changed names or license number in the past five (5) years? Yes____No____
(If yes, explain on a separate signed page, including the reason for the change.)

Has any owner, Contractor State License Board qualifier, or corporate officer operated as a contractor under any other name or license number (not listed above) in the last five years? Yes____No____
(If yes, explain on a separate signed page.)

B. Architect of Record

Company Name:_____
(as it appears on license)

Check One: Corporation _____
Partnership _____
LLC _____
Sole Prop. _____
Joint Ven. _____

Date of formation/incorporation: _____

State of formation/incorporation: _____

Contact Person: _____

Address:_____

Phone:_____Fax:_____E-mail: _____

If Company is a sole proprietor or partnership, identify Owners(s) of Company as follows:

Name	Position	Years with Co.	% Ownership

Insurance Company: _____

Insurance Co. Agent: _____ Agent's Phone: _____

Insurance Co. Address: _____

Has there been a change in ownership of the Company within the last three (3) years? Yes____No____
(If yes, explain on a separate signed page.)

NOTE: A publicly-traded corporation is not required to answer this question.

Has the Company changed names in the past five (5) years? Yes____No____
(If yes, explain on a separate signed page, including the reason for the change.)

Has any owner or corporate officer worked for any other architectural firm in the last five years? Yes____No____
(If yes, explain on a separate signed page.)

Provide the following information for all known Architects who will be designing the Project:

Name	License Number	Years with Company	Years in Practice

Attach a copy of the Architect of Record's resume.

C. Principal Engineers – Provide the required information for each principal engineer.

Company Name:_____
(as it appears on license)

Check One: Corporation _____
Partnership _____
LLC _____
Sole Prop. _____
Joint Ven. _____

Date of formation/incorporation: _____

State of formation/incorporation: _____

License Number(s): _____

Engineering Discipline(s): _____

Contact Person: _____

Address:_____

Phone:_____Fax:_____E-mail: _____

If Company is a sole proprietor or partnership, identify Owners(s) of Company as follows:

Name	Position	Years with Co.	% Ownership

Insurance Company: _____

Insurance Co. Agent: _____ Agent's Phone: _____

Insurance Co. Address: _____

Has there been a change in ownership of the Company within the last three (3) years? Yes____No____
(If yes, explain on a separate signed page.)

NOTE: A publicly-traded corporation is not required to answer this question.

Has the Company changed names or license number in the past five (5) years? Yes___No____
(If yes, explain on a separate signed page, including the reason for the change.)

Has any owner or corporate officer worked for any other engineering firm in the last five years? Yes___No____
(If yes, explain on a separate signed page.)

Provide the following information for all known Engineers who will be working on the Project:

Name	Licenses	Years with Company	Years in Practice

Attach a copy of the Principal Engineer's resume.

II. PASS/FAIL REQUIREMENTS

1.	General Contractor ("Contractor") possesses a valid and current California Contractor's license for the work that Contractor will perform.	Yes____ No____
2.	Architect possesses a valid and current California professional license for the services for which Architect will be responsible.	Yes____ No____
3.	Each Principal Engineer for which information was provided in Section I possesses a valid and current California professional license for the services for which the Engineer will be responsible.	Yes____ No____
4.	Design-Builder has a Commercial General Liability Insurance policy with a policy limit of at least $2,000,000 per occurrence/$2,000,000 per occurrence Personal Injury/ $4,000,000 aggregate for Products and Completed Operations/ $4,000,000 general aggregate from a California admitted company. **NOTE: Include a certificate of insurance verifying insurance coverage.**	Yes____No____
5.	Design-Builder can obtain a project-specific Professional Liability Insurance policy with a policy limit of at least $5,000,000 per occurrence from a California admitted company that provides coverage on design-build contracts. **NOTE: Include a commitment, in the form of a letter, from an insurer (not a broker) verifying that insurance coverage will be provided.**	Yes____No____
6.	Contractor has a current Workers' Compensation Insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 *et. seq*.	Yes____No____
7.	Architect has a current Workers' Compensation Insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 *et. seq*.	Yes____No____
8.	Each Engineer has a current Workers' Compensation Insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 *et. seq*.	Yes____No____
9.	**Either** Design-Builder's experience modification rate ("EMR") for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, **or** the Design-Builder is a party to an alternative dispute resolution system, as provided for in Section 3201.5 of the Labor Code. **Note: If the Design-Builder has not established the required information over three years, then respond as to whether each member of the Design-Build Entity meets the specified standard.**	Yes____No____
10.	Contractor knows and understands its obligations regarding the employment of apprentices on public works projects and intends to comply with such requirements.	Yes____No____
11.	Design-Builder knows and understands its obligations regarding skilled and trained workforce requirements as set forth in Public Contract Code sections 2600 *et seq.* and commits to require the Contractor and subcontractors at every Tier to comply with those requirements in constructing the Project.	Yes____No____

12.	Has the Design-Build Entity (and the Contractor, if different from the Design-Build Entity) attached its latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information, including schedule of Contractor's construction contracts completed and in progress? (The latest audited financial statement provided must be the most current and completed no more than 2 years before submitting this SOQ.) **NOTE: A compiled financial statement is not acceptable.**	Yes____No____
13.	Contractor currently is registered with the California Department of Industrial Relations for Public Works Projects.	Yes____No____
14.	Design-Build Entity's surety (and Contractor's surety, if Contractor is not the Design-Build Entity) is admitted by the State of California Department of Insurance to do business in the State of California.	Yes____No____
15.	Design-Build Entity's surety (and Contractor's surety, if Contractor is not the Design-Build Entity) is listed in the current edition of the United States Department of the Treasury's listing of approved sureties.	Yes____No____
16.	Design-Build Entity's surety (and Contractor's surety, if Contractor is not the Design-Build Entity) possesses a Bests' rating of no less than (A-) Level VII.	Yes____No____
17.	Has Contractor attached a notarized statement from its surety providing its current bonding capacity on an aggregate and per project limit? **NOTE: The notarized statement must be from the surety company, not an agent or broker.**	Yes____No____
18.	Has the Design-Build Entity attached a copy of the organizational documents or the agreement committing to form the organization? **NOTE: Only if required under Section I, information about Design-Builder, above.**	Yes____No____N/A ____
19.	Contractor's license has been revoked at any time in the last five years?	Yes____No____
20.	Architect's license has been revoked at any time in the last five years?	Yes____No____
21.	**Any** Engineer's license has been revoked at any time in the last five years?	Yes____No____
22.	Contractor has been required to pay back wages or penalties for its own failure to pay prevailing wages more than three times in the last five years?	Yes____No____
23.	Contractor has been "default terminated" by an owner (other than for convenience) or its surety has completed or paid for completion of a contract within the last five years. **NOTE: A default termination that was withdrawn does not constitute a default termination for purposes of this question.**	Yes____No____
24.	Contractor is ineligible to bid on or be awarded any local, state or federal public works contract, or to perform as a general contractor or subcontractor on any such public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7 or any other local, state or federal law or regulation.	Yes____No____

25. At any time during the last five years, has any member of the Design-Build Entity, or any of their owners, partners, members, officers, or key personnel been convicted of a crime involving a) the awarding of a local, state, or federal contract, b) the bidding or the performance of a local, state or federal contract, or c) a crime involving any federal, state or local law related to construction, fraud, theft, or other act of dishonesty? Yes___No

26. Is the Contractor, the Architect, or any Principal Engineer currently the debtor in a bankruptcy case? Yes___No

In order to pass, Respondent must answer "yes" to questions 1-18, and answer "no" to questions 19-26.

The undersigned members of _____("Design-Build Entity") hereby declare, under penalty of perjury under the laws of the State of California, that all information provided in Design-Build Entity's Statement of Qualifications regarding their organization is true and correct.

General Contractor: _____
Printed

Signature: _____Dated: _____

Architect of Record: _____
Printed

Signature: _____Dated: _____

Structural Engineer: _____
Printed

Signature: _____Dated: _____

Civil Engineer: _____
Printed

Signature: _____Dated: _____

Mechanical Engineer: _____
Printed

Signature: _____Dated: _____

(*Signatures continued on following page*)

Electrical Engineer: _____
Printed

Signature: _____Dated: _____

Plumbing Engineer: _____
Printed

Signature: _____Dated: _____

Other Principal Engineer (as needed):_____
Printed

Signature: _____Dated: _____

EXHIBIT C

DISTRICT CONFLICT OF INTEREST PROVISIONS

Bylaw 9270: Conflict Of Interest

Status: ADOPTED

Original Adopted Date: 10/15/2020 | Last Reviewed Date: 10/15/2020

Board Bylaws

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Board shall adopt for the district a conflict-of-interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict-of-interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

Additional Requirements for Boards that Manage Public Investments

Any Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

   However, the Board member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion and deliberations of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

   If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

4. If the Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Board's decision.

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract in which he/she has only a "remote interest," as specified in Government Code 1091, if the interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member or district official to enter into the contract. (Government Code 1091)

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501 (c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of the business, trade, or profession is making speeches

2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

APPENDIX

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

Category 1

Persons occupying the following positions are designated employees in Category 1:

Members of the Board of Education
Superintendent
Deputy Superintendent

Chief Academic Officer
Chief Business Officer
Chief Communications Officer
Chief Human Resources Officer
Chief Continuous Improvement and Accountability Officer Chief Information Officer

Designated persons in this category must report:

a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests shall include any leasehold, beneficial or ownership interest or option to acquire such interest in real property;

b. Investments or business positions in or income from sources which:

   i. Are engaged in the acquisition or disposal of real property within the district;

   ii. Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district; or

   iii. Manufacture or sell supplies, books, machinery or equipment of the type used by the district.

Category 2

Persons occupying the following positions are designated employees in Category 2:

Deputy Superintendent's Office
Assistant Superintendent Student Support Services Director, Student Support & Health Services Director, Enrollment and Attendance Center
Director, Student Services and Alternative Education
Director, Youth Development
Director, Behavior and Re-Entry
In-House Counsel
Safe Schools Director
Academic Office
Instructional Assistant Superintendent
Assistant Superintendent, Curriculum and Instruction
Director, Social & Emotional Learning
Director, Child Development
Director, Multilingual Education
Director, Multi-Tiered Systems of Support
Director, Adult Education
Director, Career Readiness and Specialty Programs
Assistant Superintendent, Special Education, Innovation and Learning
Director, Special Education Local Plan Area (SELPA)
Administrator, Teaching and Learning
Business Services
Assistant Superintendent, Facility Support Services
Director, Nutrition
Director, Distribution Services
Director, Capital Projects, Facilities and Resource Management
Director, Facilities Management and Operations
Director, Accounting Services
Director, Budget and Fiscal Services
Director, Compensation and Benefits
Manager, Purchasing
Human Resource Services
Director, Employee Relations
Director, Human Resource Services (Departments)
Director, Human Resource Services (Elementary)
Director, Human Resource Services (Secondary)
Continuous Improvement and Accountability

Director, Strategy and Innovation
Director, Innovative Schools
Director, State and Federal
Director, Guidance and Counseling
Director, Master Schedule
Technology Services
Director, Student and Data Systems
Communications
Manager, Communications Office

Designated persons in this category must report investments or business positions in or income from sources which:

a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs; or

b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis, as recommended by General Counsel to the Superintendent and the Board of Trustees. The determination shall be written and include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict-of-interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

a. Approve a rate, rule or regulation

b. Adopt or enforce a law

c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement

d. Authorize the district to enter into, modify or renew a contract that requires district approval

e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party

f. Grant district approval to a plan, design, report, study or similar item

g. Adopt or grant district approval of district policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict-of-interest code. (2 CCR 18701)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
2 CCR 18110-18997	Regulations of the Fair Political Practices Commission
2 CCR 18438.1-18438.8	Campaign contribution-based conflicts of interest
2 CCR 18700-18760	Conflicts of Interest

State	Description
2 CCR 18722-18740	Disclosure of interests
2 CCR 18753-18756	Conflict of interest codes
2 CCR 18940.2	Gift limit amount
Ed. Code 1006	Prohibition against school district employees serving on county board of education
Ed. Code 35107	School district employees
Ed. Code 35230-35240	Corrupt practices
Ed. Code 35233	Prohibitions applicable to members of governing boards
Ed. Code 41000-41003	Moneys received by school districts
Ed. Code 41015	Investments
Fam. Code 297.5	Rights, protections, and benefits of registered domestic partners
Gov. Code 1090-1099	Prohibitions applicable to specified officers
Gov. Code 1125-1129	Incompatible activities
Gov. Code 53234-53235.2	Ethics training
Gov. Code 81000-91014	Political Reform Act
Gov. Code 82011	Code reviewing body
Gov. Code 82019	Definition; designated employee
Gov. Code 82028	Definition; gift
Gov. Code 82030	Definition; income
Gov. Code 82033	Definition; interest in real property
Gov. Code 82034	Definition; investment
Gov. Code 84308	Campaign Disclosure
Gov. Code 87100-87505	Political Reform Act; conflict of interest
Gov. Code 89501-89503	Honoraria and gifts
Gov. Code 89506	Ethics; travel
Gov. Code 91000-91014	Enforcement
Pen. Code 85-88	Bribes
Pub. Cont. Code 6102	Bribery of public official; voidable contract
Rev. & Tax Code 203	Taxable and exempt property - colleges

Management Resources	Description
Attorney General Opinion	105 Ops.Cal.Atty.Gen.69 (2022)
Attorney General Opinion	63 Ops.Cal.Atty.Gen. 868 (1980)
Attorney General Opinion	65 Ops.Cal.Atty.Gen. 606 (1982)
Attorney General Opinion	68 Ops.Cal.Atty.Gen. 171 (1985)
Attorney General Opinion	69 Ops.Cal.Atty.Gen. 255 (1986)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 320 (1997)
Attorney General Opinion	81 Ops.Cal.Atty.Gen. 327 (1998)
Attorney General Opinion	82 Ops.Cal.Atty.Gen. 83 (1999)
Attorney General Opinion	85 Ops.Cal.Atty.Gen. 60 (2002)

Management Resources	Description
Attorney General Opinion	86 Ops.Cal.Atty.Gen. 138(2003)
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 217 (2006)
Attorney General Opinion	92 Ops.Cal.Atty.Gen. 19 (2009)
Attorney General Opinion	92 Ops.Cal.Atty.Gen. 26 (2009)
Court Decision	Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261
Court Decision	Klistoff v. Superior Court (2007) 157 Cal.App.4th 469
Court Decision	Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App.4th 511
Court Decision	McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal. App. 4th 235
Court Decision	Thorpe v. Long Beach Community College District (2000) 83 Cal.App.4th 655
CSBA Publication	Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010
Fair Political Practices Commission Publication	Advice Letter: A-96-314 (December 18, 1996)
Fair Political Practices Commission Publication	Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005
Institute For Local Government Publication	Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009
Institute for Local Government Publication	Understanding the Basics of Public Service Ethics: Transparency Laws, 2009
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	Fair Political Practices Commission
Website	CSBA

Cross References	Description
1340	Access To District Records
1340	Access To District Records
1340-E PDF(1)	Access To District Records
1700	Relations Between Private Industry And The Schools
3300	Expenditures And Purchases
3300	Expenditures And Purchases
3311	Bids
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3430	Investing
3470	Debt Issuance And Management
3600	Consultants
4112.8	Employment Of Relatives
4112.8	Employment Of Relatives
4117.2	Resignation
4136	Nonschool Employment
4212.8	Employment Of Relatives

Cross References	Description
4212.8	Employment Of Relatives
4217.2	Resignation
4236	Nonschool Employment
4317.2	Resignation
4336	Nonschool Employment
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
7140	Architectural And Engineering Services
7140	Architectural And Engineering Services
9000	Role Of The Board
9005	Governance Standards
9140	Board Representatives
9200	Limits Of Board Member Authority
9220	Governing Board Elections
9222	Resignation
9230	Orientation
9240	Board Training
9320	Meetings And Notices
9321	Closed Session
9323	Meeting Conduct
9323-E PDF(1)	Meeting Conduct

EXHIBIT D

SCUSD PROJECT LABOR AGREEMENT

PROJECT LABOR AGREEMENT

for the

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

PREAMBLE

This Project Labor Agreement ("Agreement") is entered into by and between the Sacramento City Unified School District ("District"), together with contractors and/or subcontractors, who shall become signatory to this Agreement by signing the "Agreement To Be Bound" (Attachment A), and the Sacramento-Sierra Building & Construction Trades Council ("Council") and the local Unions that have executed this Agreement.

RECITALS

WHEREAS, the purpose of this Agreement is to promote efficiency of construction operations during the construction of the District's projects subject to this Agreement, through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without work disruptions or delays, thereby promoting the District's interest and the public's interest in assuring the timely and cost-effective completion of the District's construction projects; and

WHEREAS, the purpose of this Agreement is to also mutually acknowledge and support the District's Core Value statement and Equity, Access, and Social Justice Guiding Principle; and

WHEREAS, the District's Core Value statement states, *we recognize that our system is inequitable by design and we vigilantly work to confront and interrupt inequities that exist to level the playing field and provide opportunities for everyone to learn, grow, and reach their greatness*; and

WHEREAS, the District's Equity, Access, and Social Justice Guiding Principle ("Guiding Principle") states that *all students are given an equal opportunity to graduate with the greatest number of postsecondary choices from the widest array of options*; and

WHEREAS, the District places high priority upon comprehensive educational programs, training, work-based learning, and workforce development programs for District students and staff in order to best achieve the District's Guiding Principle and to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the successful and efficient completion of the District's construction projects is of the utmost importance to the District and its educational programs and mission; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions affiliated with the Council; 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, the Council and Unions commit to use of skilled and trained workforce requirements described in sections 17250.25 and 17407.5 of the Education Code and sections 2600 through 2602 of the Public Contract Code on applicable Projects covered by this Agreement; and

WHEREAS, it is recognized that District construction projects require multiple contractors and bargaining units on the job site at the same time over an extended period of time, and that the potential for work disruption is substantial in the absence of a binding commitment to maintain continuity of work; and

WHEREAS, the Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the construction projects subject to this Agreement in order to promote a satisfactory, continuous and harmonious relationship among the parties to this Agreement; and

WHEREAS, the District desires to provide construction training and employment opportunities for students of and residents within the District through local hire, apprentice and pre-apprentice programs; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards mutually satisfactory and successful completion of all District construction projects subject to the Agreement; and

WHEREAS, the Sacramento City Unified School District has previously adopted Resolution No. 2774 regarding the use of Project Labor Agreements on District projects.

NOW, THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, do mutually agree as follows:

ARTICLE 1

DEFINITIONS

1.1 "Agreement" means this Project Labor Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto and incorporated herein as Attachment A) required to be executed by any Employer(s) working on the Project as a precondition to performing Covered Work on the Project.

1.3 "Council" means the Sacramento-Sierra Building and Construction Trades Council, which is the local jurisdictional division of the State Building and Construction Trades Council of California, with affiliated trades unions within its geographical jurisdiction of Sacramento, Yolo, Placer, El Dorado, Amador, Nevada, and Sierra Counties.

1.4 "Completion" means the point at which there is Final Acceptance by the District of a Construction Contract. For purposes of this definition of "Completion," "Final Acceptance" shall mean that point in time at which the District has determined upon final inspection that the work on a Construction Contract has been completed in all respects and all required contract documents, including repairs, warranty work, modifications or punch list work as required under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract, 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.

1.5 "Construction Contract" means, except as to section 2.5 (exclusions from Covered Work) public works or improvement contracts approved by the District, including design-bid, design-build, lease-leaseback, or other contracts under which construction work is performed, that are necessary to complete the Project.

1.6 "District" means the Sacramento Unified School District and the administrative employees under its Superintendent, including any in house Project Manager designated by the District for the Project.

1.7 "Contractor(s)" means any person, firm, corporation, or other entity, or any combination thereof, including joint ventures, and any of its contractors or subcontractors of any tier, or any successor or assigns of such persons or entities, that has entered into a contract with the District, or with any other person or entity contracting for work on the Project on behalf of the District (whether by design-bid, design-build, lease-leaseback or other means), with respect to the construction of any part of the Project under contract terms and conditions approved by the District.

1.8 "Local Area" shall be defined as the area within the boundaries of the District, the City of Sacramento, Sacramento County, and the nine counties in section 1.8.4. Residents of the Local Area shall be first referred for the Project, including journey-level workers and apprentices covered by this Agreement, in the following order of priority:

1.8.1 Priority 1: Residents residing within the boundaries of the District.

1.8.2 Priority 2: Residents of the City of Sacramento.

1.8.3 Priority 3: Residents of Sacramento County.

1.8.4 Priority 4: Residents of the Counties of Yolo, Placer, El Dorado, Amador, Sutter, Yuba, Nevada, Sierra, and San Joaquin.

1.9 "Master Agreement" means the multi-employer collective bargaining agreement of each of the Unions that covers the geographic area of the Project, copies of which shall be provided to the District upon request.

1.10 "Project" means all District construction projects where either the engineer's estimate of the total cost of the project, or the actual cumulative bid amounts submitted by the contractor(s)

awarded the Construction Contracts for the Project, exceeds five hundred thousand dollars ($500,000). All Construction Contracts required to complete an integrated District construction project shall be considered in determining the threshold value. The District and the Council may mutually agree in writing to add additional projects to the scope of Projects to be covered by this Agreement. The term “Project” applies to each and all projects as defined in this section, whether used in the singular or plural herein. Routine maintenance of District properties is not covered by the scope of this Agreement.

1.11 "Project Manager" means a person, including a District employee, firm or other entity designated by the District to manage, coordinate or administer the construction work on a Project subject to this Agreement.

1.12 "Union" or "Unions" means the Sacramento-Sierra Building and Construction Trades Council and the local Unions that are 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. The Council and the local Unions are collectively referred to herein as the "Unions."

ARTICLE 2

SCOPE OF AGREEMENT

2.1 Parties. This Agreement shall apply and is limited to all Contractor(s), the District and the Unions that are signatory to this Agreement.

2.2. Applicability. For purposes of this Agreement, Construction Contracts shall be considered completed as set forth in Section 1.4, including when the District directs a Contractor to engage in repairs, warranty work, modifications or punch list work as required under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract. This Agreement shall govern all Construction Contracts awarded on the District Projects that are subject to this Agreement. Except for exclusions from the Covered Work described in section 2.5, for purposes of this Agreement, a Construction Contract shall be considered completed as described in Section 1.4, except when the District's authorized representative directs a Contractor to engage in repairs, warranty work, modifications, or punch list work as required under a Construction Contract 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 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 covered by an applicable Master Agreement or 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 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) that is in effect as of the execution date of this Agreement.

2.3.3 It is expressly agreed and understood by the Parties that the District shall have the right to purchase material and equipment from any source and the craftsperson covered under this Agreement will handle and install such material and equipment. There shall be no limitation or restriction upon the choice of material or upon the full use and installation of equipment, machinery, materials, tools or other labor-saving devices other than as set forth herein. The lawful fabrication provisions of the appropriate national or local agreements shall be applicable.

2.3.4 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 hauling and 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 to the fullest extent allowed by prevailing wage law and determinations of the California Department of Industrial Relations. 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 written request or as required by bid specifications.

2.3.5 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that installation of specialty items which may be furnished by the District or a Contractor shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role; provided, however, in limited circumstances requiring special knowledge of the particular item(s), may be performed by construction persons of the manufacturer where necessary to protect a manufacturer's warranty, provided the Contractor/Employer using the manufacturer can demonstrate by an enumeration of specific tasks that the work cannot be performed by craft workers under this Agreement. All work of a specialty nature to

be performed by the employees of an equipment manufacturer necessary to protect the warranty on such equipment shall be identified and discussed at the Preconstruction Conference provided in Article V of this Agreement.

2.3.6 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 any 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, XV and XVI of this Agreement shall apply to such work.

2.4 The following shall be excluded from Covered Work:

2.4.1 Work of non-manual employees, including, but not limited to, superintendents, supervisors above the level of general foreman (except those covered by any applicable Master Agreement), staff engineers, building inspectors, timekeepers, clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, executive and management employees;

2.4.2 Equipment and machinery owned or controlled and operated by the District;

2.4.3 Any work performed on or near or leading to or on to the site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractor, or by public utilities or their contractors;

2.4.4 Off-site maintenance of leased equipment and on-site supervision of such work;

2.4.5 Work performed by employees of a manufacturer or vendor on the manufacturer's or vendor's equipment if necessary to satisfy the guarantee or warranty on such equipment and where performance of the work is expressly stated in the manufacturer's or vendor's written warranty or guarantee to be a condition for the warranty or guarantee for such products. For any work performed pursuant to this provision, the Contractor shall provide copies of the written warranty requirement to the District, Project Manager, the Council and the affected local Union prior to the commencement of work by the manufacturer or vendor. This exclusion does not apply to any on site construction work subcontracted by such manufacturer or vendor.

2.4.6 District procurement or use of modular buildings;

2.4.7 Off-site maintenance of leased equipment and on-site supervision of such work;

2.4.8 Laboratory or specialty testing or inspection not covered by an applicable Master Agreement;

2.4.9 Non-construction support services contracted by the District or any Contractor in connection with this Project;

2.4.10 All Maintenance work contracted by the District;

2.4.11 All work by employees of the District.

ARTICLE 3

SUBCONTRACTING

3.1 Each Contractor agrees that it will contract for the assignment, awarding or subcontracting of Covered Work, or authorize another party to assign, award or subcontract Covered Work, only to a person, firm, corporation, or other entity that, at the time the contract is executed, has become a party to this Agreement by executing Attachment A, the Agreement to be Bound.

3.2 Each Contractor agrees that it will contract or subcontract the performance of Covered Work only to a person, firm, corporation, or other entity that is or becomes a party to this Agreement. Any Contractor performing Covered Work on the Project shall, as a condition to working on the Project, perform all work under the terms of this Agreement and the applicable Master Agreement. Before being authorized to perform any Covered Work, Contractors shall become a party to this Agreement by signing Attachment A, the Agreement to be Bound. Every Contractor shall notify the Council in writing within five (5) business days after it has contracted to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work in accordance with Section 3.1 or this Section 3.2 and shall at the same time provide to the Council a copy of the executed Agreement to be Bound. The District shall also provide copies to the Council of all executed Agreements to be Bound that it receives within fifteen (15) days of receipt.

3.3 Contractors and all subcontractors of whatever tier who have been awarded contracts for work covered by this Agreement commit to comply with the skilled and trained workforce requirements provided in California Education Code sections 17250.25 and 17407.5 and California Public Contract Code sections 2600 et seq. on applicable Projects.

3.4 Nothing in this Agreement shall in any manner whatsoever limit the rights of the District or any Contractor to subcontract Covered Work or to select its contractors or subcontractors; provided, however, that all Contractors, at all tiers, assigning, awarding, contracting, or performing Covered Work, or authorizing another to assign, award, contract or perform Covered Work, shall be required to comply with the provisions of this Agreement. Each Contractor shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the assigning, awarding, or subcontracting of any Covered Work, or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement. Any Contractor that fails to provide the Council with the Agreement to be

Bound executed by its contractor or subcontractor shall be liable for any failure of that contractor or subcontractor, or any contractor or subcontractor at a lower tier, to comply with the provisions of this Agreement, including any contributions to any trust funds that the contractor or subcontractor, or any subcontractor to that subcontractor, fails to make. 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 Contractors on the Project.

3.5 Nothing in this Agreement shall limit the District's right to combine, consolidate, or cancel contracts for Project construction, or to comply with public agency contracting laws.

ARTICLE 4

WAGES AND BENEFITS

4.1 All employees covered by this Agreement (including foremen and general foremen if they are covered by the Master Agreement) shall be classified and paid wages and other compensation, including but not limited to travel, subsistence, and shift premium pay, and contributions made on their behalf to multi-employer trust funds, all in accordance with the then current multi-employer Master Agreement of the applicable Union and in compliance with the applicable prevailing wage rate determination established pursuant to the California Labor Code by the Department of Industrial Relations.

4.2 During the period of construction on this Project, the Contractors agree to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining parties on the effective date as set forth in the applicable Master Agreement. The Unions shall notify the Contractors in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.

ARTICLE 5

NO STRIKES - NO LOCKOUTS

5.1 During the term of this Agreement, there shall be no strikes, sympathy strikes, picketing, work stoppages, picket-related hand billing, slowdowns, interference with the work or other disruptive activity for any reason by the Union or by any employee, and there shall be no lockout by any Contractor. Failure of any Union or employee to cross any picket line established at the Contractor's Project site is a violation of this Article.

5.2 The Union shall not sanction, aid or abet, encourage, or continue any work stoppage, strike, picketing or other disruptive activity at the Project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to

disciplinary action, including discharge, and, if justifiably discharged for the above reasons, shall not be eligible for rehire on the same project for a period of not less than ninety (90) days.

5.3 The Union(s) agrees that if any union or any other persons, whether parties to this Agreement or otherwise, engage in any picketing or work stoppages, the signatory Unions shall consider such work stoppage or picketing to be illegal and refuse to honor such picket line or work stoppage.

5.4 In the event of any work stoppage, strike, sympathy strike, picketing interference with the work or other disruptive activity in violation of this Article, the Contractor may suspend all or any portion of the Project work affected by such activity at the Contractor's discretion and without penalty, and the District may replace any Contractor whose employees have not reported to work with any other contactor or subcontractor.

5.5 In addition to any other action at law or equity, any party may elect to have the matter decided by a neutral arbitrator in accordance with the following procedure when a breach of this Article is alleged, after the Union(s) or Contractor(s) has been notified of the fact.

5.5.1 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 that the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the American Arbitration Association shall select an alternative arbitrator within 24 hours of notice. Notice to the Arbitrator shall be by the most expeditious means available, with notice by fax or electronic means or any other effective written means to the party alleged to be in violation and the involved International Union President and/or local Union.

5.5.2 Upon receipt of said notice, the District Superintendent, or their designee, shall contact the designated Arbitrator identified above who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

5.53 The Arbitrator shall notify the parties by fax or electronic means or any other effective written means of the place and time he has chosen for this hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Arbitrator.

5.5.4 The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The Award which shall be final, and binding shall be issued in writing within three (3) hours after the close of the hearing and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The Arbitrator may order cessation of the violation of this Article by the Union or Contractor, 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) for the first shift for which it failed to comply, or portion thereof, and ten thousand dollars ($10,000) for each subsequent shift for which it failed to comply, until such violation is ceased. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this Section.

5.5.5 Such Award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. The fax or electronic notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's Award as issued under Section 5.5.4 of 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 by delivery to their last known address or by certified mail.

5.5.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to whom they accrue.

5.5.7 The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.

5.6 The procedures contained in Section 5.5 shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation, or mitigation of any violation of this Article, shall be resolved under the grievance procedures of Article 9.

5.7 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the District and the Contractor(s) three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business days’ 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(s)' or their subcontractor’s workforce, during which time the Contractor shall have the opportunity to correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor 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. In the event the Union or any of its members withhold their services from such contractor or subcontractor, District shall have the right to replace such contractor or subcontractor with any other contractor or subcontractor who executes the Agreement to be Bound.

5.8 It will not be a violation of this Agreement when the Contractor considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the Contractor requests employees to wait in a designated area available for work, the employees will be compensated for the waiting time.

5.9 If a Master Agreement expires before the Contractor completes the performance of work under the Construction Contract and the Union or Contractor gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered under this Agreement and the Union and the Contractor agree that the expired Master Agreement shall 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 agrees to comply with any retroactive terms of the new or modified Master Agreement which are applicable to employees who were employed on the projects during the interim, with retroactive payment due within seven (7) days of the effective date of the modified Master Agreement subject to section 4.3.

ARTICLE 6

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

6.1 The assignment of Covered Work will be solely the responsibility of the Contractor 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.

6.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractors 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 Contractors and Unions parties to this Agreement.

6.3 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.

6.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature and the Contractor's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

ARTICLE 7

JOINT LABOR/MANAGEMENT MEETINGS

7.1 Joint Labor/Management Meetings. During the period of any work performed under this Agreement, the Project Manager, or District designee, may schedule monthly Joint Labor/Management Meetings that include the Project Manager, or the District's designee, the Contractors and the Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the employees and the Contractors on the Project. These meetings may include a discussion of safety, craft resource requirements, scheduling and productivity of work performed at the Project. The Union representative shall keep minutes of any such meetings and the minutes shall be subject to approval at any subsequent meeting. Any such meetings may be in person, virtually or by conference call. It shall be mandatory for a representative of the Unions to participate in such meetings.

7.2 A Pre-Job Conference shall be scheduled by the District prior to the commencement of work to establish the scope of work in each Contractor's contract. When a contract has been let to a Contractor covered by this Agreement, a job conference and/or markup meeting shall be scheduled by the District upon request of any Union, Contractor or the District.

ARTICLE 8

MANAGEMENT RIGHTS

8.1 The Contractor(s) retains full and exclusive authority for the management of their work forces for all work performed under this Agreement. This authority includes, but is not limited to the right to:

A. Plan, direct and control the operation of all the work.

B. Decide the number and types of employees required to perform the work safely and efficiently. The lawful staffing provisions of the applicable Master Agreement shall be recognized.

C. Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required.

D. Require all employees to observe the District and Contractor Project Rules, Security and Safety Regulations, consistent with the provisions of this Agreement. These Project Rules and Regulations shall be reviewed and mutually agreed upon at the Pre-Job meeting and supplied to all employees and/or posted on the jobsite.

E. Discharge, suspension or discipline will be handled under the applicable craft agreement.

F. Assign and schedule work at its sole discretion and determine when overtime will be worked. There shall be no refusal by a craft to perform work assigned, including overtime work. However, individual craftspeople shall not be required to work overtime unless specifically dispatched for overtime work. Any cases of a craft's refusal to work overtime shall be subject to the grievance procedure.

G. Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designator (in accordance with Article 2).

H. The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Contractors, therefore, retain all legal rights not specifically enumerated in this Agreement.

8.2 All workers employed or otherwise used on a Project shall comply with the District's Drug and Alcohol-Free Workplace Policy (BP 4020) and Employee Drug Testing Policy (BP 41 12.41, 4212.41, 4312.41) and applicable regulations as amended from time to time. If not otherwise specified, the drug testing protocol shall be in compliance with 49 Code of Federal Regulations (CFR) section 382.105 (Testing procedures) which incorporates 49 CFR Part 40.

ARTICLE 9

GRIEVANCE PROCEDURE

9.1 It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than matters subject to Section 5.5 and Union jurisdictional disputes subject to Article 6) shall be considered a grievance. Questions between or among parties signatory to a Master Agreement arising out of or involving the interpretation of a Master Agreement shall be resolved under the grievance procedure provided in that Master Agreement.

9.2 The District and other Contractors, as well as the Unions, may bring forth grievances under this Article.

9.3 A grievance shall be considered null and void if not brought to the attention of the effect party by the grievant within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered, whichever is later. The term "working days" as used in this Article shall exclude Saturdays, Sundays, or holidays regardless of whether any work is actually performed on such days.

9.4 Grievances shall be settled according to the following procedure, except those grievances that do not involve an individual grievant, which shall be discussed by the District, and the Council and then, if not resolved within five (5) working days of written notice unless extended by mutual consent, commence at Step 4:

Step 1

The Steward and the grievant shall attempt to resolve the grievance with the craft supervisor within five (5) working days after the Grievance has been brought to the attention of the Contractor.

Step 2

In the event the matter remains unresolved in Step 1 above after five (5) working days, within five (5) working days thereafter, the alleged grievance may be referred in writing to the Business Manager(s) of the Union(s) affected and the site construction manager or Labor Relations representative of the Contractor(s) for discussion and resolution. A copy of the written grievance shall also be mailed, faxed or emailed to the District.

Step 3

In the event the matter remains unresolved in Step 2 above within five (5) working days, within five (5) working days thereafter, the grievance may be referred in writing to the Business Manager(s) of the affected Union(s) involved and the Manager of Labor Relations of the Contractor(s) or the Manager's designated representative and the District for discussion and resolution.

Step 4

If the grievance is not settled in Step 3 within five (5) working days, within five (5) days thereafter, either party may request the dispute be submitted to neutral arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a copy to the District. Should the parties be unable to mutually agree on the selection of a neutral Arbitrator, selection for that given arbitration shall be made by seeking a list of seven (7) labor arbitrators with construction experience from the Federal Mediation and Conciliation Service and alternately striking names from the list of names on the list until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. District shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first.

9.5 The Arbitrator shall conduct a hearing at which the parties to the grievance shall be entitled to present testimonial and documentary evidence. Hearings will be transcribed by a certified court reporter. The parties shall be entitled to file written briefs after the close of the hearing and receipt of the transcript.

9.6 Upon expiration of the time for the parties to file briefs, the Arbitrator shall issue a written decision that will be served on all parties and on the District. The Arbitrator shall have the authority to utilize any equitable or legal remedy to prevent and/or cure any breach or threatened breach of this Agreement. The Arbitrator's decision shall be final and binding as to all parties signatory to this Agreement.

9.7 The cost of the Arbitrator and the court reporter, and any cost to pay for facilities for the hearing, shall be borne equally by the parties to the grievance. All other costs and expenses in connection with the grievance hearing shall be borne by the party who incurs them.

9.8 The Arbitrator's decision shall be confined to the issue(s) posed by the grievance, and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from any provision of this Agreement.

9.9 Any party to a grievance may invite the District to participate in resolution of a grievance. The District may, at its own initiative, participate in Steps 1 through 3 of the grievance procedure.

9.10 In determining whether the time limits of Steps 2 through 4 of the grievance procedure have been met, a written referral or request shall be considered timely if it is personally delivered, sent by overnight mail or faxed within the five (5) working day period. Any of the time periods set forth in this Article may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, sent by overnight mail or faxed during the extended time period.

ARTICLE 10

EMPLOYEE REPRESENTATION AND REFERRAL

10.1 The Employers recognize the Unions as the sole bargaining representatives of all craft employees performing Covered Work under this Agreement. Authorized representatives of the Unions shall have reasonable access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project. All authorized representatives of the Unions must comply with the required check-in procedure prior to visiting the work area.

10.2 Employees are not required to become or remain union members as a condition of performing Covered Work under this Agreement. Employers shall make and transmit all deductions for union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. Nothing in this Section 10.2 is intended to supersede the requirements of applicable Master Agreements as to those Employers otherwise signatory to such Master Agreements and as to the employees of those Employers who are performing Covered Work.

10.3 In filling craft job requirements, Employers performing Covered Work shall utilize and be bound by the registration facilities and referral systems established or authorized by the Unions ("Job Referral System"). Such Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and non-discrimination. The Employers shall have the right to reject any applicant referred by the Unions in accordance with this Article 10.

10.4 The Employers shall have the unqualified right to select and hire directly all supervisors above general foreman it considers necessary and desirable, without such persons being referred by the Unions.

10.5 In the event that referral facilities maintained by the Union are unable to fill the requisition of an Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Employer, the Employer shall

be free to obtain such workers from any source. An Employer who hires any personnel 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 this Article 10.10.6 Unions will exert their utmost efforts to recruit sufficient numbers of skilled and trained craft persons to fulfill the requirements of the Contractor/Employer(s). On Projects governed by Education Code sections 17250.25 and 17407.5, the Unions shall consider a Contractor's request to transfer skilled and trained employees to work on Projects in a manner consistent with the Union's referral procedures.

10.7 Subject to the limitation of applicable law and the hiring hall procedures of the Unions, the Parties to this Agreement mutually support the development of increased numbers of skilled construction workers from District graduates and the residents of the City of Sacramento specifically and from the residents of Sacramento County generally, to meet the needs of the Projects and the requirements of the industry generally. To facilitate this goal, the Unions agree to encourage the referral and utilization of qualified District graduates and the City of Sacramento and Sacramento County residents as journeypersons and apprentices on the Projects.

ARTICLE 11

REFERRAL-LOCAL COMMUNITY WORKFORCE PROVISIONS

11.1 Contractors performing Covered Work on the Project shall, in filling craft job vacancies, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory to this Agreement. The Union will exert and document their best efforts to recruit and identify residents of the Local Area, in a manner that is consistent with the District's Core Value and Guiding Principle, and those individuals shall be referred for Project work first, to the extent allowed by law, and consistent with the Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, including journeymen and apprentices covered by this Agreement.

11.2 The Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and non-discrimination. The Contractor(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement. The Unions shall be the primary source of all craft labor employed on the Project, however, a Contractor with a core workforce may request by name, and the local Union shall honor, referral of such Contractor's regular and experienced personnel ("Core Employees") who have applied to the applicable Union to perform Covered Work on the Project. For purposes of this Agreement, a Core Employee is a person who meets all the following:

(l) Possesses any license required by state or federal law for the Project work to be performed;

(2) Worked a total of at least one thousand (l ,000) hours in the construction craft during the prior two (2) years;

(3) Has been on the Contractor's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the contract award; and

(4) Has the ability to perform safely the basic functions of the applicable trade.

11.3 The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft and will then refer one of the Contractor's Core Employees as a journeyman, until such Contractor has hired six (6) Core Employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work on the Project, the ratio shall be maintained. When such Contractor's workforce is reduced, employees shall be reduced in the same one for one ratio of Core Employees to hiring hall referrals as was applied in the initial hiring. Contractors that are signatory to a Master Agreement with Union(s) signatory hereto must comply with the hiring hall provisions contained in the applicable Master Agreement, and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the Master Agreement(s) as they apply to such Contractors.

11.4 In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Contractor within a forty-eight (48) hour period after such requisition is made by the Contractor (Saturdays, Sundays and holidays excepted), the Contractor may employ applicants from any source. Contractors shall immediately notify and provide the appropriate Union(s) with the name and address of such gate-hires, who shall be bound by the provisions of this Article.

It is in the interest of the parties to this Agreement to facilitate employment of District and Local Area residents, including parents, guardians or other care givers of students attending the District's schools, and to use resources in the Local Area in construction of a Project. The "Local Area" shall be defined as the area within the boundaries of the District, the City of Sacramento, Sacramento County, and the nine counties outlined in section 1.8.4, in priority order outlined in section 1.8. To the extent allowed by law, and consistent with the Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents of the Local Area shall be first referred for Project work, including journeymen and apprentices covered by this Agreement. It is the goal of the parties that not less than fifty (50) percent of all hours worked on the Project, on a craft-by-craft basis, be worked by residents of the Local Area (including fifty (50) percent of the total hours worked by any Core Employees). The Union shall provide a list of individuals referred for Project work and their applicable zip code of residence to the District, upon request. Contractors will be required to submit certified weekly payroll records to the District along with monthly workforce utilization reports documenting the Contractor's compliance with the requirements described in this Article. At a minimum, the monthly reports must include data on Local Area resident work hour utilization on the Project. An annual report shall be submitted to the Board on the number of workers employed, or contracted for,

within the Local Area. Provisions of this article shall be an item for discussion at each Pre-Job Conference outlined in Article.

ARTICLE 12

MUTUAL COMMITMENT TO SUPPORTING EDUCATIONAL AND CAREER DEVELOPMENT OPPORTUNITIES FOR DISTRICT STUDENTS

12.1 The Parties agree that this Agreement is also intended to formalize partnerships between the Unions and the District to support the educational and career development of the District's students, and to help develop the next generation of skilled construction workers. The Parties agree to support District Construction and Design Academies or Pathways within the District ("Academy" or "Pathway") in order to carry out the training and employment objectives of this Agreement, including providing District students with the opportunities and skills necessary to enter post-secondary study and to pursue lifelong training within the broader context of the building trades industry, and to develop and reinforce academic course standards in order to maximize career opportunities and technical competency. The Parties agree to the following actions in order to implement this mutual commitment.

12.2 Contractors shall employ apprentices in the respective drafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. The Parties agree that apprentices may comprise up to twenty (20) percent of each craft's workforce at any time, unless the state approved apprenticeship standards or regulations or the applicable Master Agreement establish a lower maximum percentage.

12.3 The Union shall provide speakers at District Academies, at no cost to the District, through the Multi-Craft Core Curriculum (MC3) program and at other mutually agreed upon school functions and events.

12.4 In order to facilitate the goals of the Academy, the District and Council agree to create an Advisory Board for the Luther Burbank High School Construction and Design Academy, American Legion High School's Residential and Commercial Construction Academy (collectively "High Schools"), Rosemont High School Engineering , Construction and Design, and participate in the District-level Pathway Advisory Board, which will conduct meetings as determined by the District during the school year to develop the goals of the Academy; plan for the presentation and content of training lectures to facilitate employable skills in the construction trades; develop a summer schedule for training; organize and develop summer internship positions; assist in planning curriculum scope and sequencing; design cocurricular activities; identify sources for educational and financial support; and otherwise initiate steps to carry out the goals of the Academy.

12.4.1 The High School Advisory Boards shall consist of the appropriate membership as outlined by current regulations and requirements placed upon the District. The Advisory Board, in coordination with the District's Career Services representative, shall develop and implement a plan for annual assessment of the goals and

objectives to maximize the employability of students and District graduates, including summer internship opportunities. A quorum for the Advisory Board meeting shall be at least one member representing the building trades JATCs; one member representing the Council; and one member representing the District.

12.4.2 The Academy Advisory Board will collaborate with post-graduate training programs, such as the Northern California Construction Training and American River College's Stripe Program, in order to assist graduates in obtaining an internship into a JATC.

12.4.3 The training and employment program of the interns shall be developed by the Academy Advisory Board such that graduating interns shall possess the skills, training, and educational background to help the graduate achieve priority on the lists of the building trades to the degree allowed under each JATC's application process including those programs that allow direct entry. It is recognized that the Apprenticeship Programs operate according to existing Standards approved by the California Department of Industrial Relations, Division of Apprenticeship Standards, and the standards set forth in the collective bargaining agreements for each building trades union and that any such priority shall be in accordance with such Standards and agreements.

12.5 The Parties agree to meet and identify additional mutually agreed upon specific actions to meet these goals, including, but not limited to, consideration of: (1) measures to facilitate teacher training in Multi-Craft Core Curriculum (MC3); (2) measures to provide student employment opportunities through externships, internships and/or post-graduation apprenticeship placement; (3) measures to provide hands-on training opportunities for students; (4) measures to facilitate identification of funding sources to provide recent women, minoritized and low-income District graduates scholarships or assistance in the purchase of tools and other equipment needed for apprenticeship programs; (5) support to identify and find funding for a Pre-Apprentice / Internship / Apprenticeship Coordinator to assist District Academies. These additional commitments shall be set forth in a Memorandum of Understanding (MOU) to this Agreement ("Union Educational and Career Development Support MOU"). Parties agree to meeting twice before August 1, 2022, and throughout the month of August to identify the mutually agreeable terms of the MOU and shall finalize the MOU no later than September 1, 2022.

12.6 The Union shall provide the District with an annual report by June 30 of each year on the implementation of the provisions set forth in this Article and in the Union Educational and Career Development Support MOU. The report shall provide any information requested by the District to assist the District in reporting work-based learning indicator on the State of California's College and Career Dashboard.

ARTICLE 13

NON-DISCRIMINATION

13.1 The Unions and Contractors shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, political affiliation, national origin, age, religion, Vietnam veteran or Vietnam Era status, disability as identified in the Americans with Disabilities Act, membership in a labor organization in hiring and dispatching workers for the Project, or any other basis recognized by law. The parties to this Agreement understand and agree that nothing in this Agreement shall supersede or take precedence over any District Board of Education policy or requirement including, but not limited to, the construction contract and general conditions for the Project.

13.2 All qualified (as determined by the District and applicable law) contractors and subcontractors may bid and be awarded work on a Project without regard to whether they are otherwise parties to collective bargaining agreements provided they comply with the provisions of this Agreement.

ARTICLE 14

HOURS OF WORK SHIFTS AND HOLIDAYS

14.1 The standard workday shall be in accordance with the applicable Master

Agreements. Common start times may be established by the Contractor during the standard workday established by the applicable Master Agreements. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

14.2 Common shifts may be established when considered necessary by the Contractor. The Contractor shall provide at least one week notice to the Council prior to any change in shift time. Any shifts established shall continue for the established work week.

14.3 Recognized holidays shall be in accordance with the applicable Master Agreements. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate, but in no case shall such overtime rate be more than double the straight time rate.

ARTICLE 15

GENERAL PROVISIONS

15.1 If any article or provision of this Agreement shall become invalid, inoperative and/or unenforceable by operation of law or by declaration of any competent authority of the executive, legislative, judicial or administrative branches of the federal or state government, the District, the Contractors and the Council shall suspend the operation of such article or provision during the period of its invalidity, and the District and the Council shall negotiate in its place and stead an article or provision that will satisfy the objections to its validity and that, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question. The new article or provision negotiated by the District and the Council shall be binding on all parties signatory to this Agreement.

15.2 If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above-mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

15.3 Except as enumerated in this Agreement, all other terms and conditions of employment described in the Master Agreement of the Union having traditional and customary jurisdiction over the Covered Work shall apply.

15.4 The provisions of this Agreement shall take precedence over conflicting provisions of any Master Agreement or any other national, area or local collective bargaining agreement, except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement and the National Cooling Tower Agreement. In addition, all instrument calibration work and loop checking Covered Work shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and work within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreements of the International Union of Elevator Constructors. Notwithstanding the provisions of this section, Articles 5, 6 and 9 of this Agreement shall apply to all Covered Work.

15.5 Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

15.6 This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any signature pages may be assembled to form a single original document.

15.7 To the fullest extent consistent with the applicable Master Agreement and trust agreement, it is agreed that any liability under this Agreement by District, the Council, a Union, or any other Contractor shall be several and not joint. Any alleged breach of this Agreement by a party shall not affect the rights, liabilities, obligations, and duties among the other parties or between that party and any other party.

ARTICLE 16

HELMETS TO HARDHATS

16.1 The Contractors and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center"), a joint Labor-Management Cooperation Trust Fund, established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Section 175(a), and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Section and a charitable tax exempt organization under Section 501 (c)(3) of the Internal Revenue Code, 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.

16.2 The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans and members of the National Guard and Reserves interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Contractors and Unions will give credit to such veterans and members of the National Guard and Reserves for bona fide, provable past experience.

ARTICLE 17

DURATION OF AGREEMENT; MID-TERM ASSESSMENT

17.1 This Agreement shall remain in full force and effect for a period of five (5) years from the date approved by the Board of Education on June 9, 2022. Notwithstanding the term of the Agreement as set forth above, the Agreement will continue to apply until the completion of all Covered Work pursuant to Section 2.1 where the initial bid for any Construction Contract for a Project is awarded or approved by the Board on or before the date the Agreement terminates.

17.2 At the two-year mark, a mid-term assessment, including mutually agreed upon metrics, shall be reported to the Board.

SIGNATURES

Sacramento City Unified School District

Christina Pritchett Date: 8/5/22

Name: Christina Pritchett

Title: SCUSD Board President.

Sacramento-Sierra Building and

Construction Trades Council

DocuSigned by:
Kevin Ferreira
B4C87250B34241A... Date: _____

Name: Kevin Ferreira

Title: Executive Director

Sacramento-Sierra Building and

Construction Trades Council

Karl Pineo Date: 7-29-22

Name: Karl Pineo

Title: President

DocuSign Envelope ID: F932C669-183B-4831-96FA-B972F05A003B

Sacramento-Sierra Building and

Construction Trades Council

Date: 8/2/2022

Name: Todd Schiavo

Title: Vice-President

UNIONS

DocuSigned by:
6C910C1A0D294D5...
Asbestos Workers Local #16

DocuSigned by:
CD7DE50D9167457...
Iron Workers Local #118

DocuSigned by:
D48B5A45BA76425...
Bricklayers Local #3

DocuSigned by:
C20514D4BD51437...
Laborers Local #185

DocuSigned by:
C23CEC6C30BC44A...
Boilermakers Local #549

Operating Engineers Local #3

DocuSigned by:
4F8BF44AA19D47C...
Cement Masons Local #400

DocuSigned by:
BB5F4751AD96435...
Plasterers & Cement Masons Local #300

DocuSigned by:
C10D2576816641F...
Asbestos, Lead and Mold Laborers Local #67

DocuSigned by:
18EECB2BF4504BA...
UA of Journeymen & Apprentices of the Plumbing & Pipe Fitting Ind. Local #355

DocuSigned by:
0D9AD26FD7DF4CE...
District Council #16 International Union of Painters & Allied Trades

DocuSigned by:
9CC33EC099FB4FA...
Plumbers & Pipefitters Local #447

DocuSigned by:
B9EDEF97DCC4462...
Elevator Constructors Local #8

DocuSigned by:
09D284A82D354D7...
Roofers Local #81

DocuSigned by:
C0069C1D0CA54AC...
International Brotherhood of Electricians Local #340

DocuSigned by:
73EA33F8D61046A...
Sheet Metal Workers Local #104

DocuSigned by:
9BF3BF3C661649A...
Sprinkler Fitters Local #669

DocuSigned by:
BC6F45A38B6746A...
Teamsters Local #150

Northern California Carpenters Regional Council on behalf of itself and its affiliated Local Unions

4942-008j

UNIONS

Asbestos Workers Local #6

Laborers Local #185

Bricklayers Local #3

Millwrights Local #102

Boilermakers Local #549

Northern California District Council of Laborers

Carpenters 46 Northern California Counties Conference Board

Operating Engineers Local #3

Cement Masons Local #400

Plasterers & Cement Masons Local #300

District Council #16 International Union of Painters & Allied Trades

Pile Drivers Local #34

District Council of Plasterers & Cement Masons of Northern California

Plumbers & Pipefitters Local #447

Drywall/Latherers Local #9109

Roofers Local #81

International Brotherhood of Electricians Local #340

Sheet Metal Workers Local #104

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ATTACHMENT A

PROJECT LABOR AGREEMENT

Project:
Bid Number:

AGREEMENT TO BE BOUND

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

The undersigned hereby certifies and agrees that:

1.) It is a Contractor as that term is defined in Section I .7 of the Sacramento City Unified School District Agreement ("Agreement") because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work (as defined in Section 2.3) on the Project (as defined in Section 1.9), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2.) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing, or which are later made thereto.

3.) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4.) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5.) It will secure a duly executed Agreement to be Bound, in form identical to this document, from any Contractor(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work, and it will provide a copy of such executed Agreement to be Bound to the Sacramento-Sierra Building & Construction Trades Council within fifteen (15) days of such contracting or subcontracting in accordance with Section 3.2 of the Agreement.

DATED: _____ Name of Contractor _____

_____
(Authorized Officer & Title)

_____

_____
(Address)

EXHIBIT E

FORM DESIGN-BUILD AGREEMENT

PROGRESSIVE DESIGN BUILD AGREEMENT

Between

Sacramento City Unified School District

and

[Design Builder]

for

Design Build Services

DOCUMENTS ATTACHED HERETO AND INCORPORATED HEREIN

Exhibit A:	Criteria Documents
Exhibit B:	District Design Requirements
Exhibit C:	Price Proposal
Exhibit D:	General Conditions for Design Build Agreement
Exhibit E:	Insurance Requirements
Exhibit F:	Certification (Education Code §§ 45125.1 and 45125.2)
Exhibit G:	List of Employees Authorized to Provide Supervision and Monitoring Services on School Campuses
Exhibit H:	DVBE Good Faith Efforts Outreach Requirements
Exhibit I:	Certification Regarding Russian Sanctions
Exhibit J:	District Project Labor Agreement
Exhibit K:	Payment and Performance Bond Forms
Exhibit L:	Guarantee Form
Exhibit M:	Skilled & Trained Workforce Compliance Form

PROGRESSIVE DESIGN-BUILD AGREEMENT

THIS DESIGN-BUILD AGREEMENT ("Agreement") is made effective this __ day of _____20__, by and between the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT ("District"), and _____ [Name, form and state of business], Contractors State License Board No. _____ ("Design-Builder"), for design, management and construction of the Will C. Wood Middle School Modernization ("Project").

The parties hereto mutually agree to the terms and conditions set forth herein.

ARTICLE 1 – GENERAL PROVISIONS AND SCOPE OF WORK.

1.1 The District and Design-Builder agree to proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.

1.2 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

ARTICLE 2 – CONTRACT DOCUMENTS; INTERPRETATION AND INTENT

2.1 The Contract Documents shall include permits required by law; the Request for Design-Build Proposals; Design-Builder's Proposal; this Agreement (including all exhibits and attachments); the Proposal Bond; the Performance Bond; the Payment Bond; the District's Performance Criteria; the General Conditions; Construction Documents prepared by Design-Builder and approved by the District in accordance with this Agreement, including, without limitation, the Drawings and Specifications; any project-specific specifications or documents; the list of subcontractors and Disabled Veteran Business Enterprises ("DVBE") subject to protections under the Subletting and Subcontracting Fair Practices Act; all duly issued Addenda; Interpretations; Field Instructions; Written Directives; Supplemental Drawings; Design-Builder's Guarantee and Bond; the Project Schedule; the Construction Schedule; Storm Water Pollution Prevention Plan; and any and all supplemental agreements amending or extending the Work contemplated and which may be required to complete the Work in an acceptable manner. Supplemental agreements are written agreements covering alterations, amendments, or extensions to the Contract Documents and include Change Orders.

2.2 The Contract Documents contain the entire and integrated agreement between the District and Design-Builder and supersede all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only in writing by Change Order or Construction Change Directive.

2.3 Design-Builder and the District, prior to execution of the Agreement, shall carefully review all the existing Contract Documents, including the various documents comprising the District's Performance Criteria, for any conflicts or ambiguities. Design-Builder and the District will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement.

2.4 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time for the Contract Sum.

2.5 The table of contents, titles, and headings contained in the Contract Documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretations of the provisions to which they refer.

2.6 In the event of conflict between any of the Contract Documents, the provision placing a more stringent requirement on Design-Builder shall prevail. Design-Builder shall provide the better quality or greater quantity of Work and/or materials unless directed otherwise by the District in writing. If none of the Contract Documents place a more stringent requirement or greater burden on Design-Builder, then the following order of precedence will govern:

2.6.1 Permits from the District or other agencies required by law.

2.6.2 Written modifications, amendments, minor changes, and Change Orders to the Contract

2.6.3 This Agreement

2.6.4 The District's Performance Criteria

2.6.5 The General Conditions

2.6.6 Construction Documents prepared by Design-Builder and approved by the District in accordance with this Agreement.

ARTICLE 3 – DESIGN-BUILDER'S REPRESENTATIONS, SERVICES, AND RESPONSIBILITIES

3.1 General

3.1.1 Design-Builder accepts the relationship of trust and confidence established between the District and Design-Builder by this Agreement.

3.1.2 By executing the Agreement, Design-Builder represents and warrants that:

(i) it has visited the Project Site, familiarized itself with the local conditions under which the Work is to be performed including, without limitation, the conditions contained in any test results and/or reports provided to or obtained by Design-Builder, and the conditions reflected on any Site surveys provided to or obtained by Design-Builder;

(ii) it is fully experienced, qualified, and competent to perform the services set forth in the Contract Documents;

(iii) it is properly equipped, organized, and financed to perform the Work for the expected construction cost;

(iv) Design-Builder and its contracted Design Consultants are properly permitted and licensed by the State of California and all other applicable governmental entities to perform the Work required by the Contract;

(v) it will retain only properly licensed Design Consultants and Subcontractors to perform the Work of the Contract;

(vi) it has familiarized itself with all conditions bearing upon transportation, disposal, handling, and storage of materials;

(vii) it has familiarized itself with the availability of labor, water, electric power, and roads;

(viii) it has familiarized itself with uncertainties of weather or similar reasonably observable physical conditions at the Project Site;

(ix) it is satisfied as to the character, quality, quantity, and scope of work to be performed and materials and equipment to be furnished;

(x) as of the Effective Date of the Agreement, it has no knowledge of any conflicts, errors, or discrepancies in the Contract Documents other than those which Design-Builder has notified District of in writing prior to executing the Agreement;

(xi) it is experienced and competent in the interpretation and use of Specifications and Drawings, and in the use of materials, equipment, and construction techniques as are required to successfully complete the Project. Design-Builder shall, at its own expense, employ any and all experts necessary to successfully complete the construction Work required by the Contract Documents; and

(xii) it understands that, except as expressly set forth herein, the District assumes no responsibility for any conclusions or interpretations made by Design-Builder based on the information made available by the District.

3.1.3 Subcontractors and Subconsultants

3.1.3.1 Design-Builder shall be responsible to the District for the acts and omissions of its employees, Design Consultants, subconsultants, Subcontractors, and their agents and employees, and other persons performing any of the work under this Agreement. The District does not assume any liability, duty or obligation to Design-Builder's Design Consultants, subconsultants, Subcontractors, or their agents and employees by execution of this Agreement or performance of the

Contract Agreement, and nothing in the Contract shall create any contractual relation between the District and any Design Consultants, subconsultants, Subcontractors, their agents and employees, or any other person or entity employed or retained by or under Design-Builder.

3.1.3.2 As an inducement to the District to enter into this Agreement, Design-Builder hereby commits that every trade and specialty contract awarded will be subject to the requirements in Education Code section 17250.62(c) and Public Contract Code sections 2600 *et seq*. with respect to a skilled and trained workforce, including without limitation the requirement that specified percentages of the workforce must be graduates of an approved apprenticeship program. Skilled and trained workforce requirements are addressed in greater detail in General Conditions Section 6.02.

3.1.3.3 No later than the time that Design-Builder submits the Construction Cost estimate based on the 50% Construction Documents, Design-Builder shall submit to the District for review and comment a Subcontracting Plan, including without limitation a schedule and approach to obtain competitive bids/proposals from potential subcontractors and suppliers for all scopes of work for which a subcontractor was not listed in Design-Builder's Proposal to the District, which plan shall include at least the following elements:

(i) Developing subcontractor interest in the Project, including collaborating with District and its Construction Manager to develop a list of possible subcontractors and suppliers from whom bids will be requested for each principal portion of the work;

(ii) Preparation of bid packages for the complete scope of work for all trades that will be subcontracted, other than those for which a subcontractor or supplier was listed in Design-Builder's Proposal;

(iii) Providing public notice (under the District's public works notice procedures) of availability of work to be subcontracted, including an anticipated date and time on which bids or proposals will be due;

(iv) Establishing reasonable qualification and selection criteria and standards;

(v) Prequalification requirements for mechanical, electrical, and plumbing subcontractors (those with any of the following license classifications: C-4, C-7, C-10, C-16, C-20, C-34, C 36, C-38, C-42, C-43 and C-46) and any

others proposed or required to be pre-qualified prior to submitting bids. Design-Builder shall work with the District to prequalify subcontractors, using the District's standard Prequalification Questionnaire and uniform rating system;

(vi) Requiring all potential subcontractors, truckers, and suppliers and/or vendors subject to California's prevailing wage laws to be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 at the time of bidding;

(vii) If Design-Builder plans to self-perform any work, the process for Design-Builder to submit a sealed bid directly to the District a minimum of 48 hours before the bid due date for subcontractors;

(viii) Plan to achieve the District's local business participation goal of 20% of the direct cost of construction, which goal must be included in the solicitation document. Subcontractor/supplier bids must identify associated zip codes for location of business address and business owner home address to identify such local subcontractors and suppliers;

(ix) Plan to achieve the District's DVBE participation goal of 3% of the direct cost of construction, which goal must be noted in the solicitation document;

(x) How Design-Builder will determine whether the subcontractor or supplier has the financial resources, qualifications, and experience to complete the work for which it is proposed;

(xi) How Design-Builder will establish a fair and reasonable price for work to be performed by any subcontractor included in Design-Builder's Proposal; and

(xii) Which scope(s) of work, if any, Design-Builder intends to award on a "best value" basis and the reason for not awarding the work based on low bid.

3.1.3.4 All Subcontractors that are listed in the Proposal or subsequently awarded subcontracts in excess of one-half of one percent of the Contract Sum, and all DVBEs claimed towards the DVBE participation goal, shall only be substituted in strict accordance with the "Subletting and Subcontracting Fair Practices Act" and upon the written consent of the District.

3.1.3.5 Within the District's sole discretion, any Subcontractor may be deemed not qualified to perform work on the Project if the District determines the Subcontractor fails to meet the requirements of the Contract Documents, or for any other reason. Any increase in the cost of the work on the Project resulting from the replacement or substitution of a Subcontractor for any reason shall be borne solely by Design-Builder, unless the District agrees in writing to a written request by Design-Builder to use any available Construction Contingency for such added costs.

3.1.4 Design-Builder shall review all laws, codes, and regulations applicable to Design-Builder's Services. At its sole cost and expense, Design-Builder shall give all notices and comply with all applicable laws, codes, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of its work, including, without limitation, the California Department of General Services, Division of the State Architect ("DSA") and those relating to safety of its employees and subconsultants, hazardous materials, and equal employment opportunities; pay all local, state, and federal taxes associated with its work; and pay all benefits, insurance, taxes, and contributions for Social Security and Unemployment which are measured by wages, salaries, or other remuneration paid to Design-Builder's employees. Upon the District's request, Design-Builder shall furnish evidence satisfactory to the District that any or all of the foregoing obligations have been fulfilled.

3.1.5 Labor Code Compliance

3.1.5.1 The Project is a "public work" as that term is defined by California Labor Code section 1720, and the Project is, therefore, subject to prevailing wages under California Labor Code section 1771.

3.1.5.2 Design-Builder and its Design Consultants and Subcontractors shall fully comply with all provisions of the California Labor Code concerning the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprenticeship requirements, maintenance of payroll records, posting of wages at job site, and prohibitions against discrimination.

3.1.5.3 Design-Builder shall be registered pursuant to Labor Code section 1725.5 prior to executing this Agreement and shall maintain current registration throughout the term of this Agreement. Similarly, all subcontractors of all tiers shall be registered pursuant to Labor Code section 1725.5 prior to executing any subcontract with Design-Builder or engaging in any Project work, whichever is earlier, and shall maintain current registration throughout the term of this Agreement.

3.1.6 Except with the District's knowledge and written consent, Design-Builder shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise Design-Builder's professional judgment, impartiality, or professionalism with respect to this Project.

3.1.7 Design-Builder shall cooperate with and coordinate its activities with any contractors separately retained by the District to provide services at the Project so as not to hinder, delay, disrupt, or interfere with the work of such separately retained contractors.

3.1.8 Design-Builder's Representative shall be reasonably available to the District and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with the District and shall be vested with the authority to act on behalf of Design-Builder. **Design-Builder's Representative may be replaced only with the mutual agreement of the District and Design-Builder.**

3.1.9 Design-Builder shall provide the District with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; and (iv) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Sum and within the Contract Time(s). This monthly status report must be submitted with Design-Builder's progress payment application, and the failure to submit it will be grounds to withhold payment until it is submitted.

3.1.10 Project Schedule

3.1.10.1 Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 3.1.11 hereof, a proposed schedule for the execution of the Work for the District's review and response. The proposed schedule shall indicate the dates for completion of all design phases required herein, agency approvals, submittals, procurement, the start and completion of the various stages of Work, and Project close-out. When approved by the District, the proposed schedule shall become the initial Project Schedule. Design-Builder shall update the initial Project Schedule if and as necessary during the design phase, following consultation with the District, to ensure that the Project Schedule remains accurate. If Design-Builder proposes to submit Plans to DSA for approval in increments, the Project Schedule shall include all dates listed herein for each increment.

3.1.10.2 No later than the time that Design-Builder provides the complete design documents to the District for final review prior to submittal to DSA, Design-Builder shall update the initial Project Schedule. The updated Project Schedule shall include all updated

information required in the initial Project Schedule and shall include critical path items, a stated number of days for a weather allowance, and the dates when District information and approvals are required to enable Design-Builder to complete the Work within the Contract Time. The dates indicated for District review and response shall not be less than the time allowed for District review of submissions under the General Conditions. The Construction Schedule shall be developed as set forth in Article 13 of the General Conditions, based on the updated Project Schedule, and the accepted Construction Schedule shall be incorporated into and made a part of the Project Schedule. The Project Schedule shall be updated and revised in accordance with the General Conditions. The District's review of, and response to, the proposed and Project Schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences, and techniques for executing the Work.

3.1.11 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

3.2 Design Professional Services.

3.2.1 Standard of Care

3.2.1.1 Design-Builder represents that all of its Design Consultants are familiar with the statutes, regulations, and design requirements applicable to public works projects of the type of the Project in the locality of the Project; that all of its Design Consultants' work will conform to current professional practices and standards regarding such requirements; and that Design-Builder and its Design Consultants will exercise due professional care and will cooperate with the District and any consultant or Construction Manager also employed by the District in connection with the Project. Design-Builder agrees that its Design Consultants will perform their work with the skill and judgment of prudent public works school district designers practicing in California in the locale of the Project and in the most expeditious and economical manner consistent with the interests of the District.

3.2.1.2 Any review, approval, or acceptance of any of Design-Builder's work under this Agreement shall not relieve Design-Builder from responsibility for failure to meet the standard of care as defined herein in its work or the work of its any of its Design Consultants or subconsultants.

3.2.2 Consistent with applicable state licensing laws, Design-Builder shall provide the necessary design services, including architectural, engineering, and other design professional services, for the preparation of the required Drawings, Specifications, and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Design-Builder shall provide the required design services through its employees that are qualified, licensed design professionals or by contracting with qualified, independently licensed Design Consultants.

3.3 Suitability of the District's Performance Criteria

3.3.1 Except as provided in Section 3.3.2, Design-Builder acknowledges that the District's Performance Criteria are conceptual in nature and that Design-Builder is responsible for correcting any errors, omissions, or defects in the District's Performance Criteria that reasonably can be corrected through the design and/or construction process, subject to Change Orders only for scope changes, and that it has satisfied itself regarding the adequacy and accuracy of design information contained in the District's Performance Criteria and agrees to assume all risk and sole responsibility for all conditions in or among the various parts of the District's Performance Criteria that (i) constitute errors, omissions, conflicts, ambiguities, or violation of applicable laws, or (ii) are unsuitable for construction.

3.3.2 If the District's Performance Criteria contain specific design specifications: (i) Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in the Performance Criteria, including any performance specifications; and (ii) Design-Builder shall be entitled to an adjustment in the Contract Sum and/or Contract Time to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

3.4 Royalties, Patents, and Copyrights

3.4.1 Design-Builder shall secure in writing from all patentees, copyright holders, and assignees of all Project-related documents, all copyrights, assignments, and licenses related to such expression (e.g., designs, drawings, Contract Documents, Specifications, etc., whether in hard copy or electronic form) as necessary to allow the District the full, unlimited, and unencumbered use of that expression for the execution, operation, maintenance, modernization, or expansion of the Project. Design-Builder shall immediately convey all such copyrights, assignments, and licenses to the District without reservation except that which is expressly allowed in Article 5. In the case of products, materials, systems, etc. that are protected by patent, Design-Builder and its Design Consultants shall not specify or cause to be specified any infringing use of a patent. Design-Builder shall pay all royalties and license fees.

3.4.2 Design-Builder shall indemnify, defend, and hold the District harmless against any claim, suit, or action, or any alleged violation or infringement of patent rights, copyrights, or other intellectual property rights which may be made against the District by reason of the use in connection with or as a part of the Project anything which is now or may hereafter be covered by patent, copyright, trademark, or other intellectual property rights, and also against all expenses, including attorneys' fees and expert witness' fees, which the District may incur in defending or adjusting any such claim, suit, or action.

3.4.3 Should Design-Builder become aware of or receive notice of potential infringement of any intellectual property right related to the Project, regardless of the source of that awareness or notice, in addition to its indemnity obligation, Design-Builder shall immediately cease the copying and any other activity which is the potential source of infringement; and, within seven (7) days: (a) investigate the potential infringement; (b) submit to the District copies of all documents relating to that awareness, the notice, or the object thereof; and (c) issue to the District a complete written response and analysis of the potential infringement and the course of action recommended by Design-Builder. Design-Builder shall submit to the District a supplement to the initial report within seven (7) days of Design-Builder's receipt of, or awareness of, additional related information. Nothing in the Contract Document shall be deemed to relieve Design-Builder of its obligations under this Section, nor shall the District's receipt of the information indicated in this Section give rise to any duty or obligation on the part of District.

3.5 Design Development Services

3.5.1 Budgets

3.5.1.1 The budgeted construction cost of the Project is **$92,590,000.** Estimates shall not exceed this budgeted cost without prior written approval of the District.

3.5.1.2 As part of developing the Guaranteed Maximum Price under Article 7, Design-Builder shall prepare estimates of Project Construction Costs and submit them to the District for review at the following phases:

- A conceptual estimate at the end of the schematic design phase.
- A design development estimate .
- A 50% Construction Document estimate .
- A 100% Construction Document estimate prior to submittal of the design for DSA approval.

3.5.2 General

3.5.2.1 Design-Builder shall provide full design and engineering services (including, without limitation, geotechnical and survey services) necessary to complete the design and secure approval of all agencies, including, without limitation, DSA, for the Project and in accordance with the District's Facilities Master Plans' Guiding Principles for design and the design/performance criteria.

3.5.2.2 Design services generally required are evaluation of the site and of the design criteria documents and other Project-related information; preparation of a preliminary schedule and preliminary estimate; coordinating and obtaining all planning permits; preparing design development documents, including supporting the District's design review process, attending design review meetings, and resolving review comments to the satisfaction of the District; preparing construction documents; securing design approval of DSA and other agencies; and performing work necessary to prepare and submit an acceptable Guaranteed Maximum Price ("GMP") proposal.

3.5.3 Schematic Design Phase

3.5.3.1 Design-Builder shall prepare schematic design documents based on the District's Performance Criteria and other information provided by the District for the Project, including without limitation the anticipated completion date and anticipated Project cost. The schematic design documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The schematic design documents shall include a conceptual site plan and preliminary building plans, sections, and elevations. At the request of the District, the schematic design documents may include study models, perspective sketches, electronic modeling, or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

3.5.3.2 The District shall approve the schematic design documents in writing prior to Design-Builder beginning the design development document phase. Design-Builder may be required to present schematic design documents to District's facility representatives and/or Board of Education prior to approval.

3.5.4 Design Development Document Phase

3.5.4.1 Design-Builder shall prepare design development documents based on the approved schematic design documents and approved conceptual estimate of Construction Costs. The design development

documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, form, size, and appearance of the Project by means of plans, sections, elevations, typical construction details, and equipment layouts. The design development documents shall include specifications that identify major materials and systems and establish in general their quality levels.

3.5.4.2 Design-Builder shall perform all necessary geotechnical investigations and engineering, perform all necessary surveys, and investigate and take measurements of observable existing conditions and facilities. Where existing conditions are concealed, Design-Builder shall make reasonable recommendations to the District as to whether such conditions should be exposed and, if so, the specific extent of such exposure. The District may, but need not, follow Design-Builder's recommendations. If the District takes action to expose concealed conditions, Design-Builder shall proceed with investigating and taking measurements.

3.5.4.3 Design-Builder shall advise and assist the District in applying for and obtaining required approvals from all applicable governmental agencies having jurisdiction in a timely manner so as not to delay the Project.

3.5.4.4 The District shall approve the design development documents and the design development estimate of Construction Costs in writing prior to Design-Builder beginning the Construction Documents phase. Design-Builder may be required to present schematic design documents to District's facilities representatives and/or Board of Education prior to approval.

3.5.5 Construction Document Phase

3.5.5.1 Based on the approved design development documents, the Contract documents, any other information provided by the District or made available to Design-Builder, site surveys, and observations, Design-Builder shall prepare Drawings and Specifications setting forth in detail and prescribing the work to be done for the Project, including, without limitation, the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical service connected equipment. At the end of the Project, Design-Builder shall provide the District through the District PMIS the electronic files and the Record Drawings as required in the General Conditions attached hereto.

3.5.5.2 Design-Builder shall advise and assist the District in applying for and obtaining required approvals from all applicable governmental

agencies having jurisdiction in a timely manner so as not to delay the Project.

3.5.5.3 The Construction Documents shall be consistent with a design that can be constructed within the Construction Budget. If the proposed Guaranteed Maximum Price following DSA approval of the Construction Documents and subcontractor bidding exceeds the 100% Construction Document Construction Cost estimate by ten percent (10%) or more, then the District may require Design-Builder to perform value engineering at Design-Builder's cost or to take other action to bring the Project construction cost to within ten percent (10%) of the Construction Cost estimate and to take such actions as may be necessary and appropriate to mitigate any schedule impact of the required changes.

3.5.5.4 Without limiting the District's rights and remedies included herein or available as a matter of law, the District expressly retains the discretion to do any or all of the following: (a) terminate this Design-Build Agreement prior to construction, (b) direct Design-Builder to modify the project design or a feature as necessary to comply with the California Environmental Quality Act including, but not limited to, incorporation of mitigation measures identified in an environmental review document for the Project to mitigate environmental impacts that the Project may cause, (c) balance the benefits of any proposed Project feature against the Project's or feature's significant environmental effects if the effects cannot be otherwise avoided or mitigated to a less than significant level, and/or (d) disapprove of the Project design, or any feature thereof, and not proceed to completion of the Project design or any feature thereof.

3.5.5.5 Three sets of the Construction Documents shall be provided to the District prior to commencement of construction.

3.5.6 Constructability and Coordination Reviews

During all phases of the development of the design and Construction Documents, Design-Builder shall meet with the District and its separate contractors and/or consultants on at least a monthly basis to coordinate the Construction Documents for the purpose of continuing construction feasibility, identifying conflicts, missing information or gaps in the planned scope of construction, ensuring compliance with District standards for construction, and to take appropriate action to ensure the full scope of intended construction is performed efficiently and economically. Design-Builder shall prepare and use BIM modeling in connection with the constructability review to resolve all potential conflicts that reasonably could be identified in a thorough review prior to Notice to Proceed with construction.

3.5.7 The District's review and approval of schematic designs, design development documents, and the Construction Documents is for the purpose of

mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither the District's review nor approval of any design submissions and Construction Documents, nor any constructability and/or coordination input from the District or its separate contractors or consultants, shall be deemed to transfer any design liability from Design-Builder to the District.

3.6 Government Approvals and Permits.

3.6.1 Except as otherwise set forth in the General Conditions, Design-Builder shall obtain, and the District shall pay for, all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project. Design-Builder shall provide the District at least two weeks' notice for any payments to be made by the District under these provisions, and shall comply with General Conditions section 4.02 to obtain the check for payment directly by the District. The District shall pay the fees for initial approval by DSA, as well as any DSA fees required for District-directed changes. All other DSA fees are the responsibility of Design-Builder and will not be reimbursed by the District.

3.6.2 Design-Builder shall provide reasonable assistance to the District in obtaining those permits, approvals, and licenses that are the District's responsibility.

3.7 Establishment of the Guaranteed Maximum Price for Construction

3.7.1 Design-Builder shall propose award of subcontracts in accordance with the following competitive selection processes and the approved plan:

3.7.1.1 For work that has a value of $15,000 or more but less than one-half of one percent of the GMP, a minimum of three bids is expected for each trade. Such bids may be solicited through informal bidding and contracts awarded based on low bid or best value.

3.7.1.2 For work that has a value equal to or greater than one-half of one percent of the GMP, the competitive sub-bid selection process (a) will require advertisement in accordance with that required of the District, fixing a date on which qualifications, bids, or proposals are due; (b) will permit selection and award of subcontracts on either a best value basis or to the lowest responsible bidder, as specified in the solicitation document; and (c), if a best value basis is used, the solicitation document must specify reasonable qualification criteria and standards and Design-Builder must apply those standards to select subcontractors. Subcontractors awarded construction subcontracts under this process shall be afforded all protections of the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100 *et seq*. ("Act").

3.7.1.3 Design-Builder shall provide the District with a copy of all bid advertisements and subsequent addenda.

3.7.1.4 All DVBEs awarded subcontracts at any level or material supply contracts shall be entitled to the protections of the Act.

3.7.2 For any work not required to be bid, Design-Builder shall provide a detailed estimate of the cost of the work, including documentation sufficient to support that the price is reasonable;

3.7.3 Design-Builder shall develop a final GMP proposal, including all proposed Allowances and Contingencies, to include the written rationale for the GMP and objectively-verifiable documentation of its costs to perform the construction work. The documentation shall include:

3.7.3.1 A written evaluation for each of the portions of work, including a summary of the bids received, the actual bid proposals, and identify the subcontract bidder(s) that Design-Builder recommends;

3.7.3.2 For any DVBEs listed in the GMP proposal but whose scope was not bid (*e.g.,* material suppliers or lower tier subcontractors), documentation supporting the DVBE's price, including a written rationale explaining why the price is reasonable;

3.7.3.3 A list of the drawings and specifications, including version dates, that were used in preparation of the GMP proposal;

3.7.3.4 A list of the assumptions and clarifications made by Design-Builder in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

3.7.3.5 A statement identifying all patented or copyrighted materials, methods, or systems selected by Design-Builder that are likely to require the payment of royalties or license fees;

3.7.3.6 "Good Faith Efforts" documentation to reflect DVBE outreach if the 3% DVBE participation goal is not met;

3.7.3.7 The proposed GMP broken down by element comprising the GMP, including a statement of the estimated cost and a schedule of values organized by trade categories;

3.7.3.8 A schedule of applicable alternate prices, if any;

3.7.3.9 A schedule of applicable unit prices, if any;

3.7.3.10 The date of commencement, date of substantial completion, and date of final completion on which the proposed GMP is based;

3.7.3.11 Any proposed Allowance(s) and a statement of the rationale for each proposed Allowance;

3.7.3.12 A District Contingency of __% of the proposed cost of construction and a Construction Contingency of _% of the proposed cost of construction; and

3.7.3.13 A detailed cost breakdown of all general conditions and jobsite management expenses included in the GMP.

3.7.4 Design-Builder shall meet with the District and Construction Manager to review the final GMP proposal and the written statement of its basis. The District shall have the right to review the proposed subcontractors and suppliers and to object to or reject any proposed subcontractor or supplier or to request re-procurement of any scope of work. If the District or Construction Manager discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify Design-Builder, who shall make appropriate adjustments to the documentation.

3.7.5 Design-Builder shall be present at the Board meeting at which the GMP is proposed for approval and be available to answer any Board questions regarding the GMP.

3.7.6 If Design-Builder has submitted its Plans to DSA in increments, Design-Builder shall repeat the above process for each increment of work to be performed.

3.8 Construction Phase Services

3.8.1 No construction shall commence prior to receipt of the written approval of the Plans, or any increment of the Project Plans, from DSA.

3.8.2 No construction shall commence without compliance with all applicable laws, including without limitation the California Environmental Quality Act.

3.8.3 Construction will commence only upon approval of a GMP amendment and issuance by the District of a written Notice to Proceed with construction, or any increment thereof.

3.8.4 Design-Builder shall provide all necessary construction administration services, including, without limitation, providing general direction to the Project Inspector employed by and responsible to the District, as required by the Education Code and Title 24 of the California Code of Regulations; complying with all DSA requirements; making necessary visits to the site to render architectural observations; keeping the District informed about the progress and quality of the work completed; guarding the District against defects and deficiencies in the Work; and obtaining final DSA certification.

3.8.5 Design-Builder shall provide, through itself or Subcontractors, all necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, other temporary facilities, and all other services necessary to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

3.8.6 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill, and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences, and techniques of construction.

3.8.7 If the District and DSA permit construction to proceed in increments, the parties shall continue with the development and completion of further Construction Documents as provided herein.

ARTICLE 4 – THE DISTRICT'S RESPONSIBILITIES

4.1 Duty to Cooperate

4.1.1 The District shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

4.1.2 The District shall provide timely reviews and approvals of design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

4.1.3 The District shall give Design-Builder timely notice of any Work that District notices to be defective or not in compliance with the Contract Documents.

4.2 Furnishing of Services and Information

4.2.1 Unless expressly stated to the contrary in the Contract Documents, the District shall provide, at its own cost and expense, for Design-Builder's information and use the following:

4.2.1.1 All inspection and testing services in conjunction with the Project;

4.2.1.2 Temporary and permanent easements, zoning, and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

4.2.1.3 A legal description of the Site;

4.2.1.4 To the extent available, record drawings of any existing structures at the Site; and

4.2.1.5 To the extent available, environmental studies, reports, and impact statements describing the environmental conditions, including hazardous conditions, in existence at the Site;

4.2.2 Except to the extent stated otherwise in the Contract Documents, the District is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work.

4.3 The District's Separate Contractors

The District is responsible for all work performed on the Project or at the Site by separate contractors under District's control. District shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

4.4 Pre-existing Hazardous Materials

4.4.1 Design-Builder shall have no responsibility or liability for Hazardous Materials that are pre-existing on the site or that are brought to the site by others for whom Design-Builder is not liable. The District shall provide hazardous materials consultant services for the Project, if necessary.

4.4.2 To the fullest extent permitted by law, the District shall defend, indemnify and hold harmless Design-Builder, its Subcontractors, subconsultants, and their respective agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the presence of pre-existing hazardous materials or substances at the site, except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

4.4.3 If the presence of pre-existing Hazardous Materials on the Project site or Hazardous Materials brought to the site by others for whom Design-Builder is not liable cause Design-Builder's performance to be delayed and/or cause Design-Builder to incur extra costs, Design-Builder shall be entitled to an adjustment in the Contract Sum and/or Contract Time provided Design-Builder meets the requirements of Articles 14 and 15 of the General Conditions.

ARTICLE 5 – OWNERSHIP OF WORK PRODUCT

5.1 The District acknowledges that the documents prepared by Design-Builder, including design development documents, Construction Documents, Drawings, Specifications, sketches, structural and other engineering calculations, estimates, data, charges, models and other documents prepared by Design-Builder, in both hard copy and

in electronic files, are instruments of professional service ("Instruments of Service"). Although the official copyright of all Instruments of Service shall remain with Design-Builder and applicable Design Consultants, the Instruments of Service shall be and remain the property of the District, only for use on this Project, whether this Project is completed or not. The Instruments of Service shall be delivered to the District whenever requested, but in no event later than the earlier of (1) sixty (60) days after the District's Notice of Completion of the Project, or (2) the date of termination of this Agreement for any reason prior to final completion of the Project. Design-Builder may keep duplicate copies of the Instruments of Service, at its own expense, for its own files.

5.2 Design-Builder grants the District an irrevocable license and right to use all or any part of the Instruments of Service, at the District's sole discretion and with no additional compensation to Design-Builder, for all purposes the District may deem advisable in connection with completion and maintenance of, and additions to, modifications to, or modernizations of the Project; provided, however, that, if the Instruments of Service are altered without the involvement of Design-Builder or this Agreement is terminated for any reason prior to completion of the Project and if, under either such circumstance, District uses, or engages the services of and directs, another design professional or Design-Builder to use the Instruments of Service to complete the Project, then the District agrees to release Design-Builder from any responsibility for the alterations or conformance of the incomplete portions of the Project to the Instruments of Service and to hold Design-Builder harmless from any and all liability, costs, and expenses (including reasonable legal fees and disbursements) relative to claims arising out of alterations to the Instruments of Service or use of incomplete Instruments of Service and as a result of causes other than the fault or negligence of Design-Builder or anyone for whose acts it is responsible. In no event is the District's right to recover for latent defects or for errors or omissions of Design-Builder waived or limited.

5.3 This Agreement creates a non-exclusive and perpetual license for the District to copy, use, or modify any and all Instruments of Service and any intellectual property rights therein for this Project only. Design-Builder shall require any and all of its Design Consultants, subconsultants, and Subcontractors who perform design services to agree in writing that the District is granted a non-exclusive and perpetual license for Instruments of Service they prepare pursuant to this Agreement.

5.4 Design-Builder represents and warrants that it has the legal right to license any and all copyrights, designs, and other intellectual property embodied in the Instruments of Service that Design-Builder prepares or causes to be prepared pursuant to this Agreement.

5.5 In the event the District ever desires to construct all or part of another wholly unrelated project which would be essentially identical in design to the Project that is the subject of this Agreement, Design-Builder agrees to permit re-use of its Instruments of Service, subject to payment to Design-Builder of a fair and reasonable re-use fee.

5.6 Any unauthorized re-use of the Instruments of Service shall be at the District's sole risk and without liability to Design-Builder. The District agrees to indemnify and hold

harmless Design-Builder and its Design Consultants against any damages, liabilities, or costs, including reasonable legal fees and disbursements, arising from the unauthorized re-use or modification of the Instruments of Service. Submission or distribution of the Instruments of Service to meet official regulatory requirements or for similar purposes does not constitute an unauthorized re-use of the Instruments of Service.

5.7 Design-Builder shall not re-use the Instruments of Service without the prior written consent of the District. Any unauthorized re-use of the Instruments of Service by Design-Builder shall be at Design-Builder's sole risk and without liability to the District. Design-Builder agrees to indemnify and hold the District harmless against any damages, liabilities, or costs, including reasonable legal fees and disbursements, arising from the unauthorized re-use of the Instruments of Service.

ARTICLE 6 – TIME OF PERFORMANCE

6.1 Contract Time

6.1.1 Time is of the essence in the Contract Documents.

6.1.2 The Work shall commence on the date stated in the Notice to Proceed. Notwithstanding any provision to the contrary in the Contract Documents, Design-Builder shall not commence work prior to the date stated in the Notice to Proceed. As set forth above, no construction work shall commence prior to receipt of any required written approval of the Plans from DSA.

6.1.3 Design-Builder shall receive DSA Approval of the design documents by **December 01, 2027**. Design-Builder shall submit the final GMP Proposal to the District by **May 01, 2028**. The GMP Proposal is anticipated to be approved by the Board of Education on the **first Thursday of May 2028**. Design-Builder shall commence construction of the project by **July 01, 2028**. Design-Builder shall bring the entire Work to completion in the manner provided in the Contract Documents by **May 30, 2030**. "Completion" means completion of all construction work, including punch list items and final cleaning completed, so that the entire Project can be occupied for its intended purpose.

6.1.4 Any adjustments to the Contract Time shall be in accordance with the General Conditions.

6.2 Liquidated Damages

The Project is a critical component of ongoing educational services being provided by the District, which can be impacted if the Project is not timely completed. If the Project is not substantially completed within the time period set forth at Section 6.1.3 above, as such completion date may be revised from time to time by mutual agreement or may be extended in accordance with the terms and conditions set forth in the General Conditions attached hereto, it is understood that the District will suffer damage, and that it is impractical and infeasible to determine the amount of actual damages. However, Design-Builder acknowledges the damages which

District would suffer in the event of delay include loss of the use of the Project, and, in addition, expenses of prolonged employment of the District's separate consultants and contractors; prolonged employment of District staff on the Project; costs of administration, inspection, and supervision; and the loss suffered by the public by reasons of the delay in the completion of the Project to serve the public at the earliest possible time. Therefore, it is agreed that Design-Builder shall pay to the District, as the sole and exclusive remedy for delay, as fixed and liquidated damages and not as a penalty, the sum of **$5,000.00 (Five Thousand and No Cents)** for each calendar day of delay until the date by which the Project is Substantially Complete (as defined in the General Conditions) and the District can take occupancy of the Project for its intended use, and that both Design-Builder and its surety shall be liable for the total amount thereof. The District shall have the right to deduct the amount of liquidated damages, or to withhold reasonably anticipated liquidated damages, from any money due or to become due to Design-Builder.

ARTICLE 7 – COMPENSATION

7.1 Guaranteed Maximum Price (GMP)

7.1.1 Following submittal of the Plans to DSA for review and approval and prior to commencing construction, Design-Builder shall submit a GMP Proposal to the District in accordance with Section 3.7 above. The GMP, including compensation for all design and construction services, is expected to be within the cost range of the Project of **$98,500,000.**

7.1.2 If the District or its Board of Education fails to accept the GMP Proposal, or rejects the GMP Proposal, the District shall have the right to either (a) suggest modifications to the GMP Proposal, in which case the revised `GMP Proposal shall be presented to the Board of Education for action or (b) terminate this Agreement for convenience.

7.1.3 In consideration of Design-Builder's performance of the Work, the District agrees to pay Design-Builder the amount of _____ ($_____) for design services to final DSA approval. This compensation is to be included in the GMP, and payment for these design services shall be in accordance with the General Conditions, including Article 12 of the General Conditions.

7.1.4 The GMP shall be the maximum total sum paid by the District for the Project, including design services, construction costs, Allowances, and Contingencies. The GMP for the Project shall not be exceeded. The GMP for the Project, including construction services, is **(to be added by GMP Amendment) Dollars ($ TBD.00).**

7.1.5 The District reserves the right to authorize Design-Builder to commence construction phase services in increments based on DSA approvals prior to

completion of the final design. Any such authorization shall be in writing following adoption of the associated GMP Amendment hereto.

7.1.6 Payment of the Contract Sum, subject to additions and deductions as allowed in the General Conditions, shall be made in accordance with the General Conditions. Except as otherwise provided in the Contract Documents, the Contract Sum will fully compensate Design-Builder for all labor, services, material, equipment, transportation, supervision, taxes, permits, licenses, insurance, bonds, overhead, and profit for the duration of the Work.

7.2 Contingencies

The GMP shall include the following Contingencies.

7.2.1 The Construction Contingency in the amount of [**to be added by GMP Amendment] Dollars and no cents ($ TBD .00)** shall be monitored by Design-Builder and the District for use to cover costs which are properly reimbursable as a cost of the Work but would not entitle Design-Builder to a Change Order. By way of example, and not as a limitation, such costs include trade buy-out differentials; overtime or acceleration; costs in correcting defective, damaged, or nonconforming Work; design errors or omissions not covered by professional liability insurance; and costs associated with Subcontractor defaults or substitution. The Construction Contingency is not available to the District for any reason, including changes in scope or time which would enable Design-Builder to increase the GMP under the Contract Documents. Design-Builder shall give the District reasonable notice through the PMIS of any intent to draw upon the Construction Contingency funds, specifying the purpose for the use and the estimated amount. The District shall have the right to object to any proposed use of the Construction Contingency, stating the basis for its objection, and provided that notice of objection is given to Design-Builder within five (5) business days of Design-Builder's notice of intent to use the contingency, or within such shorter time as reasonably stated in that notice. In the event of disagreement about the use of the Construction Contingency which is not resolved, Design-Builder may submit a claim for use of such Construction Contingency funds in accordance with Article 23 of the General Conditions.

7.2.2 The District Contingency in the amount of [**to be added by GMP Amendment] Dollars and no cents ($ TBD .00)** shall be for the sole and exclusive use of the District, including without limitation for additional or extra costs to the Project that entitle Design-Builder to a change order in accordance with Article 15 of the General Conditions. Design-Builder shall have no right to draw against this contingency without written approval of the District prior to its use. Design-Builder shall request any use of the District Contingency in writing through the PMIS, specifying the purpose of the use, why the District Contingency is appropriate, and the estimated amount, prior to performing the work asserted to be subject to use of the District Contingency. The District shall have the right to object to any proposed use of the District Contingency, provided notice of objection

is given to Design-Builder within five (5) business days of Design-Builder's request. In the event of disagreement about the use of the District Contingency, the District may direct Design-Builder to proceed. Design-Builder shall promptly comply with such directive and may submit a claim in accordance with Article 23 of the General Conditions.

7.2.3 In no event shall the sum of the Construction Contingency and the District Contingency exceed ten percent (10%) of the construction cost approved by the Board in the GMP Amendment(s).

7.3 Allowances

7.3.1 Design-Builder and the District have worked together to review the Allowances based on available design information to determine that the Allowance values constitute reasonable estimates for the following Allowance items:

Allowance	**Scope**	**Amount**

7.3.2 No work shall be performed on any Allowance without Design-Builder first obtaining in writing advanced authorization to proceed from the District.

7.3.3 Whenever the actual costs for an Allowance item are more than the stated Allowance value, at the District's discretion, the District Contingency may be used to supplement the Allowance or the Allowance may be supplemented by transfer of funds from another stated Allowance item. Whenever the actual costs for an Allowance are less than the stated Allowance, the Contract Sum shall be reduced accordingly by Change Order to eliminate the Allowance that was not required to complete the Project.

ARTICLE 8 – PAYMENT

8.1 Progress and final Payments shall be made in accordance with the General Conditions.

8.2 The District shall reserve from each progress payment a sum equal to five percent (5%) of the amount earned.

8.3 Design-Builder may request substitution of securities in lieu of retention, in accordance with the General Conditions. A fee set by the District will be charged for such substitution.

ARTICLE 9 – CHANGES

9.1 All changes to the Work, the Contract Sum, and/or the Contract Time shall be governed by the General Conditions.

ARTICLE 10 – TERMINATION

10.1 The Contract, Design-Builder's Work and/or Design-Builder's right to proceed may be terminated pursuant to Article 18 of the General Conditions.

10.2 Design-Builder shall, within ten (10) days of notice of termination, turn over to the District all Instruments of Service, whether or not completed.

10.3 In addition to any other rights it may have, the District may terminate for default this Agreement or Design-Builder's control over the Work at any time after the allotted number of Calendar Days for completion, as adjusted by any extensions of time to which Design-Builder may be entitled.

ARTICLE 11 – BONDS AND INSURANCE

11.1 Insurance

11.1.1 Design-Builder shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with the General Conditions.

11.2 Performance and Payment Bonds

11.2.1 Design-Builder shall, before beginning any construction work, provide performance and payment bonds as set forth in the General Conditions, on the District's forms or that are substantially the same as the District's forms, for one hundred percent (100%) of the amount of the construction services.

11.2.2 All costs for the Performance and Payment Bonds and any other bonds required by the Contract Documents are included in the Contract Sum.

11.2.3 Design-Builder represents that, prior to issuance of the Payment and Performance Bonds, it will provide this Design-Build Agreement, with all attachments, to its surety companies and ensure that the surety companies waive any notice of change, extension of time, alteration, or addition to the terms of the Contract Documents or to the work to be performed thereunder, or any other act or acts by the District or the District's authorized agents authorized under the Contract Documents. Any failure to notify the surety companies of changes shall in no way relieve the surety or sureties of their obligations. Any alteration or alterations made in any provision of the Contract Documents shall not operate to release any surety from liability on any bond required hereunder and the consent to make such alterations is hereby given, and any surety on said bonds shall waive the provisions of Section 2819 of the Civil Code.

11.2.4 Bonds shall only be accepted from an "Admitted surety insurer," as provided in the General Conditions. Design-Builder must submit with the bonds the original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws or other instrument entitling or authorizing the person who executed the bond to do so.

ARTICLE 12 – INDEMNITY

12.1 Defense and Indemnity for Design Services

12.1.1 To the fullest extent permitted by law, Design-Builder shall, with respect to all design services covered by or incidental to this Agreement, indemnify, defend, and hold harmless the District, its officers, officials, employees, agents, and volunteers from and against any and all liens and claims asserted by firms or individuals claiming through Design-Builder and claims, losses, liability, damages, costs, or expenses, including reasonable attorneys' fees and expert fees, or liability of every nature that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Design-Builder, its Design Consultants, Subcontractors, and their consultants, subcontractors, agents, and employees ("Design Services Claim"). Design-Builder assumes no responsibility to indemnify District for the negligent acts or omissions or willful misconduct of the District, its officers, officials, employees, agents, consultants, and volunteers. Design-Builder's duty shall include the duty to defend the indemnitees as required by Civil Code section 2778.

12.1.2 Design-Builder shall indemnify, defend, and hold the District harmless against any claim, suit, or action, or any alleged violation or infringement of patent rights, copyrights, or other intellectual property rights which may be made against the District by reason of the use in connection with, or as a part of, the Project anything which is now or may hereafter be covered by patent, copyright, trademark, or other intellectual property rights, and also against all expenses, including attorneys' fees and expert witness' fees, which the District may incur in defending or adjusting any such claim, suit, or action.

12.1.3 The duty to defend is a separate and distinct obligation from Design-Builder's duty to indemnify. To the fullest extent permitted by law, Design-Builder's duty to defend shall extend, without limitation, to any suit or action founded upon a Design Services Claim. An allegation or determination that persons other than Design-Builder are responsible for the Design Services Claim does not relieve Design-Builder from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. In no event shall Design-Builder's cost to defend against a Design Services Claim exceed Design-Builder's proportionate percentage of fault. However, notwithstanding the foregoing sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Design-Builder shall meet and confer with the other parties regarding the unpaid defense costs.

12.2 Defense and Indemnity for Construction Services

12.2.1 To the fullest extent permitted by law, Design-Builder shall, with respect to all construction services covered by or incidental to this Agreement, immediately indemnify, defend, and hold harmless the District, its officers, officials, employees, agents, and volunteers from and against any and all liens and claims asserted by firms or individuals claiming through Design-Builder and claims, losses, liability, damages, costs, or expenses, including reasonable attorneys' fees and expert fees, or liability of every nature arising out of or in any way connected with this Agreement or the Project, including but not limited to, equitable relief, stop payment notice actions, or any acts or omissions, any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of Design-Builder or any of its agents, employees, independent contractors, Subcontractors at any level, or suppliers ("Construction Services Claim"); provided, further, without limiting the foregoing, that the defense and indemnity is intended to apply to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Design-Builder and its agents, employees, independent contractors, subcontractors at any level, or suppliers, and the District, its agents, employees, or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require Design-Builder to indemnify the District in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of the District.

12.2.2 The duty to defend is a separate and distinct obligation from Design-Builder's duty to indemnify. To the fullest extent permitted by law, Design-Builder's duty to defend shall extend, without limitation, to any suit or action founded upon any Construction Services Claim. Design-Builder shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the District immediately upon tender to Design-Builder of the Construction Services Claim, whether or not liability is established. An allegation or determination that persons other than Design-Builder are responsible for the Construction Services Claim does not relieve Design-Builder from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals.

12.3 Defense and Indemnification Provisions Applicable to Both Design and Construction Services

12.3.1 The defense and indemnity obligations extend to and include Design Services Claims and Construction Services Claims based on damages to adjacent property caused by the conduct of the Work.

12.3.2 The defense and indemnity obligations extend to and include Design Services Claims and Construction Services Claims caused by a violation by Design-Builder, its agents, employees, or independent contractors, subcontractors at any level, or suppliers of any provisions of federal, state or local law, including applicable administrative regulations.

12.3.3 The defense and indemnity obligations extend to and include any Design Services Claims or Construction Services Claims arising from injury to or death of any person, or any property damage as a result of or in connection with the Work, whether such persons are on or about the Site by right or not, whenever the Work is alleged to have been a contributing cause in any degree whatsoever.

12.3.4 The defense and indemnity obligations are not limited by any limitation on amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability acts, or other employee benefit acts.

12.3.5 The defense and indemnity obligations are not limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

12.3.6 The defense and indemnity obligations are not limited by the insurance requirements set forth in the Contract Documents.

12.3.7 Nothing in the foregoing indemnity provisions shall be construed to require Design-Builder to indemnify the District in contravention of Civil Code section 2782 for the active negligence or willful misconduct of the District, its agents, employees, or independent contractors

12.3.8 The defense and indemnification requirements herein set forth shall extend to claims occurring after this Agreement is terminated as well as while it is in force.

ARTICLE 13 – OTHER PROVISIONS

13.1 Access to Records; Audit

In addition to the access to records set forth in the General Conditions, the District or its authorized representative shall have access upon reasonable notice, during normal business hours, to any plans, specifications, books, documents, accounting records, papers, project correspondence, project files, and other records of Design-Builder, its Design Consultants, and/or its Subcontractors directly or indirectly related to the Project. Such access shall include the right to examine and audit such records and make excerpts, transcriptions, and photocopies at the District's expense.

13.2 No Waiver of Remedies

13.2.1 No action by the District or its representatives in performing this Agreement, including without limitation review or input on the Project design, inspection by the District or its agents, payment, extensions of time, or acceptance of the whole or any part of the Project by the District, shall operate as a waiver of any provision of this Agreement or the Contract Documents or of any legal right of District unless such waiver is expressly stated in writing. No waiver of any breach

of this Agreement or of the Contract Documents shall waive any other or subsequent breach.

13.2.2 In addition to each and every remedy provided in this Agreement and/or the Contract Documents, the District shall have any and all equitable and legal remedies otherwise available to it.

13.3 Unfair Competition

Pursuant to California Public Contract Code section 7103.5, Design-Builder offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the performance of the Work. This assignment will be made and before effective at the time the District tenders the final payment to Design-Builder, without further acknowledgment by the parties.

13.4 Employment Practices

Design-Builder, by execution of this Agreement, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability, marital status, or other status reflected in Government Code section 12940 in its employment practices.

13.5 Independent Contractor

Design-Builder shall be an independent contractor, and neither Design-Builder, its Design Consultants or subconsultants, its Subcontractors, nor any employee of any of them shall be deemed to be an employee of the District or shall have any authority to act on behalf of or otherwise bind the District. The District does not assume any liability, duty, or obligation to Design-Builder's Design Consultants, subconsultants, Subcontractors at any level, or material suppliers or their employees by execution or performance of this Agreement, and nothing in this Agreement shall create any contractual relation between the District and any entity other than Design-Builder.

13.6 Conflict of Interest

By executing this Agreement, Design-Builder agrees to comply with the District’s organizational conflict of interest policy. Design-Builder certifies that it has disclosed to the District any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement. Design-Builder agrees to advise the District of any actual, apparent, or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. Design-Builder further agrees to complete any statements of economic interest required by either District ordinance or State law.

13.7 Confidentiality

Design-Builder shall not, either during or after the term of this Agreement, voluntarily make public or provide to any third party any reports, articles, information, or other documents, whether electronic or in hard copy, which Design-Builder prepares or receives under this Agreement. This section shall not prevent Design-Builder from sharing such information with its employees, officers, subcontractors, consultants, or other personnel as necessary to perform the services hereunder, and shall not prevent Design-Builder from providing such information in response to an administrative or judicial proceeding, including arbitration, under which it is required to provide such documents or information. For any such information marked as confidential by the District, Design-Builder shall provide the District with prior written notice of any request for such information in an administrative or judicial proceeding, unless Design-Builder is prohibited by law from doing so, with sufficient advanced notice for the District to seek a protective order preventing or limiting disclosure of the documents or information. Design-Builder shall require of its Design Consultants, subconsultants, and Subcontractors at every level to similarly agree not to disclose such confidential information.

13.8 No Third Party Beneficiaries

This Agreement is entered into solely between Design-Builder and the District. There are no third-party beneficiaries, intended, unintended, or otherwise, to this Agreement.

13.9 Notices

Any notice to either party shall be in writing and given by delivering the same to such party in person; or by sending the same by registered or certified mail, return receipt requested, with postage prepaid; or by delivering any notice by nationally recognized overnight delivery service (such as FedEx) for next business day delivery, to the following addresses:

To the District: Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
Attention: Chris Ralston
Assistant Superintendent – Facilities Support Services

To Design-Builder: [Name]
[Address]
[Address]
Attention: [Person, Position]

Any party may change its mailing address at any time by giving written notice of such change to the other party in the manner provided herein. All notices under

this Agreement shall be deemed given on the date personal delivery is effected, or, if mailed or sent by overnight delivery service, on the delivery date or attempted delivery date shown in the return receipt. No party shall refuse or evade delivery of any notice.

13.10 Binding Effect

This Agreement shall inure to the benefit of and shall be binding upon Design-Builder and the District and their respective successors, transferees, and assigns.

13.11 Severability

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless elimination of such invalid provision materially alters the rights and obligations embodied in this Agreement.

13.12 Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

13.13 Assignment

Except as expressly authorized herein, Design-Builder shall neither assign its rights nor delegate its duties under the Contract Documents without prior written consent of the District. This prohibition of assignment and delegation extends to all assignments and delegations that lawfully may be prohibited by agreement.

13.14 Interpretation

It is agreed and acknowledged by District and Design-Builder that the provisions of this Agreement and its Exhibits have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise portions of this Agreement and its Exhibits and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement and its Exhibits.

13.15 California State Licensing Board

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to

the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

Sacramento City Unified School District,
A school district organized and existing under the laws
of the State of California

By: _____
Janea Marking
Title: _Chief Business and Operations Officer__

Design-Builder

_____

By: _____

Title: _____

Business Address:_____

License Number:_____ Expiration Date:_____
Entity (DIR) Registration #:_____ Expiration Date:_____

Federal Tax Identification Number – _____

NOTICE: SIGNATURE(S) ON BEHALF OF DESIGN-BUILDER MUST BE NOTARIZED. A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of Design-Builder.

EXHIBIT A
CRITERIA DOCUMENTS

EXHIBIT B
DESIGN REQUIREMENTS

EXHIBIT C

Design-Builder Price Proposal

EXHIBIT D

GENERAL CONDITIONS FOR PROGRESSIVE DESIGN-BUILD AGREEMENT

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ARTICLE 1. DEFINITIONS AND PRINCIPLES OF INTERPRETATION

Section 1.01. Definitions and Principles of Interpretation.
Whenever the following terms, titles, or phrases are used in the Contract Documents, the intent and meaning thereof shall be as defined in this article.

Section 1.02. Agreement or Design-Build Agreement
"Agreement" or "Design-Build Agreement" shall mean the executed Progressive Design-Build Agreement between the District and Design-Builder.

Section 1.03. Board of Education
"Board of Education" shall mean the duly elected officials constituting the Board of Education of the Sacramento City Unified School District.

Section 1.04. Change Order.
"Change Order" shall mean a written order to Design-Builder signed by the District and Design-Builder or signed unilaterally by the District, issued after execution of the Design-Build Agreement, authorizing a change in the Work and/or an adjustment in the Contract Sum and/or the Contract Time.

Section 1.05. Closeout Documents.
Documents as required to meet the requirements of Final Completion.

Section 1.06. Construction.
"Construction" means all labor and services necessary for the construction and delivery of the Project, and all materials, equipment, tools, supplies, and incidentals incorporated or to be incorporated in such construction as described in the Design-Build Agreement and the Construction Documents. Unless otherwise expressly stipulated, Design-Builder shall perform all Work and provide and pay for all materials, labor, tools, equipment, and utilities, including, but not limited to, light, water, and power, necessary for the proper execution and completion of the Project pursuant to the Design-Build Agreement and the Construction Documents.

Section 1.07. Construction Change Directive ("Directive").
"Construction Change Directive" or "Directive" shall mean a written order to Design-Builder, issued after execution of the Design-Build Agreement, signed by the District or the District Representative directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both, and which shall be used in the absence of total agreement with Design-Builder on the terms of a Change Order or when time does not permit processing of a Change Order prior to implementation of the change.

Section 1.08. Construction Documents
"Construction Documents" shall mean all technical drawings, Shop Drawings, working drawings, Drawings, Specifications, schedules, diagrams, and samples to be prepared or assembled by Design-Builder and setting forth in detail the requirements necessary for construction of the Project in accordance with the Contract Documents, approved by the District and incorporated into the Contract after such approval. All amendments to the Construction Documents must be approved

by the District prior to incorporation into the Contract and prior to commencement of the Work affected by the change. Amendments to Construction Documents also may be required to be approved by DSA prior to implementation.

Section 1.09. Construction Schedule.
The "Construction Schedule" is the schedule produced by Design-Builder for the construction of the Project. See Article 13 for specific requirements.

Section 1.10. Contract Documents.
"Contract Documents" shall have the meaning set forth in Article 2 of the Design-Build Agreement.

Section 1.11. Contract Sum
"Contract Sum" shall mean the total amount payable by the District to Design-Builder for performance of all Work under the Contract Documents, including, without limitation, all design and construction services. The Contract Sum is the amount stated in the Design-Build Agreement, including authorized adjustments thereto.

Section 1.12. Contract Time.
"Contract Time" shall mean the period specified for Final Completion of all of the Work, as set forth in the Design-Build Agreement and adjusted by any Change Order issued pursuant to the Contract Documents. The Contract Time may be a single allotment of time, a group of times specific to portions of the Work, or a combination of the two.

Section 1.13. Date of Completion.
The "Date of Completion" is the date certified by the District Representative when construction of the Work is 100% complete, including acceptance by the District of all punch list corrections.

Section 1.14. Day.
Unless otherwise expressly defined, a "day" shall mean a calendar day of 24 hours.

Section 1.15. Design-Builder.
"Design-Builder" shall mean the entity (whether natural person, partnership, joint venture, corporation, business association, or other legal entity) that enters into the Agreement with the District. Design-Builder shall be solely responsible for all design, construction means and methods, cost overruns, defects, errors, omissions, and delays arising from its performance of the Agreement. "Design-Builder" means Design-Builder or its authorized representative. Design-Builder and all Design Consultants and Subcontractors shall be properly licensed to perform all Work they are contracted to perform.

Section 1.16. Design-Builder's Representative.
"Design-Builder's Representative" shall mean the individual identified by Design-Builder in its Design-Build Proposal as having overall responsibility for supervision of the Work and shall have authority to bind Design-Builder to all agreements, written or oral, made regarding the Work.

Section 1.17. Design Consultant.
"Design Consultant" shall mean a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder to furnish design services required under the Contract Documents.

Section 1.18. Disabled Veteran Business Enterprise.
"Disabled Veteran Business Enterprise" or "DVBE" shall mean a business concern that is certified as a DVBE by the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS).

Section 1.19. District Architect.
The "District Architect" is the architectural firm engaged as an agent by the District to prepare the Performance Criteria and to act in a limited capacity on the District's behalf during construction, as provided further herein.

Section 1.20. District Representative.
"District Representative" shall mean the District's designated agent engaged to perform all functions delegated to the District Representative by the Contract Documents. The District Representative will be Design-Builder's primary contact during Construction of the Project.

Section 1.21. Division of the State Architect (DSA).
"Division of the State Architect" is the California State agency responsible for checking construction documents for compliance with Title 24, California Code of Regulations, and monitoring compliance on the construction site. The Division of the State Architect also approves inspectors on all public school projects.

Section 1.22. Drawings.
The "Drawings" are sometimes referred to as "Plans" and mean the graphic and pictorial portions of the Contract Documents, including profiles, typical cross sections, and general cross sections, showing the design, location, character, details, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams. This information may be developed and stored in a 3D or 4D model of the Project.

Section 1.23. Final Completion.
"Final Completion" means completion of all contract work, including punch list items and final cleaning completed and all close-out documents, including as-builts and other documents required in the Contract Documents.

Section 1.24. Guaranteed Maximum Price Amendment.
"Guaranteed Maximum Price Amendment" or "GMP Amendment" shall mean an amendment to the Agreement that establishes the Contract Sum, stated as a guaranteed maximum price, for the Project or a subsequent amendment revising the Guaranteed Maximum Price for any additional increment.

Section 1.25. Materials and Equipment.
"Materials" is a generic term, which shall include all building materials, articles, supplies, and equipment delivered to the Project for incorporation into the Work. "Materials" includes everything incorporated into the Work except labor, unless otherwise noted.
"Equipment" shall mean all pre-manufactured or partially pre-assembled products or components, assembled or partially assembled before delivery to the Site.

Section 1.26. Notice to Proceed.
"Notice to Proceed" is the notice given to Design-Builder following approval of the Plans and Specifications by DSA and approval of the Guaranteed Maximum Price Amendment by the Board, which establishes the start of the construction of an increment of Work or the entire Work and the time for completion of the increment or of the entire Work, and authorizes Design-Builder to begin construction.

Section 1.27. Original Construction Price.
"Original Construction Price" shall mean the Guaranteed Maximum Price for the construction of the Project, or any increment thereof, including all Allowances but excluding any District Continency and Construction Contingency.

Section 1.28. Performance Criteria.
"Performance Criteria" shall mean the requirements developed by or for the District to describe the District's program requirements and objectives for the Project, including as appropriate, use, space, price, durability, production standards, ingress and egress requirements, or other criteria for the intended use of the Project, expressed in conceptual documents, performance-oriented preliminary drawings, outline specifications, and/or other documents provided to Design-Builder by the District establishing the Project's basic elements and scale and their relationship to the Site.

Section 1.29. Product Data.
"Product Data" shall mean illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Design-Builder to illustrate a material, product, or system for some portion of the Work.

Section 1.30. Project.
The total design and construction of the work of improvement addressed in the Contract Documents.

Section 1.31. Project Inspector.
The "Project Inspector" or "Inspector" shall mean the person or persons employed or engaged as (an) independent contractor(s) by the District to inspect the performance of the Work by Design-Builder for compliance with the Construction Documents. The Project Inspector is hereby designated as an agent of the District for such purpose and no other. The Project Inspector is supervised by Design-Builder's Architect and reports to Design-Builder's Architect and the District Representative. The authority of the Project Inspector to monitor the work shall be strictly limited to that authority specified herein and in Title 24, California Code of Regulations, and no additional authority has been granted nor shall be inferred.

Section 1.32. Project Management Information System (PMIS).
"PMIS" is the District's Project Management Information System, currently _____.

Section 1.33. Project Schedule.
The "Project Schedule" is the schedule prepared by Design-Builder and approved by the District for completion of all Work required under the Contract Documents, including all design work. The Construction Schedule shall be included in and become a part of the Project Schedule.

Section 1.34. Proposed Change Order/Work Order (PCO).
A "Proposed Change Order/Work Order" is the name given to a document issued by Design-Builder proposing a change to the Work and stating a proposed basis for use of any Allowance or Contingency or adjustment, if any, in the Contract Sum or Contract Time, or both. A PCO shall be used by Design-Builder to respond to a Request for Proposal. A PCO is not effective to authorize the proposed change to the Work, use of any Allowance or Contingency, or proposed change to the Contract Sum or to the Contract Time unless it is accepted in writing by the District.

Section 1.35. Reference to Codes.
Unless otherwise noted, all references to statutes are to the laws of the State of California as codified in the various specified codes.

Section 1.36. Request for Proposal (RFP).
A "Request for Proposal" or "RFP" is the name given to a document issued by the District Representative requesting pricing information and/or an adjustment in Contract Time for a described scope of Work. An RFP is not a Change Order, a Directive, or a direction to proceed with the scope of work described in the RFP. Design-Builder's response to the RFP shall be in the form of a Proposed Change Order.

Section 1.37. Samples.
"Samples" shall mean physical examples, which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.

Section 1.38. Shop Drawings.
"Shop Drawings" shall mean drawings, diagrams, schedules and other data specifically prepared for the Work by Design-Builder or any Subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

Section 1.39. Site.
"Site" shall mean the worksite on which the Project is being constructed, and may include a laydown area or other area for use by Design-Builder in connection with the Work.

Section 1.40. Specifications.
"Specifications" shall mean the outline Specifications included in the Performance Criteria as well as the Specifications included in the Construction Documents prepared by Design-Builder and approved by District, consisting of the written requirements for materials, equipment, systems, standards, and workmanship for the Work and warranties.

Section 1.41. Subcontractor.
"Subcontractor" shall mean each person or firm who is required by law to be and who is licensed to and will perform work, labor, or render services to Design-Builder in or about the construction of the Work, or who, under subcontract to Design-Builder, fabricates and installs a portion of the Work. To the extent the term Subcontractor is referred to as if singular in number it shall include the plural and shall means a Subcontractor or an authorized representative the Subcontractor.

Section 1.42. Submittal.
"Submittal" shall include all product data, shop drawings, manufacturers' installation instructions, samples, equal or substitution requests, and all other submissions that Design-Builder is required to make to the District and/or the District's Architect.

Section 1.43. Substantial Completion
The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the District can occupy or utilize the Work for its intended use, and only minor corrective Work remains to be performed, all required approvals, certificates of occupancy, and other sign-off from any public agencies with jurisdiction have been obtained (provided such approvals are not delayed as a result of causes unrelated to Design-Builder's or its Subcontractors', Sub-subcontractors', or Suppliers' performance or failure to perform the Work or to satisfy its obligations under the Contract Documents), and Design-Builder has cleaned up and removed all equipment, tools, and other materials from the Work area. Substantial Completion shall not relieve Design-Builder from achieving Final Completion within the Contract Time. Notwithstanding Substantial Completion, the period of warranties and guarantees shall commence as of final Project completion, as reflected in the Notice of Completion.

Section 1.44. Work.
"Work" shall mean all of Design-Builder's design, construction, and all other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services, and labor reasonably inferable from the Contract Documents.

ARTICLE 2. CONTRACT DOCUMENTS

Section 2.01. General Intent of Contract Documents.

The overriding intent of the Contract Documents is that the work performed shall result in a complete and operable project in satisfactory condition for occupancy, with all mechanical equipment in functional operating condition and fit for the use for which it is intended, and which complies in all respects with the Contract Documents. No extra compensation will be allowed for anything omitted but fairly implied to be included in the Contract Documents.

Section 2.02. Labor and Materials.

Unless otherwise provided in the Contract Documents, Design-Builder shall provide and pay for all labor, materials, equipment, tools, construction equipment, and machinery, water, light, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents, whether or not specifically described herein, as long as same is reasonably inferable therefrom as being necessary to produce the intended results, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

Section 2.03. Complementary Feature of Various Parts of Construction Documents.

The Construction Documents, including the Specifications and Drawings, are complementary and what is called for by any one shall be as binding as if called for by all. In case of conflict, large scale (detail) Drawings shall govern over small scale Drawings, the Specifications shall govern over the Drawings except as noted below, and Change Orders shall govern over the original documents.

In case of conflict between the Drawings and Specifications, the Drawings shall govern in matters of quantity, the Specifications in matters of quality. In case of conflict within the Drawings involving quantities or within the Specifications involving quality, the greater quantity and the higher quality shall be provided.

Where on any Drawing a portion of the Work is drawn out and the remainder is indicated in outline, the drawn-out parts shall apply to all other like portions of the Work. Where ornament or other detail is indicated as starting, such detail shall be continued throughout the courses or parts in which it occurs and shall also apply to other similar parts in the Work, unless otherwise indicated.

Scale Drawings, full-size details, and Specifications are intended to be fully coordinated and to agree. All work and materials necessary for construction, even if only briefly mentioned or indicated, shall be furnished and installed fully and completely, including, but not limited to, the manufacturer's instructions and/or recommendations.

Any material specified by reference to the number, symbol, or title of a specified standard such as a Commercial Standard, a Federal Specification, a trade association standard, or other similar standards, shall comply with the requirements in the latest approved revision thereof and any amendments or supplements thereto in effect on the date of the Guaranteed Maximum Price Amendment, except as limited to type, class, or grade, or modified in such reference. The

standards referred to, except as modified in the Specifications, shall have full force and effect as though printed in the Specifications.

Section 2.04. Written Notice.

Written notice may be accomplished by personal delivery, registered or certified mail, overnight mail, or e-mail (with confirmation of receipt), as specified in the Agreement.

Section 2.05. Rights and Remedies.

The duties and obligations of parties imposed by the Contract Documents and the rights and remedies of the parties available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

The failure of a party or its representative(s) to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract Documents or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provision or right(s) or of the right to subsequently demand such strict performance or exercise such right(s) and the rights shall continue unchanged and remain in full force and effect.

Design-Builder agrees that it can be adequately compensated by money damages for any breach of the Agreement which may be committed by the District and hereby agrees that no default, act, or omission of the District, the District Representative, or the Project Inspector shall constitute a material breach of the Agreement entitling Design-Builder to cancel or rescind the provisions of the Agreement or to suspend or abandon performance of all or any part of the Work. **Design-Builder hereby waives any and all rights and remedies to which it might otherwise be or become entitled, saving only its right to money damages.**

ARTICLE 3. BONDS

Section 3.01. Bonds: Time to Submit.
Design-Builder shall furnish and deliver to the District bonds as set forth below in Sections 3.03 and 3.04 within ten (10) days after Board approval of the first Guaranteed Maximum Price Amendment, and prior to the start of any construction Work.

Section 3.02. Qualifications of Surety.
All bonds shall be duly executed by a responsible corporate surety listed in the current version of the United States Department of the Treasury circular entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," admitted by the State of California Department of Insurance to do business in the State of California and acceptable to District.

Section 3.03. Performance Bond.
Design-Builder shall submit a faithful Performance Bond in substantially the form provided by the District, conditioned upon the faithful performance by Design-Builder of all requirements of the Design-Build Agreement and the Construction Documents, and in an amount of no less than one hundred percent (100%) of the nondesign contract services.

Section 3.04. Labor and Materials Payment Bond.
Design-Builder shall also submit a payment bond in substantially the form provided by the District, which in all respects complies with Civil Code sections 9550, 9552, and 9554 ("Payment Bond") in an amount of no less than one hundred percent (100%) of the nondesign contract services.

Section 3.05. Additional Bonding Requirements.
All bonds submitted shall include the following:

1. Full name and address of Design-Builder, Surety, and District
2. Effective Date of the Design-Build Agreement
3. Contract Sum
4. Project name and address
5. Signature of Design-Builder
6. Signature of authorized Surety representative
7. Notarization of Design-Builder and Surety
8. Power of Attorney
9. Local contact for Surety, with name, phone number, and address to which legal notices may be sent

ARTICLE 4. PERMITS, LICENSES, ORDINANCES, AND REGULATIONS

Section 4.01. Basic Standard.

Design-Builder shall conduct the Work so that all laws and ordinances for the protection of the public and the workers shall be obeyed fully both by Design-Builder and by all Subcontractors on the Site.

Design-Builder shall comply with the requirements of the California State Licensing Board and have a valid contractor's license, which is to be active and maintained in "Good Standing" throughout full completion of the Project.

Design-Builder, and any subcontractor of any level shall be registered pursuant to Labor Code section 1725.5 prior to executing any contract or engaging in any Work, whichever is earlier, and shall maintain current registration throughout the term of this Agreement.

Section 4.02. Permits.

The District shall pay all fees required by DSA. The District shall pay for specific construction permits related exclusively to the Project and/or Project Site that could include, but are not limited to, encroachment permits, water usage permits, meter permits, fire alarm permits, elevator permits, confined space and special work permits, storm water permits, erosion control permits, and any applicable State, County, or City permits related to agency inspections, utility connection fees, encroachment permits, or utility service charges (other than temporary utility charges unless otherwise indicated), necessary for the completion of the Work. All other fees and permits shall be at the expense of Design-Builder.

Proper documentation of fee, permit, and/or utility service charges or estimates shall be submitted in the PMIS with a check request to the District, including all required payee information. Design-Builder will be notified when the check is ready to be picked up.

Design-Builder shall give all notices and comply with all laws, ordinances, rules, regulations or orders of any public authority bearing on the performance of the Work.

Except as provided above, the District shall secure and pay for necessary approvals, easements, assessments, and charges required for the Construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

Section 4.03. Compliance with Laws and Regulations.

Design-Builder shall keep itself fully informed of and shall observe and shall conduct its operations so as to comply with, and shall cause any and all subcontractors or subconsultants employed by it or under it to observe and comply with all federal and state laws, and county or municipal ordinances, regulations, orders, and decrees which affect those engaged or employed on the Work, or the materials used in the Work, or in any way affect the conduct of the Work.

All work shall be performed in accordance with the rules and regulations, latest Edition of Title 24, Parts 1-5 & 9 of the California Code of Regulations, and DSA, and a copy shall be kept on the job at all times during construction.

ARTICLE 5. PLANS AND SPECIFICATIONS; RECORD DOCUMENTS

Section 5.01. As-Built Drawings and Specifications.

Design-Builder shall maintain a hard copy or PDF master set of red line Drawings and Specifications at the Site which shall be updated weekly to reflect current as-built conditions of the Work as the Work progresses. Design-Builder will be responsible for preparing the final, reproducible as-built drawings. Design-Builder's as-built information shall be clear and legible, and, at a minimum, the following information shall be inserted and dimensioned on those Drawings and Specifications, in RED, by Design-Builder: the exact horizontal and vertical location of all installations in their finished condition, including all electrical, plumbing, and mechanical installations; all changes in construction, materials, and installed equipment; posting of all issued addenda, along with adequate dimensional data, both horizontal and vertical, with GPS coordinates, to allow location of covered installations; the identification of each change authorized by Directive, and the number of that Directive. The updated drawings and specifications shall be available for review by the District Representative and the Inspector. If as-builts are marked up in PDF format, the file shall be made available on the District's PMIS.

Written confirmation from the District Representative that the as-builts have been properly updated weekly shall be submitted with each pay application request, and the existence of such properly updated as-builts shall be a condition precedent to payment. Failure to comply with the preparation and submission of as-builts may result in the District withholding the current progress payment.

Section 5.02. Record Documents.

As a condition to certification of Final Completion, Design-Builder shall provide signed and dated final, original, and reproducible as-built Drawings and Specifications ("Record Documents") in a PDF color format, with a resolution of at least 600 DPI and each plan sheet and specification section bookmarked by name, number, or title, together with all additional information requested by the District.

Design-Builder shall prepare Record Documents and furnish to the District one (1) Electronic Copy set of Record Drawings and one (1) set of electronically marked-up Specifications and media showing materials and methods of construction as actually accomplished. The Record Documents shall be prepared by revision of the original DSA-approved Drawings using Design-Builder's and Project Inspector's marked-up record set and any project documents (including but not limited to, Addenda, Field Clarifications, Requests for Information, Construction Change Directives, and other similar documents) necessary to reflect all changes in the Record Documents and specifications as incorporated into the Project. Design-Builder shall return to the District the Project Inspector's original marked-up record set (if hard copy used, provide the hard copy along with a scanned copy of same documents). Prior to scanning, the drawings shall be approved, signed, and dated by the Project Inspector. Drawings shall be scanned in color.

The Protection Set (redlined version of the Record Documents) shall have proper revision clouds indicating areas that were revised and the source of each revision. In coordination with the District and the Construction Manager, verify that all approved Project documents are saved electronically in the PMIS.

One electronic copy of Record Documents to the following standards shall be delivered through the PMIS:

(1) Drawing standards such as linetypes, lineweights, fonts, and symbols shall be consistent with the DSA approved set;

(2) Include text “Record Drawing” on all sheets;

(3) Remove all revision deltas and clouds on all sheets;

(4) List DSA approval date on all sheets;

(5) List DSA application number on all sheets;

(6) Identify appropriate design team company name on corresponding sheets;

(7) AutoCAD files shall adhere to the following standards:

(a) Full drawing package in the version of AutoCAD effective at the time the Record Documents are uploaded, in executable dwg format;

(b) Include all fonts and plotting lineweights;

(c) Organize dwgs into folders by discipline; and

(d) Include all cross-references; and

(8) Complete Specification book(s) with all revised pages inserted.

Timely submission of complete Record Documents shall be a condition precedent to certification of Final Completion and to final payment. Delays in the submission of complete Record Documents may subject Design-Builder to liquidated damages.

ARTICLE 6. SUBCONTRACTORS

Section 6.01. Subcontracting.
Design-Builder shall give personal attention to the fulfillment of the Contract Documents and all Work of the Project and shall control the Work.

Design-Builder shall be as fully responsible to the District for the acts and/or omissions of its subcontractors and suppliers and of the persons either directly or indirectly employed or engaged as subcontractors by such subcontractors and suppliers as it is for its own acts and omissions.

Design-Builder shall bind every Subcontractor or supplier, and every subcontractor of a Subcontractor, by the terms of the Contract Documents.

All Subcontractors shall be registered pursuant to Labor Code section 1725.5 before performing any Work, and shall maintain current registration through final completion of the Project.

Design-Builder shall not perform work on the Project with a Subcontractor who is ineligible to perform work on public works project pursuant to Labor Code sections 1725.5, 1777.1, or 1777.7.

Section 6.02. Compliance with Education Code section 17250.62(c).
In accordance with Education Code section 17250.62(c), the District has entered into a Project Labor Agreement ("PLA") attached as **Exhibit J** hereto, that binds Design-Builder and all of its Subcontractors performing work on the Project to use a "skilled and trained workforce," as defined in Public Contract Code section 2601(d). Design-Builder hereby agrees to be bound by the District's PLA and commits that every trade and specialty contract awarded will be subject to the requirements of the PLA, including with respect to use of a skilled and trained workforce as defined in Public Contract Code section 2601(d).

To verify compliance, the District may require Design-Builder to provide regular and/or periodic reports verifying that Design-Builder and its subcontractors are in compliance with these requirements, including requiring confirmation of the percentage of work performed by journeypersons that are graduates of an approved apprenticeship program for the applicable occupation.

If any required report shows the required percentages of journeyperson graduates have not been met for the period of the report, then the District will require Design-Builder to provide an explanation as to why the percentages were not met and a plan to achieve substantial compliance, with respect to the relevant apprenticeable occupation(s), by the end of the construction services.

If a subcontractor fails to provide the information to Design-Builder necessary for Design-Builder to verify compliance, then Design-Builder shall notify the District. Repeated failure or refusal of a subcontractor to provide the required information demonstrating compliance may be grounds for substitution in accordance with Public Contract Code section 4107(a)(3) and/or (7) and/or grounds for the District to object to the continued use of that subcontractor.

Design-Builder may draw upon the Construction Contingency Fund, but not the District Contingency, for any increased costs it incurs for replacing a subcontractor under this section, but Design-Builder shall not be entitled to any increase of that contingency, any increase in the Contract Sum, or any increase in the Contract Time. Design-Builder shall comply with the requirements related to any such use of the Construction Contingency Fund.

Before making final payment to a subcontractor for Project work, Design-Builder shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has met the skilled and trained workforce requirements.

Section 6.03 Disputes Between Subcontractors and/or Design-Builder.

Design-Builder shall promptly take reasonable action to resolve any and all disputes with or between its Subcontractors, subconsultants, or suppliers at any level, or workers employed by such Subcontractors, subconsultants, or suppliers, to ensure that such dispute does not interfere with the Work or the Project.

Section 6.04. Compliance With Listing of Subcontractors.

Design-Builder shall comply with the requirements of the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100 *et seq*. ("Act") with respect to all Subcontractors and DVBEs listed at the time of approval of any GMP Amendment. If Design-Builder requests to substitute a listed DVBE, then Design-Builder shall make all reasonable efforts to identify a DVBE as the replacement subcontractor or supplier. Violation any of the provisions of the Act, including as applied to DVBEs through Military and Veterans Code section 999.10, is a material breach of this Agreement and the District shall have all remedies provided by California law, including but not limited to those provided in Public Contract Code section 4110, allowing termination of this Agreement or a penalty assessment of up to ten percent (10%) of the subcontract amount.

In listing DVBE subcontractors and suppliers, Design-Builder represented that the DVBE would perform a "Commercially Useful Function" ("CUF"). In the performance of the Work, Design-Builder and any Subcontractor that contracts with a DVBE for which Design-Builder claimed DVBE credit shall ensure that the DVBE: (a) is responsible for the execution of a distinct element of the Work; (b) actually performs, manages, and/or supervises the Work; (c) performs Work that is normal for its business services and functions; (d) for material suppliers, that the supplier negotiates price, determines quality and quantity, orders, installs (if applicable), and pays for the materials; and (e) does not further subcontract a portion of the Work greater than expected to be subcontracted by normal industry practices. A DVBE that is an extra participant in a transaction through which funds are passed to obtain the appearance of DVBE participation will not be considered to perform a CUF.

Section 6.05. Dealings with Subcontractors.

Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor or supplier and the District or any of its representatives, nor shall the Contract Documents be construed to be for the benefit of any Subcontractor or supplier.

Section 6.06. Termination of Unsatisfactory Subcontractors.

When any portion of the Work that has been subcontracted by Design-Builder is not being prosecuted in a satisfactory manner, or when materials supplied do not conform to the Contract Documents, the District may direct Design-Builder to discharge the subcontractor or supplier. Any Subcontractor or supplier that is discharged shall not again be employed on this Project. The District shall not be responsible for any added costs associated with such termination, but Design-Builder may seek authorization to use the Construction Contingency for any such added costs.

Section 6.07. Payment of Subcontractors and Suppliers.

Design-Builder shall make all payments to Subcontractors and suppliers as expeditiously and timely as possible, consistent with any applicable law so as to prevent any stop notices, liens, or claims from being filed against the District or the Site. Provided that the District has not withheld payments contrary to the provisions of the Design-Build Agreement, these General Construction Terms and Conditions, or law, Design-Builder shall indemnify, defend, and hold the District harmless from any claims or actions which allege that any Subcontractor or supplier was not paid with respect to the Project, except for claims resulting from dispute between District and Design-Builder. Election to bond subcontractors and include the cost of subcontractor bond in the Contract Sum is Design-Builder's with prior written approval of the District.

Section 6.08. Subguard.

To the extent Design-Builder obtains subguard insurance (or equivalent) and includes the premiums in the Guaranteed Maximum Price, Design-Builder shall refund to the District at the completion of the Project any savings in the premiums.

ARTICLE 7. STATE REQUIREMENTS REGARDING WAGES, HOURS, AND EQUAL OPPORTUNITY

Section 7.01. Prevailing Wage Rate; Notice.

As provided under Labor Code Sections 1726-1861, the Director of the Department of Industrial Relations (DIR) of the State of California has determined the prevailing rate of wages in the locality in which the work on the project is to be performed for each craft, classification, or type of worker needed to execute this Contract. The prevailing rates so determined are on file with the District, and they are available for public inspection. They may also be obtained on the Internet at https://www.dir.ca.gov/oprl/DPreWageDetermination.htm. Those prevailing wage rates hereby are incorporated into this Agreement and made a part hereof.

Design-Builder shall obtain and post copies of these prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the Department of Industrial Relations.

The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Design-Builder shall post on the jobsite a Notice containing the following language:

> This public works project is subject to monitoring and investigative activities by the Department of Industrial Relations ("DIR"), State of California. This Notice is intended to provide information to all workers employed in the execution of the contract for public work and to all contractors and other persons having access to the job site to enable the DIR to ensure compliance with and enforcement of prevailing wage laws on public works projects.
>
> The prevailing wage laws require that all workers be paid at least the minimum hourly wage as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the project. These rates are listed on a separate job site posting of minimum prevailing rates required to be maintained by the public Design-Builder which awarded the public works contract. Complaints concerning nonpayment of the required minimum wage rates to workers on this project may be filed with the DIR at any office of the Division of Labor Standards Enforcement ("DLSE").
> Local Office Telephone Number: _____
>
> Complaints should be filed in writing immediately upon discovery of any violations of the prevailing wage laws due to the short period of time following the completion of the Project that the DIR may take legal action against those responsible.
>
> Complaints should contain details about the violations alleged (for example, wrong rate paid, not all hours paid, overtime rate not paid for hours worked in excess of 8 per day or 40 per week, etc) as well as the name of the employer, the public Design-Builder which awarded the public works contract, and the location and name of the project.

For general information concerning the prevailing wage laws and how to file a complaint concerning any violation of these prevailing wage laws, you may contact any DLSE office. Complaint forms are also available at the DIR website found at:
www.dir.ca.gov/dlse/PublicWorks.html.

Section 7.02. Payment of Prevailing Wage Rates.
Pursuant to Labor Code Section 1772, workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work as defined in Labor Code Sections 1720-1725. Therefore, Design-Builder shall pay, and shall cause all subcontractors, whether under contract with Design-Builder or under contract with any Subcontractor, to pay not less than the specified prevailing wage rates to all workers employed in the execution of this Contract.

In accordance with Labor Code Section 1775, Design-Builder shall monitor the payment of the specified general prevailing rate of per diem wages by subcontractors to employees by periodic review of the certified payrolls of the subcontractors.

Section 7.03. Wage Rate for Crafts Not Listed.
The responsibility to check prevailing wage rates is Design-Builder's. Pursuant to Labor Code Section 1773, Design-Builder may file with the Director of DIR or the Chief of the Division of Labor Standards Enforcement ("DLSE") a petition to review a determination of any rate or rates made by the Director of DIR. Design-Builder may also petition the Director of DIR to make a determination for a particular craft, classification or type of work not covered by a general determination. Pending the review or determination, the wages may be assumed to be those in the applicable collective bargaining agreement, but no adjustment in the Contract Sum shall be made if such assumption is incorrect.

Section 7.04. Records of Hours Worked and Wages.
Design-Builder shall keep, and shall cause all subcontractors on the Project to keep, certified payroll records of the hours and wages of all employees employed on the Project, and those records shall be open at all times for inspection by the District and/or the Division of Labor Statistics and Enforcement, in accordance with Sections 1776 and 1812 of the Labor Code. Certified payroll records shall contain at least the following information: the name, address, social security number, work classification, dates of payroll period, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Design-Builder and/or each subcontractor in connection with the Work.

If the District requests copies of the certified payroll records, then Design-Builder and/or any subcontractor must provide the requested records within ten (10) days of the request. If Design-Builder and/or any subcontractor fails to submit certified payroll records to the District within ten (10) calendar days of a request from the District for the records, then Design-Builder and/or the subcontractor shall, as a penalty, forfeit one hundred dollars ($100) per calendar day, per worker, until strict compliance is effectuated. These penalties shall be withheld from progress payments then due and/or to become due. Design-Builder is not subject to this penalty assessment due to the failure of a subcontractor to comply with these requirements if Design-Builder can demonstrate that it has fully complied with the provisions of Labor Code Section 1776.

Design-Builder shall not carry on its payrolls any person not actually employed by Design-Builder, nor shall it carry on its payrolls employees of any subcontractor. Design-Builder shall show on its payrolls all persons actually employed by Design-Builder on the Project, in any capacity. Design-Builder shall cause all subcontractors on the Project, whether under contract with Design-Builder or under contract with any Subcontractor, to comply with this Section.

In accordance with Government Code Section 8546.7, or any amendments thereto, all books, records, and files of Design-Builder, or any subcontractor connected with the performance of this Contract, shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment. Design-Builder shall preserve and cause all subcontractors to preserve such books, records, and files for the audit period.

Section 7.05. Additional Requirements for Labor Compliance.

Design-Builder shall comply with all applicable and current requirements of the DIR and the DLSE, including without limitation the following additional requirements, and shall cause all subcontractors on the Project, whether under contract with Design-Builder or under contract with any Subcontractor, to comply. The records kept by Design-Builder and all subcontractors of the hours and wages of all employees employed on Project also shall be open at all times for inspection by DIR and DLSE, in accordance with Sections 1776 and 1812 of the Labor Code. Such records shall be furnished electronically to the Labor Commissioner of DIR monthly, unless more frequent submission is required herein, and shall be furnished within 10 days of any separate request by DIR or DLSE. Such records shall be furnished electronically to the Labor Commissioner of DIR monthly, unless more frequent submission is required herein, and shall be furnished within 10 days of any separate request by DIR or DLSE. Payroll records shall be furnished in a format prescribed by DIR and uploaded into the electronic certified payroll reporting (eCPR) system.

On a random basis and at such other times as it deems appropriate, DIR also may confirm the accuracy of payroll reports, including by corroboration of information in payroll reports through independent sources, including without limitation worker interviews, examination of any time and pay records found within the definition of “Payroll Records” in section 16000 of Title 8 of the California Code of Regulations, direct verification of “Employer Payments” (as defined at section 16000 of Title 8 of the California Code of Regulations) through third-party recipients of those payments, or any other legal and reasonable method of corroboration. As part of its confirmation process, DIR may require Design-Builder and any of its subcontractors to furnish for inspection itemized statements prepared in accordance with Labor Code Section 226. DIR may conduct random confirmation based on a recognized statistical sampling of the records submitted.

DIR may conduct in-person inspection(s) at the site or sites at which the Work of the Project is being performed (“On-Site Visits”). On-Site Visits may include visual inspection of required job site notices, including but not limited to (1) the determination(s) of the Director of DIR of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2; (2) the Notice of pay days and time and place of payment required by Labor Code Section 207; and (3) any other notices prescribed by law. On-Site Visits may also include inspections of records, inspections of the work site and observation of work activities, interviews of workers and others involved with the Project, and any other activities deemed necessary by DIR to ensure compliance with prevailing wage requirements. In accordance with Labor Code Section

90, the Labor Commissioner and his deputies and agents shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner, including but not limited to evidence of compliance with Labor Code Section 226 (itemized wage statements for employees) and any other laws enforced by the Labor Commissioner.

In accordance with Section 16463 of Title 8 of the California Code of Regulations ("8 CCR Section 16463"), the District may, on its own or if required by the Labor Commissioner, withhold funds due to Design-Builder when payroll records are delinquent or inadequate. The amount withheld shall be those payments due or estimated to be due to Design-Builder or any subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against Design-Builder or any subcontractor whose payroll records are delinquent or inadequate. Design-Builder shall cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the subcontractor has cured the delinquency or deficiency. When payments are withheld under 8 CCR Section 16463, the Labor Commissioner will provide Design-Builder and any subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies what amounts the District has been directed to withhold; and (3) informs Design-Builder or subcontractor of the right to request an expedited hearing to review the withholding of payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Commissioner has exceeded his or her authority under 8 CCR Section 16463. Where the violation is by a subcontractor, Design-Builder shall be notified of the nature of the violation and reference shall be made to Design-Builder's rights to withhold or recover payments from the subcontractor under Labor Code Section 1729. The withholdings under 8 CCR Section 16463 do not preclude assessment of penalties under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records, as set forth below.

Section 7.06. Underpayment of Wages.
Design-Builder agrees that in the event of underpayment of wages to any employee on the Project, whether by Design-Builder or any subcontractor on the Project, the District may retain from payments due to Design-Builder, an amount sufficient to pay such worker the difference between the wages required to be paid by DIR, and the wages actually paid such worker for the total number of hours worked, plus any penalties and forfeitures. The District may disburse such retention to such employees.

Section 7.07. Apprentices.
Attention is directed to the provisions of Sections 1777.5, 1777.6 and 1777.7 of the Labor Code concerning the employment of apprentices by Design-Builder and any subcontractor.

Design-Builder and all subcontractors on the Project shall comply with the requirements of Sections 1777.5 and Section 1777.6 of the Labor Code in the employment of apprentices. Violation of these requirements shall subject Design-Builder and/or subcontractor to the penalties set forth in Section 1777.7 of the Labor Code and/or otherwise provided by law or Contract.

Attention is directed to the provisions of the PLA with respect to the requirement that Design-Builder and its subcontractors at any level employ on the Project apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.

Information relative to apprentice standards, wage schedules, and other requirements may be obtained from the DIR Division of Apprenticeship Standards on the DIR website at www.dir.ca.gov/das/publicworks.html. Apprentices employed on the Project must at all times work with or be under the direct supervision of at least one journeyperson.

Section 7.08. Penalties.

In accordance with Articles 2 and 3, Chapter 1, Part 7, Division 2 of the Labor Code, particularly Sections 1775, 1776, 1777.7 and 1813, Design-Builder shall forfeit to District as a penalty the sum specified below, over and above any retention or withholds otherwise authorized by the agreement, as follows:

A. Up to two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wages for any work done by him/her under this Contract or under any subcontract on the Project, with the amount to be determined by the Labor Commissioner in accordance with the considerations set forth in Labor Code section 1775. If a worker employed by a subcontractor on the Project is paid less than the prevailing wages by the subcontractor, Design-Builder is not subject to this penalty assessment if Design-Builder can demonstrate that it did not have knowledge of that failure of the subcontractor to pay the prevailing wages and that it strictly complied with the requirements of Labor Code Section 1775(b).

B. Twenty-five dollars ($25) for each worker employed in the execution of this agreement by Design-Builder or by any subcontractor on the Project for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Article 3.

C. Failure to provide certified payroll records to the District or to the Labor Commissioner within ten (10) calendar days of a request, shall, in addition to resulting in a withholding of payments due, result in a penalty in the amount of one hundred dollars ($100) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Design-Builder is not subject to this penalty assessment due to the failure of a subcontractor to comply with these requirements if Design-Builder can demonstrate that it has fully complied with the provisions of Labor Code Section 1776.

D. Knowing violation of Labor Code Section 1777.5 shall yield a penalty in an amount not exceeding one hundred dollars ($100) for each full calendar day of non-compliance. A contractor or subcontractor who knowingly commits a second or subsequent violation of Section 1777.5 within a three-year period, where noncompliance results in apprenticeship training not being provided as required, shall forfeit as a civil penalty the sum of no more than three hundred dollars ($300) for each full calendar day of noncompliance.

Section 7.09. Hours of Work; Approval of Schedules.
Eight (8) hours of labor constitutes a legal day's work, and forty (40) hours constitutes a legal work week. No worker employed at any time by Design-Builder, or by any subcontractor upon the Project, shall be required or permitted to work more than eight (8) hours in any one calendar day or forty (40) hours in any one week, except as provided in Labor Code Sections 1810 through 1815.

Overtime shall be paid at the rate of not less than one and one-half (1-1/2) times the basic rate of pay, or at such other rate as stated on the applicable Determination issued by DIR, or as may be required by applicable statutes or collective bargaining agreements.

The District reserves the right to approve or disapprove the days scheduled for work, and the hours during which work is in progress.

Section 7.10. Compliance with State Anti-Discrimination Laws.
Design-Builder shall comply with Section 1735 of the Labor Code, which provides as follows:

> "A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter."

Section 7.11. Workers' Compensation Insurance.
In accordance with the provisions of Section 3700 of the Labor Code, Design-Builder shall provide, at all times in which it is providing or performing any work on the Project, at its sole cost and expense, workers' compensation insurance for all of its employees engaged in work for the Project. Design-Builder shall require all subcontractors and subconsultants at every level similarly to provide workers' compensation insurance for all of their employees. Any employee performing work directly or indirectly for Design-Builder on the Project and not covered by a subcontractor's or subconsultant's insurance shall be covered by Design-Builder's insurance. If any individual engaged in work for or on behalf of Design-Builder on or at the site of the Project is not protected under Workers' Compensation laws, Design-Builder shall provide, or shall cause a subcontractor or subconsultant to provide, adequate insurance coverage for the protection of such employee, not otherwise protected. Design-Builder shall file with the District certificates of its insurance protecting workers.

ARTICLE 8. SUPERVISION AND LABOR

Section 8.01. Supervision Procedures.

Design-Builder shall supervise and direct the Work using its best skill and attention. Design-Builder shall be solely responsible for all design, construction means, methods, techniques, and procedures and for coordinating all portions of the Work under the Design-Build Agreement and the Construction Documents.

Design-Builder shall be responsible to the District for the acts and omissions of its employees, all subcontractors/subconsultants and their agents and employees, and other persons performing any of the Work.

Design-Builder shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the District Architect or the District Representative in their administration of the Project or by inspections, tests, or approvals (or the lack thereof) required or performed under Article 9 by persons other than Design-Builder.

Section 8.02. Skilled Labor.

All non-apprentice labor shall have the skills of a journeyperson in the applicable trade. All workmanship shall be of the highest quality and finish in all respects.

All of the workers on the Project must be either “skilled journeypersons” or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations (“Chief”). A “skilled journeyperson” is a worker that either a) graduated from an apprenticeship program for the applicable occupation that was approved by the Chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor, or b) has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the Chief.

In addition, the following percentages of the skilled journeypersons employed to perform work on the Project must be graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor:

- For work performed by an 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, teamster, terrazzo worker or finisher, or tile layer, setter, or finisher: thirty percent (30%) or more;
- For all others: sixty percent (60%) or more.

In addition to relying upon the Department of Apprenticeship Standards website for proof of journeypersons graduating from DIR-approved apprenticeship programs, Design-Builder and its subcontractors may rely upon Union hiring hall representation that it holds a valid apprenticeship

certificate for its dispatched members, which Union hiring hall representation shall be in writing and maintained by Design-Builder.

For an apprenticeable occupation in which no apprenticeship program had been approved by the Chief before January 1, 1995, up to one-half of the graduation percentage requirements above 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 Sacramento County.

Section 8.03. No Tenancy.
All workers, subcontractors, or subcontractors' representatives are admitted to the site only for the proper execution of the Work and have no tenancy.

Section 8.04. Dismissal of Unsatisfactory Employees.
Design-Builder shall at all times enforce strict discipline and good order among all employees including compliance with the District Guidelines for Conduct on School Sites and shall not employ on the Work any unfit person or anyone not skilled in the assigned task as defined in Section 8.02. Design-Builder shall remove, or cause a subcontractor to remove from the Project, any incompetent employee, or any employee not skilled for the type of work required as defined in Section 8.02, or any employee who does not comply with the District Guidelines for Conduct on School Sites. The District may require that Design-Builder immediately remove from the Work any employee for cause at the District's sole discretion.

Section 8.05. Personal Attention and Superintendence; Design-Builder's Agent.
Design-Builder shall supervise the Work to the end that it shall be faithfully prosecuted. Design-Builder shall, at all times while Design-Builder's scope of work is in progress, keep a full-time superintendent who is fully empowered to act as agent for Design-Builder on the site. Design-Builder shall advise the District in writing of its agent prior to the start of any work. Design-Builder shall be responsible for the faithful observation of all instructions delivered to its authorized agent(s).

Section 8.06. Continuity of Design-Builder's Key Personnel.
Design-Builder's Key Personnel, as stated in Design-Builder's Proposal, shall remain fully engaged in the Project throughout the duration of the Project. Design-Builder's Key Personnel shall not be substituted without written approval by the District. For the purposes of this section, Design-Builder's Key Personnel shall include at least Design-Builder's identified architect(s) and engineer(s), its project manager, and its superintendent, as well as any other Key Personnel specifically identified in the Proposal.

Section 8.07. Design-Builder's Coordination of Work.
The District reserves the right to do other work in connection with the Project by separate contract or otherwise. The District shall give Design-Builder written notice at least thirty (30) days in advance of any work to be done by the District's contractors, agents or employees. Design-Builder and the District shall at all times conduct their work so as to impose no hardship on the other and shall coordinate with each other so that no delays or discrepancies shall result in the whole Project.

Section 8.08. Fingerprinting.

Education Code section 45125.1 applies to this Agreement. Design-Builder shall, prior to commencement of Work, require any person affiliated with Design-Builder (or, in appropriate cases, himself or herself) to be fingerprinted by the Department of Justice ("DOJ") if that person will have unsupervised access to school campuses. Upon verification from DOJ that those persons fingerprinted have no record of a serious or violent felony, Design-Builder will so certify by signing and submitting to the Governing Board of District the certification in the form provided by the District. In addition, Design-Builder shall submit the names of those persons who have received clearance and are authorized to have unsupervised access to school campuses on a form provided by the District. Any person whose name is not on the cleared list may not have such access. In that case, Design-Builder must make arrangements with District for appropriate access. No person with a violent or serious felony as reported by DOJ may have access to the school campuses.

Failure to comply with these terms, or permitting unsupervised access by an employee whose name has not been cleared by DOJ as certified by Design-Builder, shall constitute grounds for termination of this Agreement.

ARTICLE 9. INSPECTION AND TESTING

Section 9.01. Inspection.
Inspection shall be provided as required under CCR Title 24, latest Edition. All inspection costs will be paid for by the District, including special inspection required by Title 24, except as noted otherwise below. A list of required inspections for the Project will be established by Design-Builder and the Project Inspector, in conjunction with DSA.

The Project Inspector shall be approved by the District and DSA. The Project Inspector will be employed by the District and will perform all inspections in accordance with Title 24, parts 1-5.

Section 9.02. Authority of Project Inspector; Stop Work Notices.
The designated Project Inspector shall be considered to be a representative of the District. It is the Project Inspector's duty to inspect the Work.

The Project Inspector shall have the authority to order the work designated for inspection stopped if a determination is made that work is proceeding in violation of the Construction Documents or any orders issued by the District, District Representative, or District Architect. The failure of the Project Inspector to order the work stopped does not excuse Design-Builder from complying with the Construction Documents for that work.

Upon issuing a stop work notice, the Project Inspector shall notify the District Architect and Design-Builder's architect, who both shall review the work in question and determine whether it does or does not comply with the Construction Documents. The decision of the District Architect shall be final, subject to the dispute resolution provisions in Article 23. Design-Builder shall thereafter comply with the instructions of the District Architect regarding corrections needed to cure the defect. The suspended work shall be resumed only when the instructions are fulfilled. Design-Builder shall not be entitled to an extension of time in the event of such suspension of work if the stop work notice is determined to be validly supported by facts.

Section 9.03. Effect of Inspections.
Neither the final inspection and payment, nor any interim inspection or payment shall relieve Design-Builder of its obligation to fulfill the Work of the Project as required by the Design-Build Agreement and/or the Construction Documents.

Any work, materials or equipment not meeting the requirements and intent of the Construction Documents may be rejected, and unsuitable work or materials shall be made good, notwithstanding the fact that such work or materials may previously have been inspected and/or payment therefore may have been made.

Section 9.04. Inspection of Completed Work.
Should the District Representative or the District Architect determine that it is necessary or advisable to make an inspection of work already completed at any time before final inspection and acceptance of the Work, by removing or exposing any work, Design-Builder shall, upon instruction of the District Representative, promptly furnish all necessary facilities, labor, and materials to do so. If the work is found to be defective in any respect due to the fault of Design-Builder or any

subcontractor, Design-Builder shall bear all expenses of such examination and satisfactory reconstruction. If, however, the work is found to meet the requirements of the Construction Documents, the additional cost of labor and material necessarily involved in the examination and replacement shall be allowed Design-Builder and a Change Order shall be issued for such cost and any time extension justified by delays to the critical path.

Section 9.05. Notice to District of Inspection.
Where the Construction Documents, instructions by the Project Inspector, District Representative or the District Architect, laws, ordinances, or any public authority having jurisdiction require work to be inspected, tested, or approved before the Work proceeds, such work shall not proceed, nor shall it be covered up, without inspection. If any part of the Work is covered prior to inspection, then the District may order the Work to be uncovered so that inspection may be accomplished. Design-Builder shall bear all expenses of such examination and satisfactory reconstruction.

Design-Builder shall provide notice to the Project Inspector at least twenty-four (24) hours in advance of the readiness for inspection, except for special inspection, which requires at least forty-eight (48) hours' advanced notice.

All work shall be available for inspection, and the Project Inspector shall have full access to review all work during all working times. Design-Builder shall provide all necessary means of access (e.g. ladders) for the Project Inspector to perform its duties. Design-Builder shall furnish the Project Inspector with any information necessary to fully inform him/her of conditions. Inspection does not relieve Design-Builder from fulfilling the requirements of this Agreement and the Construction Documents.

Section 9.06. DSA Field Representative.
For projects requiring DSA approval, the Division of the State Architect will designate a field representative who will visit the Site periodically to review with the Project Inspector compliance of the Project with CCR Title 24 requirements. The DSA field representative may require certain modifications to the Project as constructed. In the event Design-Builder believes they are outside the scope of the Design-Build Agreement and/or Construction Documents, it shall request direction from the District before proceeding.

Section 9.07. Overtime Work.
Whenever Design-Builder arranges to work at night or any time when work is conducted other than the normal forty (40) hour week, or to vary the period during which work is carried on each day, it shall give the District Representative and the Project Inspector a minimum of forty-eight (48) hours' notice for weekend work and twenty-four (24) hours' notice for daily work so that inspection may be provided. Additional inspection costs incurred because of overtime or shift work shall be paid by the District. If this overtime work is necessitated by Design-Builder's error or failure to perform, the cost of inspection will be borne by Design-Builder.

Section 9.08. Materials Which May be Tested.
The District reserves the right to require Design-Builder to provide samples, and to perform tests on any materials, articles, equipment, installations, or construction performed by Design-Builder in addition to those specified in the Contract Documents. The District shall assume the cost of

sampling and testing materials only when the Contract Documents do not require Design-Builder to do so.

Section 9.09. Testing.

All tests shall be performed under the supervision of the testing laboratory or consultant employed by the District, and approved by DSA and at such times as are convenient to the Project. Design-Builder shall provide written notice to the District Representative at least twenty-four (24) hours prior to the need for off-site tests or inspections, and the District Representative will arrange such tests or inspections. Design-Builder shall bear all expenses of tests performed where Design-Builder failed to provide this minimum notice.

Section 9.10. Selection of Samples.

All samples and specimens for testing shall be selected by the Project Inspector or by the testing laboratory, but not by Design-Builder.

Section 9.11. Delivery of Samples.

Design-Builder shall, at its sole cost and expense, furnish, package, mark, and deliver all samples to be tested at locations other than the Site. Samples shall be delivered either to the Project Inspector or to the testing laboratory or such other address specified by the District Representative.

Delivery of all samples to the testing laboratory shall be made in ample time to allow the test to be made without delaying construction. No extra time will be allowed for the completion of the Work by reason of delay in testing samples required by the Contract Documents or due to Design-Builder's request for substitution.

Design-Builder shall allow free access at all times to the representatives of the testing laboratory to the Work, and shall point out the sources from which samples are taken.

All test reports shall be sent to all parties specified by the District Representative.

Section 9.12. Approval of Samples.

No materials or work of which samples and/or tests are required shall be used or covered until the District Representative informs Design-Builder that such samples and/or tests have been approved. If Design-Builder installs, uses, or covers any such material, article, or work prior to testing and approval, such shall be at Design-Builder's sole risk and expense, and it shall bear all costs of uncovering, repair, and replacement thereof.

The approval of any samples shall be for the characteristics thereof, or for the uses named in such approval, and no other. No approval of any samples shall be deemed a change or modification in any requirement of the Contract Documents. Upon testing of any sample of material or work, no additional sample shall be considered. All material or work installed after the sampling and testing is performed and approved shall be equal to or better than the approved sample in all respects and shall be accompanied by documentary proof that the materials and work sampled is representative of that installed.

Section 9.13. Damage Due to Testing.

Design-Builder shall, at its sole cost and expense, repair all damage resulting from testing specified in the Contract Documents. The District shall issue a Change Order for repair of damage due to sampling or testing other than specified in the Contract Documents.

Design-Builder shall not make any tests upon portions of the Project already completed, except with the prior written consent and under the direction and supervision of the District Representative.

Section 9.14. Retesting.

If as a result of any test, whether originally specified or not, any material or work is found to be unacceptable, it shall be rejected, and all further sampling and testing required by the District or District Representative shall be at Design-Builder's expense. The District shall pay initial costs; however the District may deduct that cost from a subsequent payment.

Section 9.15. Effect of Sampling and Testing.

The District assumes no obligation, and Design-Builder shall be relieved of no obligation undertaken pursuant to the Contract Documents by virtue of sampling and testing specified in this Article.

The responsibility for incorporating satisfactory materials and workmanship which meet the Contract Documents into the Work rest entirely with Design-Builder, notwithstanding any prior samples or tests.

ARTICLE 10. PROTECTION OF WORKERS, PUBLIC AND PROPERTY

Section 10.01. Safety Precautions and Programs.
Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, for maintaining all safety and health conditions on the Site, and for ensuring against and/or correcting any hazardous conditions on the Site. Also, in no case shall the District, the District Representative, the District Architect, the Inspector, or their agents, employees or representatives, have either direct or indirect responsibility for the means, methods, techniques, sequences or procedures utilized by Design-Builder, or for safety precautions and programs in connection with the Work, or for maintaining any safety or health conditions on the Site, or for ensuring or correcting any hazardous conditions on the Site.

Certain work may be ongoing at the time school is in session; therefore, Design-Builder shall take precautions to prevent injury and access to children and staff and shall comply with the District's Guidelines for Onsite Safety. Material storage and vehicle access and parking shall be subject to District approval.

Design-Builder shall designate a responsible member of its organization at the Site whose duty shall be the prevention of accidents and overall jobsite safety for contractors'/subcontractors' employees, District Representative, District Architect, Project Inspector and visitors. This person shall be Design-Builder's superintendent unless otherwise designated by Design-Builder in writing to the District Representative.

Section 10.02. Protection of Persons and Property.
Design-Builder shall at all times, until final acceptance and the Final Payment, maintain adequate protection against injury to persons, including employees, or damage to property, on or near the Project, or adjacent to the Site. Design-Builder shall be responsible for maintaining all safety and health conditions on the Site and for ensuring against and/or correcting any hazardous conditions on the Site. With respect to Design-Builder's operations and/or duties under this Agreement, in no case shall the District, the District Representative, the District Architect, the Inspector, or their agents, employees or representatives, have either direct or indirect responsibility for maintaining any safety or health conditions, or for ensuring against or correcting any hazardous conditions, on or near the Site, or adjacent to the Site.

Design-Builder shall provide a safe environment for all functions to be performed by the District, the District Representative, District Architect and Project Inspector, and a safe place for all employees to work. The use of alcohol, drugs, or tobacco (including e-cigarettes) will not be permitted on the Site and/or on District property.

Design-Builder shall comply with all Occupational Safety laws, rules and regulations applicable to the Work.

Section 10.03. Protection and Repair of Work.
Design-Builder shall take all reasonable measures to protect the District's structures, facilities, equipment, tools, materials, and any other property on or adjacent to the Site against damage, loss, or theft by providing adequate security measures for its work. Design-Builder shall, until Final

Completion of the Project and acceptance by the District, maintain protection of all of its work and work performed by others for the Work of the Project from damage, loss, defacement, or vandalism, except that if the District takes occupancy, in whole or in part, of any portion of the Project prior to the date of Final Completion, Design-Builder shall no longer have any obligation to protect the occupied portion(s) of the Project except (1) to the extent they may be affected by Design-Builder's ongoing work, and/or (2) as provided in this Article. Design-Builder shall provide protection of completed work (even if the District has taken beneficial occupancy), which may be subject to damage as a result of Design-Builder's failure to perform as scheduled.

Section 10.04. Protection of Workers.

Design-Builder shall take every precaution for the safety of all employees and others on the Work, and to comply with all applicable provisions of federal, state and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Work is being performed.

Design-Builder shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workers and the public, and shall post danger signs warning against hazards created by construction including, but not limited to, protruding nails or reinforcing steel, hod hoists, elevator hatchways, scaffolding, window openings, stairways, and falling materials.

Design-Builder shall immediately replace or repair any unsafe ladder, scaffolding, shoring, or bracing, or correct any other dangerous or hazardous situation that may exist. In the event that such situation is due to a pre-existing condition of the facility, Design-Builder may be entitled to additional compensation under provisions of Article 15 to repair or replace such condition in order to maintain a safe worksite. The responsibility for maintaining a safe working site shall be Design-Builder's, and the District and District Representative undertake no obligation to suspend the work or notify Design-Builder of any hazardous conditions or noncompliance with safety laws. In no case shall the District, the District Representative, the District Architect, the Inspector, or their agents, employees or representatives, have either direct or indirect responsibility for maintaining any safety or health conditions, or for ensuring against or correcting any hazardous conditions on the Site.

Section 10.05. Working Limits and Regulations.

Design-Builder shall confine its apparatus, storage and materials, and construction operations within the limits established by the District Representative, and shall not unreasonably encumber the Site or adjacent areas with its materials and/or equipment.

Design-Builder shall enforce any reasonable instructions from the District Representative or District regarding placement of signs, fires, danger signals, barricades, radios, and noise, provided such instructions are in compliance with health and safety laws governing construction activities.

Section 10.06. Protection of Existing Improvements.

Design-Builder shall clean the portions of existing improvements and facilities which are used by, traversed or dirtied by the workers on the Work, normal maintenance due to use by District employees or the public excepted.

All existing improvements and facilities shall be protected from any damage resulting from the operations, equipment or workers of Design-Builder during the course of the construction.

Design-Builder shall take all necessary precautions to protect existing facilities against the effects of the elements and Design-Builder shall be strictly liable for failure to adequately protect any facility.

All damaged improvements and facilities shall be replaced, repaired, and restored to their original condition without additional cost to the District and without an extension of the Contract Time.

Section 10.07. Traffic Signals and Traffic Control.
Existing signs, lights, traffic signals, control boxes, hydrants, meters, and other similar items occurring within the street or sidewalk areas shall be kept free of obstructions and accessible at all times. All such items shall be protected from Design-Builder's operations and shall not be obliterated or obscured by its equipment or materials.

Should it be necessary to cover up, move, or alter such items, this shall be done only with permission of the authorities having jurisdiction over the items involved.

Should it be necessary to block a street or sidewalk, Design-Builder shall first notify the District Representative and the police and fire departments and other agencies with jurisdiction, and shall comply with their instructions, including scheduling limitations.

Section 10.08. Security of the Site.
Design-Builder shall provide and maintain temporary fencing surrounding the buildings and/or rooms under construction, and staging areas. Set-up/relocation of temporary fencing is included in the Contract Sum. Design-Builder is responsible for the security of all equipment, material, and completed construction items. Design-Builder is responsible for maintaining access to any occupied buildings on the school site at all times. Temporary covered walkways and/or barricades may be required. Design-Builder is responsible for securing any breeches to existing security system/building caused by its Work. Temporary measures may include security guards, temporary doors, temporary alarm, etc.

Section 10.09. Removal of Barricades.
Upon completion of the work, Design-Builder shall remove from the Site all materials used for barricades, temporary scaffolding, or any other temporary uses.

Section 10.10. Protection of Adjacent Property; Notices.
In addition to any requirements imposed by law, Design-Builder shall shore up, brace, underpin, and protect as may be necessary all foundations and other parts of all existing structures on the Site or adjacent to the Site which are in any way affected by the excavations or other operations connected with the completion of the Work.

Prior to excavation, Design-Builder shall notify all public utilities and governmental agencies of the work proposed, and shall ascertain from them the exact location of their utilities.

Prior to commencing any work which in any way affects adjoining or adjacent land or buildings thereon, or public utilities, Design-Builder shall notify the District Representative, who will send the District and occupants thereof a notice, which specifies the type of work to be done, the schedule of the work, the impacts expected from the work and the protective measures being taken by Design-Builder. The notice shall also specify that any person receiving notice who has questions regarding it may contact the District Representative.

Whenever any notice is required to be given to any adjoining or adjacent landowner, utility, governmental agency or other party before commencement of any work, the notice shall be given by Design-Builder at least seven (7) days in advance of the work, or longer if required by law or regulation, with a copy delivered to the District Representative.

Design-Builder shall, at the written instruction of the District Representative, meet with any recipient of such notice to explain and discuss the proposed work.

Section 10.11. Indemnification of Adjacent Property Owners.
In the event Design-Builder enters any agreement with the owners of any adjacent property to enter upon or adjacent to such property for the purpose of performing the Work, Design-Builder shall fully indemnify, defend and save harmless such person, firm, or Design-Builder, state or other governmental agency which owns or has any interest in the adjacent property. The form and content of the indemnification agreement shall be approved by the District prior to commencement of any work on or about such property.

Section 10.12. Fire Protection.
Design-Builder shall take all steps necessary to protect all structures from fires and sparks originating from the Work, shall comply with all laws and regulations regarding fire protection, and shall comply with all instructions of the fire department with jurisdiction.

Design-Builder shall notify the District Representative and the fire department in writing at least seventy-two (72) hours prior to disconnection of either water or electrical service to the Site, and shall comply with the fire department's instructions regarding fire safety.

Design-Builder must keep the fire intrusion detection systems operational throughout the duration and scope of its Work.

Section 10.13. Repairs or Replacement.
Any damage to existing conditions, or to any other improvement or property above or below the surface of the ground, whether private or public, arising from performance of this contract shall be repaired within forty-eight (48) hours by Design-Builder without expense to the District, unless disruption of school operation or creation of a safety hazard has occurred, in which case damage will be corrected immediately. If the work cannot be completed within forty-eight (48) hours, then Design-Builder must be able to show substantial progress toward completion within that time frame.

If, in the opinion of the Architect, the best interest of the District requires that repairs be made prior to the execution of any further work, the District Representative will so notify Design-Builder who shall delay or discontinue that part of the Work until the necessary repair has been made. Such delay shall be considered non-compensable.

Upon the failure of Design-Builder to comply with any such order, or upon Design-Builder's failure to make immediate emergency repairs which are necessary to protect the Work, the District shall do that work itself as is necessary to protect life and property, in its sole discretion, and deduct the total cost of such work from the next payment otherwise due. No prior notice to Design-Builder shall be necessary for the District to take this action.

Section 10.14. Emergency Safety Actions.

In an emergency affecting the safety of life or property, including adjoining property, Design-Builder, without previous instructions or authorizations from the District, is authorized and shall act at its discretion and risk to prevent such threatened loss or injury. Design-Builder shall bear all costs of such action, unless such emergency is cause by the District's negligence or willful misconduct or by other action, event, or Act of God entirely beyond Design-Builder's control. Design-Builder shall immediately notify the District Representative of such actions, and thereafter shall comply with any instructions issued by the District Representative.

ARTICLE 11. SUBMITTALS, SUBSTITUTIONS AND MATERIALS

Section 11.01. Submittals.

Design-Builder, at its sole cost and expense, shall furnish to the District Representative all Submittals and other descriptive material as are required by the Specifications or requested by the District Representative working with the District Architect.

Shop drawings shall be done with sufficient detail to adequately describe items proposed to be furnished or methods of installation to enable the District and District Architect to determine compliance with the Specifications, design/Performance Criteria, and with the design and arrangement shown on the working drawings.

Design-Builder shall check and coordinate all Submittals with the Work of all trades involved before they are submitted. Design-Builder shall review each Submittal for conformance with the requirements of the Construction Documents.

All Submittals for the Project shall be made in accordance with a Submittal schedule to be agreed upon between the District and Design-Builder; however, Design-Builder shall have the additional responsibility to coordinate the schedule of its Submittals with the requirements of the Construction Schedule so as not to delay the Project. No delay claims related to Submittals will be entertained on the Project for any Submittal originally received after the date indicated in the Construction Schedule. The District shall not be required to accept limitations in materials, colors, quality, or any other aspect of products or materials due to Design-Builder's failure to provide Submittals as required. At the District's discretion, Design-Builder may be directed to furnish and install temporary materials until District selected material, if any, is available. Further, the District may require Design-Builder to install District selected materials, if any, during non-school hours/days without an increase in the Contract Sum and without an extension of the Contract Time.

Design-Builder shall submit a schedule of Submittals organized by Specification section required for the Project. It shall delineate whether product data, installation instructions, shop drawings, samples, extra stock or mock-ups are required. The schedule of Submittals shall indicate whether the Submittal will be in electronic format, as set forth below. In general, other than items requiring color selections, samples, and shop drawings, Submittals will be in electronic format. This schedule of Submittals shall be submitted using the approved PMIS Excel Template within the timeframe indicated in the approved Project Schedule. Any omissions or inaccuracies shall not relieve Design-Builder of the obligation for conforming to the requirements in the Contract Documents. Design-Builder's Submittal schedule shall provide sufficient time for delivering the Submittal to the District Architect, the District Architect's review of each Submittal, delivering the Submittal to Design-Builder, and re-submittal as necessary. In no case shall Design-Builder allow fewer than fourteen (14) days, exclusive of delivery time, for the District Representative and the District Architect to review each Submittal.

Section 11.02. Submission of Submittals.

Most Submittals shall be submitted electronically. Electronic Submittals which are submitted together shall be compiled into a single, bookmarked PDF file, containing links to enable navigation

to each item within the Submittal package. Design-Builder shall name the electronic Submittal file with a consistent project identifier, composed of the project name, bid package number, and specification section number. Electronic Submittals shall be transmitted via the PMIS. Submittals shall be submitted to the District Representative who will not review the Submittals for technical compliance, but may reject any Submittal found, in the District Representative's judgment, to be incomplete. The District Representative will maintain a Submittal log, and weekly meeting minutes shall note if Submittals have been accepted. Submittals requiring color selections, samples, or shop drawings will be logged into the PMIS.

For shop drawings, color selections, and samples, Design-Builder shall submit no less than three (3) originals. All Submittals of shop drawings, color selections, and samples shall be marked with the project name, Design-Builder's name, and the specification section number, and shall be accompanied by a letter of transmittal to the District Representative. The letter of transmittal for shop drawings shall list the identifying number of the drawings submitted and cross-reference them to the page or sheet in the specifications and/or working drawings to which they are related. The letter of transmittal shall be uploaded into the PMIS.

By approving and submitting shop drawings, product data, manufacturer's installation instructions, and samples, Design-Builder represents that it has determined and verified all materials, field measurements, and field construction criteria related thereto and that it has checked and coordinated the information contained within those submittals with the requirements of the Work and to the Construction Documents. Design-Builder shall adhere to any supplementary processing and scheduling instructions pertaining to shop drawings as may be issued by the District Representative.

The District Representative will not accept shop drawings, product data, or manufacturers' installation instructions which are not sufficiently dimensioned and detailed to demonstrate compliance with the Construction Documents.

The Submittals shall be submitted promptly, and no later than specified in the Submittal schedule, so as to cause no delay in the Work.

<u>Section 11.03.</u> <u>Review of Submittals.</u>

Following submission, the Submittals will be reviewed and returned with one or more of five possible responses by the District Representative or District Architect. These possible responses are as follows:

A. Unreviewed: If the Submittal is not required, or if it is not complete, or if it does not meet the form, format, and number requirements specified, it may be returned unreviewed. If the Submittal is not required, work may commence; if the Submittal was returned due to form requirements, it shall be resubmitted and approval obtained prior to commencement of the work.

B. Approved, Reviewed, or No exceptions taken: In the event the Submittal is acceptable as submitted, it will be returned with this status. Work may proceed upon receipt of approved Submittal.

C. Make Corrections Noted: If the Submittal is acceptable except for certain items, which have been noted by the Architect, it will be so designated. Work may proceed with the corrections made, and no resubmittal is necessary.

D. Revise and Resubmit: This status indicates that revisions are noted on the Submittal, and an additional Submittal is required to reflect those revisions and/or additional information. Work may not commence until the resubmittal is approved.

E. Rejected: A Submittal may be rejected if it is not in compliance with the Construction Documents, or if it proposes a substitution which is not acceptable to the Architect. A superseding Submittal shall be submitted and approved prior to commencement of the work.

Should Design-Builder proceed with the work shown on a Submittal before approval is received, it shall remove and replace or adjust any work which is not in accordance with the shop drawings or manufacturers' instructions as ultimately approved, and it shall be responsible for any resultant damage, defect, or added cost. Design-Builder shall resubmit Submittals in categories "D" and "E" above after making any changes required so that Submittals will comply with the Construction Documents. When resubmitting, Design-Builder shall direct specific attention to deficient areas. Resubmittals shall be made within ten (10) days of return of previous Submittal, and in any event in sufficient time so as to avoid delay to the Work. No delay claims related to resubmittals will be entertained on the Project for any resubmittal originally received after the ten (10) days.

The District Architect shall determine the adequacy and completeness of all Submittals. Where the Architect deems a Submittal to be inadequate, incomplete, or otherwise unsuitable for proper review, Design-Builder shall submit all additional information requested by the District Architect. There shall be no change to the Contract Time or the Contract Sum when such additional information is required.

Section 11.04 Submittals Showing Variation from Contract.

It shall be the responsibility of Design-Builder to specifically point out any variation or discrepancy between the shop drawings, product data, or manufacturers' installation instructions submitted and the Construction Documents, along with an explanation of why they are requested, in its letter of transmittal. Failure by Design-Builder to identify in its letter of transmittal any variation, discrepancy, or conflict with the Construction Documents shall render the approval null and void, and Design-Builder shall bear all risk of loss and reconstruction costs or delays.

If any architectural, plumbing, mechanical, electrical, or structural modifications are required as a result of the approval of shop drawings or manufacturers' instructions, which deviate from or do not comply with the Construction Documents, those modifications shall be made without extra cost to the District, and without extension of the Contract Time. Any other resultant costs, including but not limited to design fees, and cost incurred by other contractors, or inspection fees, shall be at the expense of Design-Builder.

Section 11.05. Effect of Approval of Submittals.

The approval of Submittals or other descriptive material shall not relieve Design-Builder of the obligation for accuracy of dimensions and details or for conforming the Work to the requirements

of the Construction Documents at no extra cost to the District, within the Contract Time and shall not, in any way, shift the risk of the design to the District or the District Architect. Design-Builder remains responsible for all design and construction of the Project, in accordance with the Contract Documents.

Section 11.06. Substitutions.

Unless otherwise provided in the technical specifications, Design-Builder may make proposals for substitutions to materials and/or processes shown or specified.

A proposal for substitution shall include all information required by the District Architect to evaluate the substitute material or process. All substitutions shall be submitted with an approved "Substitution Request Form." Such proposal constitutes a certification that Design-Builder:

A. Has investigated the proposed product and determined that it meets or exceeds the performance requirements of the specified product.

B. Will provide the same or better warranty for substitution as for specified product.

C. Will coordinate installation and make other changes, including relating to work of others, which may be required for the Work to be complete in all respects at no additional cost to the District.

D. Waives claims for additional costs and/or Contract time, which may subsequently become apparent.

The District Architect and the District Representative shall evaluate a timely Substitution request, and shall approve, deny, approve with conditions, or initiate the procedure for a change order in response to Design-Builder's request. This decision shall be final. This decision will be rendered within twenty one (21) business days after submission of all required information for the proposal. If the request is not accepted, then Design-Builder shall provide the specified system, process, product, or material without an increase in the Contract Sum and/or Contract Time.

Failure by Design-Builder to identify all deviations from the Construction Documents in its request for substitution shall render any District action taken thereon null and void. Design-Builder shall bear all costs resulting from any error in the request for Substitution.

Only one request for Substitution will be considered for each product, except due to unavailability.

Substitutions that affect Structural Safety, Fire and Life Safety, or Access Compliance shall be submitted to DSA for review and approval.

Neither the submission of a request for a Substitution nor the District Representative's and/or District Architect's review of the application, will extend the time for submission of any required Submittals.

Section 11.07. Not Used

Section 11.08. Samples and Testing of Proposed Substitutions; Costs of Adapting to Work.
When the District Representative or District Architect determines that samples and testing are required to evaluate a request for a substitution, the District Representative shall so advise Design-Builder, and specify the materials or work to be sampled. Design-Builder shall, at no cost to the District, provide samples as required by Article 9, dealing with samples and testing, or the technical specifications.

Design-Builder shall bear all costs of sampling and testing required to decide a request for Substitution, and if a Substitution is accepted, Design-Builder shall bear all costs associated therewith, including all costs of mechanical, electrical, structural, or other changes needed to adapt the Substitution to the Work.

Section 11.09. Effect of Approval of Substitution Request.
If the substitution request is approved, Design-Builder shall be solely and directly responsible for setting substituted materials and/or equipment into the available space, and for the proper operation of the substituted equipment with all other equipment with which it may be associated, all in a manner acceptable to the District.

Neither time extensions nor any increases in the Contract Sum shall be granted on account of a substitution. In the event of a savings, the Contract Sum shall be adjusted by the price difference between the substitution and the originally specified item.

Section 11.10. Quality of Materials and Products.
Design-Builder shall, if required by the District Architect, Project Inspector, or District Representative, furnish satisfactory evidence as to the kind and quality of materials provided.

The District Representative may require, and Design-Builder shall submit if required, a list designating the source of supply of each item of materials incorporated into the Work, and in such event, those materials or products shall not be delivered to the Site or incorporated therein until after the District Representative has approved the list.

Design-Builder shall certify that the materials and equipment installed comply with the Construction Documents and to the best of Design-Builder's knowledge, no installed materials or equipment contain asbestos.

Section 11.11. Better Material or Process.
If Design-Builder furnishes a material, product, process, or article better than that specified in the Construction Documents, the difference in cost of that material, product, process, or article shall be borne by Design-Builder.

Section 11.12. Industry Standards.

A. Any material specified by reference to the number, symbol, or title of a specified standard such as a Commercial Standard, a Federal Specification, a Trade Association Standard, or other similar standard, shall comply with the requirements in the latest revision thereof, including any amendments or supplements thereto, in effect on the effective date of the

Design-Build Agreement, except as limited to type, class, or grade, or modified in that reference.

B. The standard referred to, except as modified in the Specifications, shall have full force and effect as though printed in the Specifications.

1. Where Federal Specifications are referred to as a measure of quality and standard, they refer to Federal Specifications established by the Procurement Division of the United States Government and are available from the Superintendent of Documents, U.S. Government Printing Office.

2. Where Federal Specification numbers are used, they refer to the latest edition including amendments thereto.

3. Where Commercial Standards (CS) or Product Standards (PS) are referred to as a measure of quality, standard, and method of fabrication, they refer to Commercial Standards and Product Standards issued by the U.S. Department of Commerce.

4. Where ASTM serial numbers are used, they refer to the latest tentative specifications, standard specifications, standard method or standard methods of testing, issued by the American Society for Testing Materials, unless specifically noted.

Section 11.13. Original Packages or Containers; Labels.
All materials delivered to the Site shall be new, unless otherwise specified, of the type, capacity, and quality specified, and free from defects. All materials shall remain in their original packages or containers until ready for use. The labels of all packages or containers shall remain affixed and kept legible. No product shall be stored in any container, the label of which does not accurately describe the contents of the container.

Section 11.14. Providing and Paying for Materials.
Except as otherwise specifically stated in the Contract Documents, Design-Builder shall provide and pay for all materials, products, articles, processes, labor, tools, equipment, and installation, and all associated superintendence of every nature whatsoever necessary to execute and complete the Work within the Contract Time.

Section 11.15. Warranty of Title.
No material, article, product, supplies, or equipment for the Work shall be subject to any chattel mortgage, or a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier.

Design-Builder warrants good and sufficient title to all material, supplies, and equipment installed or incorporated in the Work, and agrees upon completion of the Work and payment of the Contract Sum to deliver the premises, together with all improvements and appurtenances, constructed or placed thereon by Design-Builder, to District, free from any claims, liens, or charges.

Design-Builder agrees that neither it nor any person, firm, or entity furnishing any materials or labor for any work covered by this contract shall have any right to a lien upon the premises or any

improvement or appurtenances thereon; provided, however, that nothing contained in this Section shall defeat or impair the rights of persons furnishing materials or labor under the payment bond given by Design-Builder, nor any rights under any law permitting such persons to look to funds due to Design-Builder but retained by the District.

Design-Builder shall cause the substance of these provisions to be included in all subcontracts and material contracts executed by Design-Builder and notice of this provision shall be given to all persons furnishing materials for the Work.

This Section shall not disallow Design-Builder's installing any devices or equipment of utility companies or of governmental agencies, the title to which is commonly retained by the utility company or the agency.

Section 11.16. Patents and Royalties.
Design-Builder and its sureties shall protect, indemnify and hold harmless the District, the District Representative, the Project Inspector, the District Architect, and its consultants and each of their respective officers, agents, and employees against any and all demands made for such fees or claims and against any and all suits, demands, claims or causes of action brought or made by the holder of any invention, patent, copyright, or trademark, or arising from any alleged infringement of any invention, patent, copyright, or trademark by Design-Builder in the course of its performance under this Design-Build Agreement.

Section 11.17. Payment of Federal or State Taxes.
Any federal, state or local tax, specifically including sales and use taxes, payable on materials furnished by Design-Builder pursuant to the Contract Documents shall be paid by Design-Builder.

ARTICLE 12. PROGRESS PAYMENTS

Section 12.01. Schedule of Values.

Within ten (10) days of the Effective Date of the Design-Build Agreement, Design-Builder shall submit to the District Representative a schedule of values for the design of the Project, broken down by design phase. Within ten (10) days of District approval of the GMP Amendment, Design-Builder shall submit to the District Representative an amended schedule of values to include construction of the Project, broken down by phase (if any), in sufficient detail to evaluate progress and costs at any point in the Work. In no event shall an individual line item for construction phase services on the schedule of values exceed five percent of the Contract Sum unless so approved by the District Representative in advance. Labor, material, and subcontract costs shall be shown separately. Cost of Contract closeout shall be shown as individual line items, including, but not limited to, closeout documents, punchlist, and as-built documentation. Each of these line items shall be no less than three (3) percent of the amount of the Guaranteed Maximum Price Amendment.

All other General Conditions items should be prorated among the actual construction values. The schedule of values must be prepared in sufficient detail and supported by such data to substantiate its accuracy as the District Representative may require. This schedule, when approved, shall be used as a basis for Design-Builder's applications for payment, and the approved schedule of values is an express condition precedent to processing Design-Builder's payment applications.

Section 12.02. Application for Payment.

A. Prior to the date for each progress payment review established in the Preconstruction Meeting, Design-Builder shall submit to the District Representative a copy of the schedule of values, marked in pencil to show the percentage of completion proposed by Design-Builder for each line item. No extension of dollar amounts is required.

B. At a meeting held on or before the assigned billing date of each month, the District Representative, District Architect, Project Inspector, and Design-Builder will review Design-Builder's proposed percentages of completion and agree on a final percentage to be paid for that month. The progress payment will be based on the estimated percentage complete. No progress payment will be made unless all general conditions items demonstrate satisfactory progress. Upon agreement of the amount due, Design-Builder will prepare a hard copy of the Application of Payment Summary and transmit it to the District Representative for processing by the assigned day of each month.

C. Release of Liens: With each final monthly application for payment, Design-Builder shall submit a conditional lien release in the form set forth in California Civil Code section 8132. Additionally, Desing-Builder shall submit unconditional lien releases in the form set forth in California Civil Code section 8134 for all work through the prior progress payment. When a subcontractor completes its scope of work, Design-Builder shall submit with its pay application either a conditional lien release in the form provided in Civil Code section 8136 if retention has not been paid or an unconditional lien release in the form provided in Civil Code section 8138 if the subcontractor has been paid in full. For the final payment application, Design-Builder and all of its Subcontractors and material suppliers that have not

previously submitted unconditional lien releases under Civil Code section 8138 shall submit final conditional lien releases in the forms set forth in Civil Code section 8136.

D. The signing of a certificate of payment will constitute a representation by the District Representative, Project Inspector, and the District Architect to the District that, based on their observations and the data comprising the application for payment, the Work has progressed to the point indicated and that, to the best of their knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to any specific qualifications stated in the certificate for payment); and that Design-Builder is entitled to payment in the amount certified. However, by signing a certificate for payment, the District Representative, Project Inspector, and the District Architect shall not thereby be deemed to represent that any of them has made exhaustive or continuous on-site inspections to check the quality or quantity of the work, that any of them has reviewed the construction means, methods, techniques, sequences or procedures, or that any of them has made an examination to ascertain how or for what purpose Design-Builder has used the monies previously paid on account of the Contract Sum.

E. No progress payment will be released until District Representative has received all of the following items in acceptable form: as-built updates, schedule updates, certified payroll and other pay records if requested by the District, lien releases, all required safety reports for the pay period, the monthly status report required by Agreement paragraph 3.1.9, and the required skilled and trained workforce report required by Section 6.02.

Section 12.03. Payment for Stored Materials.

Payments may be made by the District, at its discretion, on account of materials or equipment not incorporated in the Work but delivered to the Site and suitably stored by Design-Builder. Payments for materials or equipment stored shall only be considered upon submission by Design-Builder of satisfactory evidence demonstrating that it has acquired title to such material, that the material will be used in the Work, that it is satisfactorily stored, protected and insured, and that Design-Builder has undertaken such other procedures satisfactory to the District Representative, Project Inspector, and District Architect, to protect the District's interests. Materials stored off-site, to be considered for payment, shall, in addition to the above requirements, be stored in a bonded warehouse, fully insured, and available to the District Architect and District Representative for inspection. The District Representative shall have complete discretion as to the amount of material and equipment that may be stored on the Site at any given time.

Section 12.04. Payment Time; Retention.

There shall be reserved from the monies earned by Design-Builder on estimates a sum equal to five percent (5%) of such estimates. It is understood that, if payment requests are made in accordance with established time schedule, payment requests received and approved by District will be processed within thirty (30) days following approval. Payment for Change Orders, if any, under this Contract shall be made in like manner after the Change Order is fully executed.

Section 12.05. Posting Securities in Lieu of Withholds.

Pursuant to Public Contract Code Section 22300, at the request and expense of Design-Builder, Design-Builder may elect to deposit securities equivalent to the amount withheld pursuant to Section 12.04 with the District or with a state or federally chartered bank in California as the escrow

agent, who shall then pay the retainage to Design-Builder. Upon satisfactory completion of the Contract, the securities shall be returned to Design-Builder.

Alternatively, Design-Builder may request, pursuant to Public Contract Code Section 22300, and the District shall make, payment of retentions under Section 12.04 directly to the escrow agent. Design-Builder shall receive the interest earned on the investments upon the same terms provided for in Section 22300 for securities deposited by Design-Builder. Upon satisfactory completion of the Contract without grounds to withhold as addressed in Section 12.06, Design-Builder shall receive from the escrow agent all securities, interest and payments received by the escrow agent from the District.

If Design-Builder elects to receive interest on moneys deposited with an escrow agent in lieu of retention, Design-Builder shall provide written notice to all subcontractors performing at least five percent (5%) of the Work of Design-Builder's option within fifteen (15) days of electing to receive interest. Design-Builder shall, at the request of any such subcontractor, make that option available to the subcontractor regarding any moneys withheld in retention by Design-Builder from the subcontractor. The subcontractor shall receive the identical rate of interest received by Design-Builder, less any actual pro rata costs associated with administering and calculating that interest, as provided for in section 22300. If Design-Builder elects to substitute securities in lieu of retention, then, by mutual consent of Design-Builder and the subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by Design-Builder.

Securities eligible for investment under this Section shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, stand by letters of credit, or any other security mutually agreed to by Design-Builder and the District.

Design-Builder shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

<u>Section 12.06.</u> <u>Withholding Additional Amounts; Grounds.</u>
In addition to the amounts which the District may retain as provided in Section 12.04, the District may withhold a sufficient amount from any payment or payments otherwise due to Design-Builder as in the District's sole discretion may be necessary to protect the District in the event of the following:

A. Third party claims filed or reasonable evidence indicating probable filing of such claims;

B. Defective work not remedied;

C. Failure of Design-Builder to make proper payments to any of its Subcontractors or for labor, materials or equipment;

D. The occurrence of reasonable doubt that the Contract can be completed for the balance of payments then unpaid to Design-Builder, or in the time remaining until expiration of the Contract Time;

E. Failure of Design-Builder to comply with any lawful or proper direction concerning the Work given by any District representative authorized to have given such instruction;

F. Claims and/or penalties which state law assesses or may assess against Design-Builder for violation of such law;

G. Any claim or penalty asserted against the District or that may be asserted against the District by virtue of Design-Builder's failure to comply with the provisions of all governing laws, ordinances, regulations, rules, and orders;

H. Any liquidated damages which may accrue as a result of Design-Builder's progress failing to meet the schedule milestones or failing to achieve substantial completion or final completion within the Contract Time; or

I. Any reason specified elsewhere in the Contract Documents as grounds for a retention or that would legally entitle the District to a set off.

In order to adequately protect the District, Design-Builder agrees that the basic standard to determine the amount to be withheld pursuant to this Section shall be one hundred fifty percent (150%) of the amounts claimed or the value of the work not done or defectively done; provided, however, that District reserves the authority to retain greater sums should such sums be necessary in the District's discretion to adequately protect it.

Section 12.07. Disbursement of Withheld Amounts.

The District, in its sole discretion, may apply any withheld amount or amounts to the payment of any claim resulting in a withhold. Design-Builder agrees and hereby designates the District as its agent for such purposes, and any payment so made by the District shall be considered as a payment made under this Contract by the District to Design-Builder. The District shall not be liable to Design-Builder for any payments made in good faith and with reasonable notice to Design-Builder. Such payments may be made without a prior judicial determination of the claim or claims. The District shall render to Design-Builder a proper accounting of any funds disbursed on behalf of Design-Builder.

Prior to disbursing any amounts, District shall afford Design-Builder an opportunity to present good cause, if any, why the claim or claims in issue are not valid or just claims against Design-Builder. The District reserves the right then to take such further steps as are appropriate, in its sole discretion, including, but not limited to, seeking a judicial resolution of the controversy.

Section 12.08. Correction of Statement and Withholding of Payment.

No inaccuracy or error in any statement provided by Design-Builder shall operate to release Design-Builder or any surety from the error, or from damages arising from such work, or from any obligation imposed by the Contract Documents. The District shall retain the right subsequently to correct any error made in any previously issued claim for the progress or other payment, or payment of any kind issued, by adjustments to subsequent payments.

Section 12.09. Effect of Progress Payments.

Neither the payment, the withholding, nor the retention of all or any portion of any progress payment claimed to be due and owing to Design-Builder shall operate in any way to relieve Design-Builder from its obligations under this Contract Documents. Except to the extent provided otherwise in the Design-Build Agreement or applicable law, in the event of a District default, Design-Builder shall continue diligently to prosecute the Work without reference to the payment, withhold, or retention of any progress payment. Except as provided in the Design-Build Agreement or applicable law, the payment, withhold, or retention of any progress payment shall not be grounds for an extension of the Contract Time.

ARTICLE 13. TIME OF WORK

Section 13.01. Construction Schedule Development.
Design-Builder shall submit to the District Representative a detailed proposed Construction Schedule for the Project within ten (10) days of District approval of the Guaranteed Maximum Price Amendment. The detailed proposed Construction Schedule shall present an orderly and realistic plan for completion of the Work, in conformance with the requirements of this Article.

The Contract Schedule shall furnish and comply with the following requirements:

A. A time scaled CPM type schedule prepared in Oracle Primavera P6 or other scheduling software approved in writing by the District. Submit the project schedule electronically (pdf, tiff or jpeg format not acceptable)-through the PMIS and in hard copy format

B. No activity on the schedule shall have a duration longer than fourteen (14) days, with the exception of fabrication and procurement activities, unless otherwise approved by the District Representative. Activity durations shall be the total number of actual days required to perform that activity including consideration of weather impact on completion of that activity.

C. Procurement of major equipment, through receipt and inspection at the job site, identified as a separate activity.

D. District furnished materials and equipment if any, identified as separate activities.

E. Dependencies (or relationships) between activities.

F. Processing/approval of submittals and shop drawings for major equipment. Activities that are dependent on submittal acceptance and/or material delivery shall not be scheduled to start earlier than the expected acceptance or delivery dates.

G. Separate buildings and other independent project elements shall be individually identified in the network.

H. No less than fourteen (14*)* days for developing punch list(s), completion of punch list items, and final clean up for the work or any designated portion thereof. No other activities shall be scheduled during this period.

I. Interface with the work of other Contractors (or entities).

No unspecified milestones, contractor-designated Constraints, Float suppression techniques, or use-of-Activity durations, logic ties and/or sequences deemed unreasonable by the District Representative shall be used in the Construction Schedule.

Design-Builder shall submit the reports and the number of copies as required under Section 13.05 of these General Construction Terms and Conditions.

The District Representative will review the proposed Construction Schedule for conformance with the requirements of the Contract Documents. Within ten (10) days after receipt, the District Representative will accept the Construction Schedule or will return it with comments. If the proposed Construction Schedule is not accepted, Design-Builder shall revise the schedule to incorporate comments and become the Construction Schedule. Design-Builder shall have the right to modify the schedule to alter sequences or durations of work in the interests of the Project provided it gives timely notice to the District of such modifications. The District shall have the right to reasonably object to any modifications. In the event of such objection by the District, Design-Builder will not make the modification(s).

The accepted Construction Schedule shall be incorporated into the Project Schedule developed under the Agreement and be the basis for evaluating construction job progress and for District planning purposes. The responsibility for developing the Project and Construction Schedules and monitoring actual progress as compared to the Project Schedule rests with Design-Builder. The Project Schedule shall be the basis for evaluating time extension requests.

Failure of either the Project Schedule or the Construction Schedule to include any element of the Work or any inaccuracy in either Schedule will not relieve Design-Builder from responsibility for accomplishing all the Work in accordance with the Contract Documents.

Acceptance of the Project Schedule and/or the Construction Schedule will not relieve Design-Builder of the responsibility for accomplishing the Work in accordance with the Contract Documents.

Failure to obtain District approval of the Contract Schedule within forty (40) calendar days of the GMP Amendment may result in the District withholding up to ten percent (10%) of each progress payment until a Contract Schedule is approved. Any such amounts withheld shall be paid to Design-Builder upon approval of the Contract Schedule.

Section 13.02. Not Used.

Section 13.03. Monthly Updates.

Design-Builder shall submit to the District Representative each month, in hard copy and through the PMIS, an up-to-date status report of the Work. The status report shall include:

A. Design-Builder's estimated percentage complete and remaining duration for each activity not yet complete.

B. Actual start/finish dates for activities as appropriate.

C. Identification of processing errors, if any on the previous update reports.

D. Revisions, if any, to the assumed activity durations including revisions for weather impact for any activities due to the effect of the previous update on the schedule.

E. Best efforts to identify activities that are affected by Proposed Change Orders issued during the update period. (See Section 13.04, Network Window). Depending on the nature, amount, or timing of changes, this may be difficult to accomplish.

F. Best efforts to resolve any conflicts between actual work progress and schedule logic. When out of sequence activities develop in the Construction Schedule because of actual construction progress, Design-Builder shall submit revision to schedule logic to conform to current status and direction. The parties recognize that depending on the nature, amount, or timing of changes this may be difficult to accomplish.

The Project Schedule shall be updated on a monthly basis throughout the entire Project performance period until Project completion is achieved.

The District Representative will review the updated information and meet with Design-Builder each month at the Site to determine the status of the Work. If agreement cannot be reached on any issue, Design-Builder will use the District Architect's determination in the processing of the update.

No progress payments will be made without the required monthly update of the Project Schedule.

Section 13.04. Schedule Revisions.
If the sequence of construction differs significantly, as determined by the District Representative, from the Construction Schedule, Design-Builder shall submit within fifteen (15) days a revised schedule to the District Representative for acceptance. The accepted updated Construction Schedule shall be incorporated into an updated Project Schedule and submitted to the District Representative. Updating the Construction Schedule to reflect actual progress shall not be considered revisions to the Construction Schedule.

When a Proposed Change Order is issued which has the potential to impact specified completion dates, a Network Window shall be prepared by Design-Builder to reflect the impact of such changes as expeditiously as is reasonably possible in light of the nature, quantity and timing of potential changes. The District Representative will promptly review and act on the Network Window. If the Network Window has been accepted by the District and Design-Builder has been permitted by the District to proceed with the Proposed Change Order, the Network Window shall be incorporated into the Project Schedule and/or Construction Schedule. Time extensions will be considered only to the extent there is insufficient remaining float to accommodate these changes, and pursuant to Article 14 of these General Conditions. No additional cost beyond that provided in Article 15 will be allowed for the incorporation of approved Proposed Change Orders into the Construction Schedule.

Should Design-Builder, after acceptance of the Construction Schedule, intend to change its plan of Construction, it shall submit its requested revisions to the District Representative, along with a written statement of the revision, including a description of the logic for rescheduling the Work, methods of maintaining adherence to Intermediate milestones and other specific dates and the reasons for the revisions. If the requested changes are acceptable to the District Representative,

they will be incorporated into the Construction Schedule and the Project Schedule in the next reporting period.

Schedule revisions shall be submitted at least seven (7) days prior to the date of submission of update information. The District will have seven (7) days to review the revisions.

Section 13.05. Construction Schedule Reports.
Together with the monthly schedule updates, Design-Builder shall submit the following reports for the proposed Construction Schedule, Construction Schedule Updates, Construction Schedule Revisions and Recovery Schedules:

A. A Schedule Logic Report listing the activities, their early/late and actual start and finish dates, duration, float and the logic relationship of activities sorted by early start.

B. Network Plots presenting time scaled network diagram showing activities and their relationships.

C. A narrative providing additional clarification/explanation of items such that District is informed of the approach used to plan and sequence the work and coordinate with other contractors to the extent applicable. This narrative shall also address the following: (1) description of Work performed during the reporting period; (2) Description of the primary, secondary and tertiary Critical Paths; (3) description of the Work anticipated to be performed during the next reporting period; (4) number of days ahead/behind the Completion Date; (5) discussion of the changes to the primary Critical Path since the prior month's update; (6) description of problem areas and anticipated problem areas; (7) current and anticipated delays including cause of delay, corrective actions taken, and impact of the delay on other activities, milestones, and completion dates; (8) the actual weather days used (9) pending items (change orders, requests for time extensions, etc) and status thereof.

D. A schedule calculation summary report which includes listing of constraints, open-ends, out-of-sequence work, and scheduling statistics. This report is computer generated when the Construction Schedule is calculated upon completion of inputting all activity progress at the month end processing.

Design-Builder shall upload the report to the PMIS. Design-Builder shall also provide all the schedule files in the original electronic format (files in pdf format are not allowed).

Section 13.06. Short Interval Schedules.
Design-Builder shall prepare a Short Interval Schedule (SIS) to be used throughout the duration of Work. The SIS shall include all current activities and projected activities for the succeeding two (2) weeks. The SIS shall include actual start/finish dates for the preceding one (1) week and it shall be tied to the updated Construction Schedule. The SIS shall be submitted to the District Representative prior to the weekly construction meeting. Design-Builder shall participate in short interval scheduling coordination during the weekly construction meetings.

Section 13.07. Time of Essence.
Time is of the essence. Design-Builder shall, to the fullest extent possible, carry on the various classes or parts of the Work concurrently, and shall not defer construction of any portion of the Work in favor of any other portion of the Work, without the express approval of the District Representative.

Section 13.08 Date of Completion.
Design-Builder shall fully and satisfactorily complete the Work within the Contract Time. The Date of Completion will be set forth in the Notice to Proceed with construction.

Section 13.09 Responsibility for Completion.
Design-Builder shall furnish sufficient manpower, materials, facilities, and equipment and shall work sufficient hours, including night shifts, overtime operations, weekends and holidays as may be necessary to insure the prosecution and completion of the Work in accordance with the accepted Project Schedule. Unless there are excusable and/or compensable grounds for delay, if work on the critical path is seven (7) days or more behind the currently updated Project Schedule and it becomes apparent that the Work will not be completed within the Contract Time, Design-Builder will implement whatever steps it deems necessary to make up all lost time. If Design-Builder's solution is not successful, it will make further attempts using the following sequence of events:

A. Reschedule activities to achieve maximum practical concurrence of accomplishment of activities.

B. If the above cannot be achieved then;

1. Design-Builder shall increase workers in such quantities and crafts as will substantially eliminate, in the judgment of the District Representative, the backlog of work; or increase the number of working hours, shifts per working day, working days per week, or the amount of equipment or any combination of the foregoing sufficiently to substantially eliminate in the judgment of the District Representative the backlog of work.

2. In addition, the District Representative may require Design-Builder to submit a recovery schedule demonstrating its program and proposed plan to make up a lag in scheduled progress and to ensure completion of the Work within the Contract Time. If the District Representative finds the proposed recovery schedule unacceptable, it may require Design-Builder to submit a new plan. If the actions taken by Design-Builder or the second plan proposed are unsatisfactory, the District Representative may require Design-Builder to take any of the actions set forth in the previous paragraph without additional cost to the District to make up the lag in scheduled progress.

Float, the amount of time an activity can be delayed without affecting the Completion Date, is considered a project commodity jointly shared between District and Design-Builder and shall be used in the best interest of completing the Project on time by the party who needs it first.

Failure of Design-Builder to comply with the requirements of this Section 13.09 shall be considered grounds for a determination by the District, pursuant to the Design-Build Agreement and these

General Construction Terms and Conditions, that Design-Builder is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.

Section 13.10. Daily Reports.

No less than on a weekly basis, Design-Builder's superintendent shall submit to the District Representative daily reports on the District's furnished form (via the PMIS). If Design-Builder enters the daily reports in the PMIS, Design-Builder shall place the daily report in a 'locked' status, on a weekly basis, such that it may no longer be modified. The daily reports shall include, without limitation, the identity of subcontractors on the Site; an accurate headcount of workers on the Site; materials and equipment delivered to the Site; visitors to the Site; any problems encountered; and photos as necessary to appropriately document the Work.

ARTICLE 14. DELAYS AND EXTENSIONS OF TIME

Section 14.01. Extensions of Time; Unavoidable Delays.
Design-Builder shall not be granted an extension of time except on the issuance of a Change Order by the Board of Education, upon a finding of good cause for such extension.

A. As used herein, the following terms shall have the following meanings:

1. "Excusable Delay" means any delay in completion of the Work beyond the expiration of the Contract Time caused by conditions beyond the control and without the fault or negligence of Design-Builder or the District or its agents. These events may include strikes, embargoes, fire, unavoidable casualties, national emergency, and stormy and inclement weather conditions beyond the number of days included in the weather allowance in the Project Schedule in which the District Representative and Project Inspector agree that work on the critical path cannot continue. The financial inability of Design-Builder or any Subcontractor or supplier and any default of any Subcontractor, without limitation, shall not be deemed conditions beyond Design-Builder's control. An Excusable Delay will entitle Design-Builder to an extension of the Contract Time, in accordance with this Section of the General Construction Term and Conditions and shall not entitle Design-Builder to any adjustment of the Contract Sum but shall be a permitted use of the Construction Contingency for the period of delay.

2. "Compensable Delay" means any delay in the completion of the Work beyond the expiration date of the Contract Time caused solely by the wrongful acts of the District or its agents, including but not limited to the District's Architect, and which delay is unreasonable under the circumstances and not within the contemplation of the parties. A Compensable Delay entitles Design-Builder to an extension of the Contract Time and an adjustment of the General Conditions at the time of the contract extension based on actual General Conditions costs as allowed by the Contract Documents but not to exceed the daily rate of **One thousand five hundred dollars ($1,500.00)** for every day of delay to the date of Substantial Completion. Except as provided herein, Design-Builder shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

3. "Inexcusable Delay" means any delay in completion of the Work beyond the expiration of the Contract Time resulting from causes other than those listed in Subparagraphs A1 and A2, above. An Inexcusable Delay will not entitle Design-Builder to an extension of the Contract Time, use of any contingency, or an adjustment of the Contract Sum and subjects Design-Builder to liquidated damages.

B. Design-Builder may make a claim for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

1. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. Any allowed adjustment of

the Contract Sum shall be based on an adjustment of the General Conditions at the time of the contract extension based on actual General Conditions costs as allowed by the Contract Documents but not to exceed the daily rate of **One thousand five hundred dollars ($1,500.00).** For the period of concurrency, the adjustment is a permitted use of the District Contingency. To the extent that a contingency fund is not used to compensate Design-Builder for such concurrent delay, any increase in the Contract Sum shall be based only on the non-concurrent portion of any Compensable Delay. Design-Builder may be compensated for the concurrent portion of an Excusable Delay and a Compensable Delay only out of available contingency funds, and only if approved by the District at the District's sole discretion.

2. If an Inexcusable Delay occurs concurrently with either an Excusable Delay and/or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, from commencement of the first Excusable and/or Compensable Delay to the cessation of the Excusable Delay and/or the Compensable Delay. For any concurrency period with a Compensable Delay, Design-Builder shall not be entitled to an adjustment of the Contract Sum but may request that the District authorize use of the Construction Contingency, if any is available, for the period of the Compensable Delay based on an adjustment of the General Conditions at the time of the contract extension based on actual General Conditions costs as allowed by the Contract Documents but not to exceed the daily rate of **One thousand five hundred dollars ($1,500.00)** and not to include any delays between Substantial and Final Completion. The non-concurrent Inexcusable Delay will not entitle Design-Builder to an extension of the Contract Time, use of any contingency, or an adjustment of the Contract Sum and subjects Design-Builder to liquidated damages.

Delays in the prosecution of parts or classes of the Work which do not prevent or delay the completion of the whole Work within the Contract Time are not to be considered Excusable or Compensable.

Section 14.02. Notice of Delays; Requests for Time Extensions.
No later than ten (10) calendar days from the time Design-Builder reasonably foresees any delay in the prosecution of the Work, and in any event immediately upon the occurrence of any delay which Design-Builder regards as good cause for an extension, Design-Builder shall notify the District Representative in writing of the delay or anticipated delay. The notice shall specify with detail the cause asserted by Design-Builder to constitute good cause for an extension and a quantification of the length of the requested extension of time together with a detailed schedule analysis showing the effect of the delay on the critical path of the Project Schedule. **Failure of Design-Builder to submit such timely notice shall constitute a waiver by Design-Builder of any entitlement to a time extension, as well as to any associated additional compensation, and no extension shall be granted as a consequence of such delay**. The District shall have no obligation to consider any time extension request unless the requirements of the Contract Documents are complied with. If Design-Builder cannot quantify the delay or prepare a detailed schedule analysis at the time the notice of delay is submitted, including because the delay is anticipated and/or is ongoing of an unclear duration, then Design-Builder shall supplement its notice of delay as soon as it can reasonably quantify the delay, but no later than ten (10) days after the cause of the delay is concluded.

The District shall consider and respond promptly to time extension requests that comply with the terms of the Design-Build Agreement and the Construction Documents. The District shall not be responsible or liable to Design-Builder for any constructive acceleration due to failure of the District to grant time extensions should Design-Builder fail to comply with the submission and justification requirements of the Construction Documents for time extension requests.

Section 14.03. Investigation; Procedure.
Upon receipt of a request for extension, the District Representative shall conduct an investigation of the facts asserted by Design-Builder to constitute good cause for an extension. The District Representative shall report the results of this investigation, as well as the propriety of the time extension requested, to Design-Builder in writing within ten (10) days of receipt of the complete request, including quantification of the delay, and shall indicate whether it will recommend for or against the extension. Upon receiving the District Representative's recommendation, Design-Builder may either concur in the recommendation or reject the recommendation and proceed with a claim as provided for in Article 23.

Section 14.04. Discretionary Time Extensions for Best Interest of District.
The District reserves the right to extend the time for completion of the Work if the Board of Education determines that such extension is in the best interest of the District. In the event that a discretionary extension is granted at the request of Design-Builder, the District shall have the right to charge to Design-Builder all or any part, as the Board of Education may deem proper, of the actual cost of project management, engineering, inspection, supervision, incidental, and other overhead expenses that accrue during the period of the extension, and to deduct all or any portion of that amount from the final payment.

In the event a discretionary time extension is ordered over the objection of Design-Builder, and the decision rests solely with the Board of Education and is not legally compelled for any cause, Design-Builder shall be entitled to a Change Order adjusting the price paid to reflect the actual costs incurred by Design-Builder as a direct result of the delay, upon its written application therefore, accompanied with such verification of costs as the District Representative requires. The decision of the Board of Education on any discretionary time extension and the costs thereof shall be final and binding on the District and Design-Builder.

Section 14.05. Liquidated Damages.
If the Work or any specified portion, phase, or Increment of Work is not completed by Design-Builder in the time specified in the Notice to Proceed with construction, or within any period of extension authorized pursuant to this Article, Design-Builder acknowledges and admits that the District will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Design-Builder and the District that Design-Builder shall pay to the District as fixed and Liquidated Damages, and not as a penalty, the sum specified in the Design-Build Agreement, and that both Design-Builder and Design-Builder's surety shall be liable for the total amount thereof, and that District may deduct Liquidated Damages from any monies due or that may become due to Design-Builder.

Pursuant to Government Code Section 4215, Design-Builder shall not pay fixed and Liquidated Damages for delay in completing the Project or any specified portion, phase, or Increment caused

by the failure of the District or the owner of utility facilities located on the Project Site to provide for removal or relocation of such facilities.

Section 14.06. Extension of Time Not a Waiver.
Any extension of time granted Design-Builder pursuant to this Article shall not constitute a waiver by the District of, nor a release of Design-Builder from Design-Builder's obligation to perform its Work in the time specified by the Design-Build Agreement, as modified by the particular extension in question.

The District's decision to grant a time extension due to one circumstance set forth in one request, shall not be construed as a grant of an extension for any other circumstance or the same circumstance occurring at some other time, and shall not be viewed by Design-Builder as a precedent for any other request for extension.

Section 14.07. Effect of Stop Work Notice.
If the District issues a Stop Work Notice pursuant to Article 9, the days on which the suspension is in effect shall be included in determining the required completion date, and shall not otherwise modify or extend the time within which Design-Builder is to perform. In such event, Design-Builder shall not be entitled to any damages or compensation on account of such suspension or delay, unless Design-Builder can establish that Stop Work Notice was not warranted.

ARTICLE 15. CHANGES TO THE WORK

Section 15.01. No Changes Without Consent.
Subject to Design-Builder's right to access the Contingencies and Allowances, Design-Builder will complete the Project for no more than the Contract Sum, except as provided below. Design-Builder agrees, for itself and on behalf of its Subcontractors and Suppliers, that no increase in the Contract Sum will be made for work that Design-Builder or its Subcontractors and Suppliers might otherwise claim as a Change Order or extra work unless Design-Builder establishes that all applicable Allowances and Contingencies are exhausted and the additional cost is the result of one of the following:

(a) a material change in the scope of work directed or authorized by the District;

(b) a change in applicable law that was not reasonably foreseen or a change required by regulatory authorities (including inspections) that was not reasonably ascertainable from the Contract Documents and not reasonably inferable from Design-Builder's or Subcontractor's knowledge of local practices or circumstances;

(c) regulatory fees not included in the Contract Sum or excluded by the Contract Documents;

(d) Differing Site Conditions;

(e) whenever costs are more than or less than the sum of Allowances, if any, and the Contingencies, the compensation shall be adjusted accordingly by Change Order, and the amount of the Change Order shall reflect the difference between actual costs and the Allowances and Contingencies; or

(f) wrongful acts of District or a separate contractor employed by District, or by damage to the Work caused by fire or other unavoidable casualties not the fault of Design-Builder or Subcontractors or Suppliers.

Design-Builder further acknowledges that its contractual obligation to indemnify District extends to claims asserted by Subcontractors or Suppliers seeking compensation for alleged Change Orders or extra work for which District is not liable to Design-Builder as a result of these provisions. Subject to the provisions in Article 4 of the Design-Build Agreement, nothing in this section shall foreclose Design-Builder from access to the Construction Contingency for properly incurred Costs of the Work that are attributable to causes for which a Change Order is prohibited by this section.

No extra work shall be performed, and no change shall be made, except pursuant to a written Change Order or Proposed Change Order, signed by the District, or by a Directive (signed by either the District or the District Representative) stating that the extra work or change is authorized, and no claim for any addition to the Contract Sum or Contract Time shall be valid unless so authorized; provided, however, that nothing in this Article shall excuse Design-Builder from proceeding with the prosecution of the work so changed. Design-Builder shall furnish an itemized breakdown of the quantities and prices used in computing the value of any change, including permitted uses of Contingencies and Allowances requested by Design-Builder, or that may have been ordered by the District, including all items listed in Section 15.06 and 15.07, below.

Change Orders shall specify the cost adjustments associated therewith, and in no case shall the District pay or become liable to pay any sums different than those specified or those established under Section 15.06 and 15.07.

Substitutions may be considered Construction Change Directives, if DSA approval is required.

Section 15.02. Change Orders.
The District may require changes in, additions to, or deductions from the Work to be performed or the materials to be furnished pursuant to the Construction Documents. Changes may be made pursuant to a written Change Order (signed by the District), which shall state the agreement of the District, Design-Builder, and the Architect, regarding all of the following:

A. The scope of the change in the Work;

B. The amount of the adjustment in the Contract Sum, if any; and

C. The extent of the adjustment in the Contract Time, if any.

The District may also issue unilateral Change Orders based upon a previously issued Directive. Unilateral Change Orders shall be approved by the District, the District Architect, and the District Representative, but need not be signed by Design-Builder.

All adjustments to the Contract Sum or the Contract Time must be approved by the District Board of Education.

Signature by Design-Builder on the Change Order constitutes its agreement with and acceptance of use of Allowances or Contingencies, the adjustments in the Contract Sum, and/or adjustments to Contract Time, if any, set forth in the Change Order as full and complete satisfaction of any direct or indirect additional cost and/or time incurred by Design-Builder in connection with performance of the change work.

Section 15.03. Not Used.

Section 15.04. Change Orders Regarding Time for Completion.
Any time extension authorized by the District pursuant to Article 14 hereof shall be set forth in a Change Order signed by the District.

Section 15.05. Construction Change Directive/Directive.
Changes also may be made pursuant to a Directive, which shall direct a change in the Work and state a proposed use of Allowances or Contingencies or basis for adjustment, if any, in the Contract Sum or Contract Time, or both. A Directive shall be used in the absence of total agreement on the terms of a Change Order, or when time does not permit processing of a Change Order prior to implementation of the change. Directives shall be approved by the District and the Architect, but need not be signed by Design-Builder. Upon receipt of a Directive, Design-Builder shall promptly proceed with the change in the Work involved. It is the intent of the District that all Directives will be converted to a Change Order.

When a Directive is used because time does not permit processing of a Change Order prior to implementation of the change, signature by Design-Builder on the Directive constitutes its agreement with and acceptance of the use of Allowances or Contingencies or adjustments in the

Contract Sum and Contract Time, if any, set forth in the Directive as full and complete satisfaction of any direct or indirect additional cost and/or time incurred by Design-Builder in connection with performance of the changed work.

If Design-Builder disagrees with the method for payment for the change, the adjustment shall be determined by the District Representative on the basis of any of the methods described in Section 15.06A, Paragraphs 2, 3, or 4.

Section 15.06. Pricing of Changes.

A. The following pricing methods shall apply to permitted uses of any Contingency or Allowance:

1. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

2. Unit prices as mutually agreed upon;

3. The District Representative's estimate of the value of the change; or

4. A "cost plus" adjustment subject to the limitations in Section 15.08.

Section 15.07. Allowable Costs.

A. Allowable costs for any permitted use of Contingency or Allowance shall be limited to the following:

1. Costs of labor, including social security, Medicare and unemployment insurance, fringe benefits required pursuant to Article 7, and workers' compensation insurance;

2. Costs of first line supervision labor, including labor burden as described in Paragraph 1. "First Line Supervision" shall mean a working foreman or lead craft worker other than the project superintendent;

3. Actual cost of the project superintendent associated with any period of compensable delay caused by issuance of the Change Order. In the absence of a compensable delay, all of the project superintendent's time is considered to have been paid for as part of the Overhead;

4. Actual costs of materials, including sales tax and delivery;

5. Rental costs of machinery and equipment, exclusive of small tools, whether rented from Design-Builder or others;

6. Overhead and Profit as specified below. "Overhead" shall include the following:

Preparation of all paperwork related to changes in the Work, including field review, estimating and cost breakdown; coordination and supervision, both office and field, including the project superintendent; vehicles including gas and maintenance; small

tools, incidentals and consumables; engineering, detailing, and revisions to shop drawings and as-built drawings; general office and administrative expense; extended and unabsorbed home office overhead; warranty; costs of bonds, liability insurance, builder's risk insurance, all taxes; and all other expenses not specifically included in Paragraph A above.

B. For permitted use of the Contingencies or Allowances included in the Contract Sum, the following markups shall apply to the costs specified in Section 15.07 (1) – (5): (1) Design-Builder's combined Overhead and Profit for Work performed by its own forces shall be its actual fee as stated in its Proposal in response to the RFP plus its actual markup for bonds and insurance; (2) If the changed Work is performed by a Subcontractor, the Subcontractor shall be entitled to an allowance of up to fifteen percent (15%) as determined by Design-Builder, for its labor, material, and rental costs for Overhead and Profit and Design-Builder shall be allowed to markup the Subcontractor's price its actual fee as stated in its Proposal in response to the RFP plus its actual markup for bonds and insurance. Cumulative total markup for all tiers of contractors and subcontractors shall not exceed twenty-two percent (22%).

D. If the net value of a change results in a credit from Design-Builder or subcontractor, the credit shall be the actual net cost, and the credit shall be applied to the Construction Contingency and/or District Contingency at the District's discretion. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for Overhead and Profit shall be figured on the basis of the net increase or decrease, if any, with respect to the change.

Section 15.08. Time and Materials Adjustment.

A. Record Keeping. In the event that the pricing method selected is the "time and materials" method described in Section 15.06A, Paragraph 4, the pricing shall be calculated using the formula and costs set forth in Section 15.07, except that time and material (T&M) labor rates shall be pre-approved by the District Representative for T&M work. Design-Builder shall keep and present daily, in such form as the District Representative may prescribe, an itemized accounting together with appropriate invoices and other supporting data of the labor, materials, and equipment used during that day. All labor shall be recorded on separate time sheets clearly identified with the Directive number and scope of extra work involved. These time sheets shall be signed daily by the District Representative. No costs will be allowed for time not recorded and signed the same day the work takes place. Design-Builder and the District Representative shall discuss and attempt to resolve any disputes concerning Design-Builder's daily records at the time the report is submitted.

B. Reconciliation. Design-Builder shall on a monthly basis accompanying its progress payment submissions submit a reconciliation for all work performed under a cost plus Directive during the period of the progress payment. A final reconciliation shall be submitted within thirty (30) days after the work of the Directive is completed. The reconciliation shall recap all costs and appropriate markups for the period. No costs will be allowed for work not included in a reconciliation within the time periods specified.

Section 15.09. Effect on Sureties.
All changes authorized by the Construction Documents may be made without notice to or consent of the sureties on the contract bonds, and shall not reduce the sureties' liability on the bonds.

Section 15.10. Differing Site Conditions.
If the Contract Documents require the digging of trenches or other excavations that extend deeper than four feet below the existing surface, the following provision shall apply to those trenches or excavations:

A. In the event that any of the following described conditions is suspected to exist in the trench or excavation, Design-Builder shall promptly, and before the condition is disturbed, notify the District Representative, in writing, of any:
   1. Material that Design-Builder believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
   2. Subsurface or latent physical conditions at the Site differing materially from those indicated in the Contract Documents.
   3. Unknown physical conditions at the Site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

B. Upon receipt of notice from Design-Builder, the District Representative, the District and the District Architect shall promptly investigate the conditions, and if it is determined that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in Design-Builder's cost of, or the time required for, performance of any part of the work shall issue a Change Order or Directive under the procedures described in the Contract Documents.

C. In the event that a dispute arises between the District and Design-Builder as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Design-Builder's cost of, or time required for, performance of any part of the Work, Design-Builder shall not be excused from any scheduled completion date provided for by the Construction Documents, but shall proceed with all Work to be performed under the Contract Documents. Design-Builder shall retain any and all rights provided either by the Contract Documents or by law, which pertain to the resolution of disputes and protests between the contracting parties.

D. No cost or time adjustment, which results in a benefit to Design-Builder, will be allowed unless Design-Builder has provided the required written notice under Paragraph A of this Section 15.10.

E. Nothing in these provisions relieves Design-Builder of its design obligations, including, without limitation, for geotechnical work. All such design obligations must be performed according to the professional standard of care stated in the Design-Build Agreement. In the event Design-Builder makes a claim for differing site conditions, and as a condition to such claim, Design-Builder will be required to establish that its design work related to the site, subsurface conditions, and geotechnical conditions, did not fall below the standard of care.

F. No cost or time adjustment will be allowed under the provisions specified in this Section for any effects caused on unchanged work.

As between Design-Builder and the District, the District is responsible for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Site if such utilities are not identified in the Plans and Specifications, provided the failure to locate such facilities on the Plans and Specifications is not due to Design-Builder's services following below the standard of care and/or could not reasonably be assumed to be a component of the existing Site. If Design-Builder, while performing its work, discovers utility facilities not identified in the Plans or Specifications, it shall immediately notify the District and the associated utility in writing. Thereafter, and provided it has given such notice, Design-Builder shall be entitled to use of the District Contingency or an adjustment of the Contract Sum and an extension of the Contract Time, in accordance with Articles 14 and 15 of these General Construction Terms and Conditions, for the costs of locating, repairing damage not due to the failure of Design-Builder to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work when such costs and time are caused by the failure of the District or the owner of the utility to provide for removal or relocation of such utility facilities. Notwithstanding anything to the contrary herein, the District is not required to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the Site. Nothing herein shall preclude the District from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.

Section 15.11. Notice of Dispute

If Design-Builder intends to make a claim for use of an Allowance or Contingency or a change in the Contract Sum or Contract Time, Design-Builder must give the District Representative written notice within ten (10) days of the occurrence of the event giving rise to the claim. Thereafter, Design-Builder may proceed with a claim as provided for in Articles 21 and 23. **Failure to provide the written notice within ten (10) days of the occurrence of the event giving rise to the claim shall constitute a waiver by Design-Builder of any claim for a change in the Contract Sum or Contract Time.**

ARTICLE 16. NOT USED

ARTICLE 17. REJECTION AND REPLACEMENT OF WORK AND MATERIALS

Section 17.01. Rejection of Materials and Workmanship.
The District shall have the right to reject materials and workmanship, which are determined, by the District Representative, the District Architect, or the Project Inspector to be defective or fail to comply with the Contract Documents. Rejected workmanship shall be corrected to the satisfaction of the District and/or District Architect, and rejected materials shall be removed from the premises and replaced, all without added cost or time to the District.

If Design-Builder does not correct such rejected work and/or materials within a reasonable time, fixed by the District Representative or the District Architect in a written notice to Design-Builder, the District may correct the same and charge the expense to Design-Builder, and deduct such expense from the next payment otherwise payable to Design-Builder.

If the District determines that it is in its best interest not to correct defective workmanship and/or materials, or work not done in accordance with the Contract Documents, Design-Builder agrees that an equitable deduction from the Contract Sum shall be made therefore.

Section 17.02. Correction of Work.
Design-Builder shall promptly correct all work rejected by the District Representative, Project Inspector or the District Architect as defective or as failing to conform to the Construction Documents, whether observed before or after Final Completion and whether or not fabricated, installed, or completed. Design-Builder shall bear all costs of correcting such rejected work including compensation for additional services of the District Architect, Project Inspector, and the District Representative.

If within two (2) years after the Notice of Completion date for the Project, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, Design-Builder shall correct any and all such work, together with any other work which may be displaced, destroyed, or damaged in so doing, without expense to the District, promptly after receipt of a written notice from the District, unless the District has previously given Design-Builder a written acceptance of such condition. The District shall issue a correction notice promptly after discovering the condition. Design-Builder shall notify the District upon completion of repairs. This obligation shall survive termination of the Design-Build Agreement with respect to work in place prior to termination.

Nothing contained in this Section shall be construed to establish a period of limitation with respect to any other obligations which Design-Builder might have under the Construction Documents or by operation of law. The establishment of the time period of two (2) years after the Date of Completion, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Construction Documents, relates only to the specific obligation of Design-Builder to correct the Work and has no relationship to the time within which an action may be commenced to establish Design-Builder's liability with respect to its obligations other than specifically to correct the work.

ARTICLE 18. DISTRICT'S RIGHT TO TERMINATE CONTRACT

Section 18.01. Termination by the District for Convenience.
The District may at any time and for any reason, terminate, in whole or in part, Design-Builder's Work at the District's convenience. Termination shall be by written notice to Design-Builder. Upon receipt of such notice, Design-Builder shall, unless the notice directs otherwise, immediately discontinue its work and the placing of orders for materials, facilities and supplies in connection therewith, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to the District, or at the option of the District, the District shall have the right to assume those obligations directly, including all benefits to be derived therefrom. Design-Builder hereby assigns to the District all of its interest in said orders and/or contracts, and the assignment of said orders and/or contracts shall be effective upon notice of acceptance by the District in writing, and only as to those orders and/or contracts which the District designates in writing. Following receipt of notice of termination, Design-Builder shall thereafter do only such work as may be necessary to preserve and protect portions of its work already in progress and to protect materials and equipment on or in transit to the Project.

Upon such termination, Design-Builder shall be entitled to payment only as follows: (1) Design-Builder's direct, actual cost of the Work allocable to the portion of the Work completed in conformity with the Contract, but in no event to exceed the amount of the Contract Sum allocable to the portion of the Work completed in conformity with the Contract; plus (2) previously unpaid costs of any items delivered to the Project Site which were fabricated for subsequent incorporation in the Work, but in no event to exceed the portion of the Contract Sum allocable to said items; plus (3) an allowance of ten percent (10%) of the foregoing costs for Design-Builder's overhead and profit; plus (4) any proven losses with respect to materials and equipment directly resulting from the termination; plus (5) reasonable demobilization costs. Design-Builder is required to incorporate these terms into its subcontracts so no costs of terminating subcontracts other than as specified herein will be permitted. The costs referred to in this section shall be calculated and documented as required for a change order under Article 15 of the General Conditions, except that mark-up for overhead and profit shall be only as allowed by this section. There shall be deducted from such sums the amount of any payments made to Design-Builder prior to the date of the termination of this Contract. Design-Builder shall not be entitled to any claim or claim of lien against the District for any additional compensation or damages in the event of such termination and payment beyond that provided for in this Section.

In connection with any termination for convenience, Design-Builder shall allow the District, District Representative or any authorized representative(s) to inspect, audit, or reproduce any records to the extent necessary for the District or District Representative to evaluate and verify the costs incurred by Design-Builder in performing the Work, including direct and indirect costs such as overhead allocations. Design-Builder will make this material available upon 48-hours' written notice from the District or District Representative. The District and District Representative may inspect and copy, from time to time and at reasonable times and places, any and all information, materials and data of every kind and character (hard copy, as well as electronic data), including without limitation, books, papers, documents, subscriptions, recordings, estimates, price quotations, agreements, purchase orders, leases, contracts, commitments, arrangements, notes,

daily diaries, superintendent reports, drawings, receipts, vouchers, monthly, quarterly, yearly or other financial statements, and any and all other information or documentation that may, in the judgment of the District or District Representative, have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Contract Documents. Such records shall include but not be limited to, the following: accounting records, payroll records, job cost reports, job cost history, margin analysis, written policies and procedures, subcontract files (contracts, correspondence, change order files, including documentation covering negotiated settlements), back charge logs and supporting documentation, general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends, and any other documents customarily maintained by contractors performing work on public works projects or that the District or District Representative otherwise deem necessary to substantiate charges related to a termination.

If this Contract is terminated for default under Section 18.02 and if it is later determined that the default was wrongful, such default termination automatically shall be converted to and treated as a termination for convenience under this section. In such event, Design-Builder shall be entitled to receive only the amounts payable under this section, and Design-Builder specifically waives any claim for any other amounts or damages, including any claim for consequential damages or lost profits.

Section 18.02. Termination by the District for Cause.

The District may terminate the Contract and/or Design-Builder's right to proceed with the Work, pursuant to the provisions of this Article, for the following causes:

A. Design-Builder is insolvent or has made a general assignment for the benefit of creditors, or a receiver has been appointed on account of the insolvency of Design-Builder.

B. Design-Builder or any of its Subcontractors materially violate any of the provisions of the Contract Documents or fail to perform the work within the time specified in the current Contract Schedule.

C. Design-Builder or any of its Subcontractors should fail to make prompt payment to Subcontractors or material suppliers for material or for labor as required by statute.

D. Design-Builder or a Subcontractor persistently disregards laws, ordinances, or the instructions of the District Representative, District Architect or the District.

E. Design-Builder fails to abide by a stop work notice issued pursuant to Article 9 or fails to correct rejected work or materials as required by Article 17.

F. Design-Builder fails to provide and keep in full force and effect all insurance required by the Contract Documents 3, or fails to cause all Subcontractors to so comply.

G. Design-Builder fails to supply a sufficient number of properly skilled workers or proper materials to timely complete the Work.

H. Design-Builder commits any violation of the terms and conditions of the Contract Documents which the District, in its sole discretion, finds to be a material breach of the Contract.

Section 18.03. Procedure for Termination for Cause.
The District may, without prejudice to any other right or remedy, give written notice to Design-Builder and its surety or sureties of its intention to terminate the Contract and/or Design-Builder's right to proceed with the Work.

Unless Design-Builder shall cease such violation and make satisfactory arrangements for a correction thereof within seven (7) days of the delivery of such notice, or such longer period specified in the notice, which arrangements are set forth in a written agreement signed by Design-Builder and the District, Design-Builder's right to complete the Work shall cease and terminate.

In the event of any such termination, the District shall immediately give written notice thereof to the surety and to Design-Builder and the surety shall have the rights and obligations set forth in the performance bond. If the District is forced to take over the Work, it may prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Design-Builder, and Design-Builder and its sureties shall be liable to the District for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, the District may, without liability, take possession of and utilize in completing the Work, Design-Builder's materials whether stored at the Site or elsewhere, that are necessary for completion. Design-Builder hereby assigns to the District all of its interest in orders and/or contracts existing at the time of termination. The assignment of said orders and/or contracts shall be effective upon notice of acceptance by the District in writing, and only as to those orders and/or contracts which the District designates in writing. Whenever Design-Builder's right to proceed is terminated, Design-Builder shall not be entitled to receive any further payment until the Work is finished and shall be liable to the District for liquidated damages for all periods of time from such termination date until the Date of Substantial Completion, as well as for all losses incurred by the District in completing the Work.

Section 18.04. Not Used.

Section 18.05. Not Used.

Section 18.06. Survival of Obligations.
No termination of this Contract or of Design-Builder's right to proceed with the Work shall excuse or otherwise relieve Design-Builder of its responsibilities under the Contract Documents with respect to any Work performed prior to the date of termination, including, without limitation, its obligation to perform the Work in a good and workmanlike manner, free of defects, and in accordance with the Contract Documents, its warranty obligations with respect to the Work, and its obligation to make all payments due. All of Design-Builder's responsibilities under the Contract Documents with respect to the Work performed prior to the date of termination shall survive any termination.

Section 18.07. Termination After Contract Time.
In addition to any rights it may have, the District may terminate this Contract or Design-Builder's right to proceed with the Work at any time after the Contract Time, as adjusted by any extensions of time that the District may have granted.

Upon such termination, in addition to Design-Builder's obligations under Section 18.06 and the other provisions of the Contract Documents, Design-Builder shall not be entitled to receive any compensation for services rendered before or after such termination until the Work is completed, and Design-Builder shall be liable to the District for liquidated damages for all periods of time from the Contract Time, adjusted by any extensions of time that the District may have granted, until the date of Substantial Completion, as well as for all losses incurred by the District in completing the Work.

ARTICLE 19. PRESERVATION AND CLEANING

Section 19.01. Periodic Cleaning of Project.
Design-Builder shall properly clean its Work and the Site, and maintain its Work area in an orderly manner. Design-Builder shall remove all dirt, debris, waste, rubbish, and implements of service from the Project, the adjacent sidewalks and streets, and the working area daily or as directed by the District Representative. Debris, waste, or unused construction materials shall not be left under, in, or about the Project, nor allowed to accumulate on the Site or in the working area.

Design-Builder, at its sole cost, shall contract with a disposal company to remove all rubbish, and shall have the refuse containers emptied at frequent enough intervals so that waste does not overflow the containers.

If Design-Builder fails to clean up during progress or upon completion of the Work, the District may, at Design-Builder's expense and reduce the amount of the Contract Sum, including any payment(s) due or to become due, accordingly.

Section 19.02. Final Cleaning of Project.
Prior to final acceptance, Design-Builder shall thoroughly clean the interior and exterior of the buildings, and the Site and adjacent areas, of all material related to its performance of the Work, including spots, stains, paint spots, trade markings and labels, and accumulated dust and dirt. In the event Design-Builder fails to do so, the District may cause this work to be done at Design-Builder's expense and reduce the amount of the Contract Sum, including any payment(s) due or to become due, accordingly.

The following list is not inclusive but to act as a guideline to include:

A. Removal of all paint spots, stains, petrochemical spills, and other foreign deposits.

B. Removal of all rubbish, construction debris, grime, waste material, litter, and other foreign substances.

C. Removal of all tools, construction equipment, machinery, and surplus material not required to be turned over to the District from all areas.

D. Remove all labels that are not permanent labels.

E. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.

F. Cleaning interior and exterior of the buildings to a dirt-free condition, free of stains, films, and similar foreign substances, including without limitation all walls, doors, ledges, registers/grilles, light fixtures, and windows, in any area affected by the Work. Removing glazing compounds and cleaning transparent materials, including mirrors and glass in doors and windows.

G. Sweeping paved areas broom clean. Raking grounds that are neither planted nor paved to a smooth, even-textured surface. Brushing off, broom sweeping, dusting and cleaning ledges, stairs, doors, hardware,.

H. Finishing all floors with sealer, wax, and/or other finishes required by the Construction Documents and mopping same; vacuuming all carpets.

I. Repairing any areas damaged during the course of construction.

Prior to Final Completion or District occupancy, Design-Builder shall conduct an inspection of sight-exposed surfaces, and all work areas, to verify that the entire work is clean. In the event Design-Builder fails to do so, the District may cause this work to be done at Design-Builder's expense and reduce the amount of the Contract Sum, including any payment(s) due or to become due, accordingly.

ARTICLE 20. COMPLETION, INSPECTION, AND OCCUPANCY BY DISTRICT

Section 20.01. Inspection.

When Design-Builder believes that its Work is complete, it shall request in writing a final inspection. Before calling for final inspection, Design-Builder shall determine that the following work has been performed:

A. General construction has been completed.

B. Mechanical and electrical work complete, fixtures and portables, in place, connected and ready for tryout and test.

C. Electrical circuits scheduled in panels and disconnect switches labeled.

D. Painting and special finishes complete.

E. Doors complete with hardware, cleaned of protective film and relieved of sticking or binding and in working order.

F. Tops and bottoms of doors sealed, if needed.

G. Floors waxed and polished as specified.

H. Broken glass replaced and glass cleaned.

I. Grounds cleared of Design-Builder's equipment, raked clean of debris, and trash removed from the Site.

J. Work cleaned, free of stains, scratches, and other foreign matter, replacement of damaged and broken material.

K. Finish and decorative work shall have marks, dirt and superfluous labels removed.

Final inspection will be made upon written notification from Design-Builder to District that the Work has been completed. Design-Builder shall receive a list (punch list) of items found unacceptable and shall promptly correct them. Upon written notification from Design-Builder that all items have been corrected, re-inspection for final acceptance of the Project will be made. Failure of Design-Builder to complete punch list items will necessitate further re-inspection. Costs of re-inspection will be deducted from any amounts due to Design-Builder.

If punch list work needs to be performed after the District has taken occupancy of a phase or the entire Work, then the Work shall be conducted outside of normal school hours at the direction of the District Representative.

No one is authorized to amend the Contract Documents by use of the punch list; it is provided solely for the benefit of Design-Builder to enable it to determine what items must be corrected

before final acceptance will be recommended. The District reserves the right to require compliance with the Contract Documents, notwithstanding the issuance of a punch list or the completion by Design-Builder of all items on the punch list.

Section 20.02. Use of Work Prior to Acceptance.
Whenever, in the opinion of the District, the Work or any part thereof, is in a condition suitable for use, and the best interests of the District require such use, the District may take possession of, connect to, and open for public or District use that portion of the Work. The District shall provide Design-Builder not less than ten (10) days' notice of such possession or use.

The District's occupancy shall not constitute acceptance by the District of the Work or any part thereof. Such use shall neither relieve Design-Builder of any of its responsibilities under the Contract Documents, nor act as a waiver by the District of any of the terms or conditions of the Contract Documents. Any damage done by the District is the responsibility of the District. Design-Builder acknowledges and agrees that any occupancy and/or use of all or any portion of the work of improvement does not constitute acceptance or completion within the meaning of California Civil Code section 9200.

Section 20.03. Repairs or Renewal in the Work.
Prior to the Date of Completion, Design-Builder shall make all repairs or renewals in the portion of the Work occupied pursuant to Section 20.02 made necessary due to defective material or workmanship, or the operations of Design-Builder, ordinary wear and tear accepted.

Section 20.04. Not Used.

Section 20.05. Coordination with Other Activities.
Design-Builder shall conduct its operations so as not to interfere unreasonably with the District's use of the occupied portions of the Site. Design-Builder shall submit periodic schedules to the District Representative proposing the times, areas, and types of work to be done within such areas.

If the Work produces conditions rendering the occupied portions of building, the Site, or other areas uninhabitable, either because of noise, dust, vibration, smoke, fumes, or for any other cause whatsoever, the District Representative may suspend the Work or request Design-Builder to modify the Construction Schedule, and Design-Builder shall comply.

If the District takes occupancy pursuant to Section 20.02 it shall not unreasonably interfere with Design-Builder's ability to complete its work in a timely and efficient manner.

Except as provided by Change Order, Design-Builder shall not be entitled to a time extension or increase in the Contract Sum by virtue of conflicts between Design-Builder's Work and the District's occupancy.

ARTICLE 21. PROJECT CLOSEOUT

Section 21.01. Design-Builder's Certificate of Completion.
When Design-Builder determines that the Project is complete and all items on the punch list have been satisfied, Design-Builder shall submit a Certificate of Completion to the District Representative.

Section 21.02. Additional Submissions.
Simultaneously with Design-Builder's Certificate of Completion, Design-Builder shall submit the following items to the District Representative:

A. As-built drawing information pursuant to Section 5.02.

B. One (1) original set of documentation and one (1) PDF file(s) in electronic format uploaded into the PMIS completely covering the operation and maintenance of the mechanical and electrical installation, elevators, kitchen equipment, and all other equipment required by the technical specifications to be furnished with such manuals. The documentation shall include charts, diagrams, performance curves, catalog information, lubrication manuals, and details pertaining to the functioning of various items of equipment. The documentation shall be divided logically into "systems" on the basis of operation, without respect to trades, subcontractors or arbitrary specifications sections. The relationship of the "systems" shall be clearly and concisely detailed.

C. Hazardous material documentation if required.

D. DSA Form 6C - Final Verified Report.

E. DVBE Compliance Report in the form required by the District documenting and certifying the amount of Work performed by DVBEs.

F. All other required DSA, California Department of Education, State Allocation Board and Office of Public School Construction forms.

G. Any extra stock material and equipment and manufacturer warranties/guarantees as required by the contract documents.

H. Other items as required in the Contract Documents.

Section 21.03. Final Payment Process.
Upon approval of the submittals required by this Article and receipt of the Contractor's final payment application, and upon verification that all of the Work is complete, including all punch list items, the District Representative shall either (1) recommend to the District that the payment application be accepted, which recommendation shall be made within five (5) business days of receipt of Design-Builder's final payment application, or (2) send a notice to Design-Builder rejecting the payment application, stating the basis therefor, and submitting a written estimate of the sum due to Design-Builder, which written estimate shall be provided to Design-Builder within twenty (20) calendar days

of the District Representative's receipt of Design-Builder's final payment application. The District Representative's estimate shall take into account the Contract Sum, as adjusted by any Change Orders; amounts already paid; and sums to be retained for incomplete work, liquidated damages, and for any other cause under the Contract Documents. Any protest by Design-Builder of the District Representative's estimate shall be as set forth in Section 21.04 and Article 23.

If the DVBE Compliance Report is missing, then the District will withhold no more than ten thousand dollars ($10,000) from the final payment due to the missing Report. If the final payment is reduced due to a missing DVBE Compliance Report, then the District Representative shall notify Design-Builder that (a) the missing Report must be provided by a date certain, no less than 15 days and no more than 30 calendar days following the date of the notice and (b) failure to provide the Report will result in a $10,000 permanent deduction from the final payment. In accordance with Military & Veterans Code section 999.7, the District will withhold ten thousand dollars ($10,000) from the final payment until Design-Builder submits the required DVBE Compliance Report. If Design-Builder fails to provide the Report after being provided written notice of its failure to submit the Report, within the time required by the notice, then District shall permanently deduct ten thousand dollars ($10,000) from the final payment.

The District Architect shall prepare a statement of final inspection, stating that the Work has been given a final inspection, that Design-Builder has submitted the required documents (or which documents are missing), setting forth with detail any deviations in the Work as completed from the Contract Documents, and estimating the cost of correction of such deviations.

The District Architect's statement shall be transmitted to the District along with Design-Builder's application for final payment approved by the District Representative, District Architect and Project Inspector. The District Representative shall provide a copy of the District Architect's statement of final inspection to Design-Builder.

Section 21.04. Protest of the District Representative's Estimate; Claims.
If Design-Builder contests the estimate of sums due prepared by the District Representative, Design-Builder may file a claim in writing with the District Representative pursuant to the requirements of Article 23 and setting forth in detail all grounds alleged by Design-Builder to justify an adjustment to the District Representative's estimate. Design-Builder's claim shall be certified under penalty of perjury and in compliance with the California False Claims Act. Failure to include these required certifications will constitute grounds for immediate rejection of the claim.

Failure to file a timely claim shall constitute a waiver and acceptance by Design-Builder of the District Representative's estimate, which shall then become final and be forwarded to the District for approval of payment.

Section 21.05. Completion; Acceptance of Contract; Notice of Completion.
Design-Builder acknowledges and agrees that completion shall mean Design-Builder's complete performance of all Work required by the Contract Documents, amendments, Change Orders, Construction Change Directives and punch lists, and the District's formal acceptance of the Work, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy or otherwise.

Acceptance of the Work shall be made only by formal acceptance by the District. Recordation of a Notice of Completion shall be in the manner prescribed by law, provided that the Work shall then be fully and satisfactorily completed and the provisions of the Contract Documents fully and satisfactorily performed in all respects.

Section 21.06. Approval of Final Payment.
Following acceptance of the Work, the District shall authorize final payment to Design-Builder of the undisputed sums found due, subject to retentions for stop payment notices as provided in Section 21.07 below. This final payment shall be made within sixty (60) days after completion, as defined in Section 21.05 above, and recordation of the Notice of Completion.

Section 21.07. Withholding for Stop Payment Notices.
The District will withhold from Design-Builder any unpaid claims alleged in stop payment notices filed pursuant to California Civil Code sections 9350 *et seq*. The District reserves all remedies it may have in the event of a stop payment notice dispute. The basic standard to determine a sufficient withholding in the event of a stop payment notice shall be one hundred fifty percent (150%) of the total of all stop payment notices filed; provided, however, the District reserves the right to withhold different or greater sums in its discretion.

Section 21.08. Non-Waiver.
Neither acceptance of, nor payment for, the Work or any part thereof, nor any extension of time, nor any possession taken by District shall operate as a waiver of any of the provisions of this Contract, nor shall a waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach. In addition, recordation of a Notice of Completion shall not be deemed an acceptance of latent defects, nor shall it constitute a waiver of any of the provisions of this Contract.

ARTICLE 22. GUARANTEES

Section 22.01. Guarantee Required.
Neither the final payment nor any provision in the Contract Documents shall relieve Design-Builder of responsibility for any faulty Work under the Contract Documents. As provided in greater detail in the Guarantee form required in connection with Project close-out, Design-Builder shall and does unconditionally guaranty the quality and adequacy of all of Work provided under the Contract Documents including, without limitation, all labor, materials, and equipment provided by Design-Builder and its Subcontractors (of all tiers) in connection with the Work and hereby agrees, immediately upon receiving notification from District, to remedy, repair, or replace, without cost to District, all defects which may appear as a result of any faulty Work in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending two (2) years after the Notice of Completion date for the Project.

The foregoing warranty of Design-Builder applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by Design-Builder and/or any party retained by, through or under Design-Builder in connection with the Project, but the foregoing warranty of Design-Builder does not guarantee against damage to the Project sustained by lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Design-Builder, except where such changes or additions to the Project are made in accordance with Design-Builder's directions. No guarantee furnished by a party other than Design-Builder with respect to equipment manufactured or supplied by such party shall relieve Design-Builder from the foregoing warranty obligation of Design-Builder. The warranty period set forth hereinabove shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply.

If, in the opinion of the District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the District, the District will attempt to give the notice required by this Article. If Design-Builder cannot be contacted or does not comply with the District's requirements for correction within a reasonable time as determined by the District, the District may proceed to make such correction and the reasonable cost shall be charged to Design-Builder. Such action by the District will not relieve Design-Builder of the guarantee provided in this Article or elsewhere in the Design-Build Agreement and/or Construction Documents.

This Article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Design-Builder shall furnish District all appropriate guarantee and warranty certificates upon completion of the Project.

The guarantee is in addition to, and not in lieu of, the District's rights under the Design-Build Agreement, these General Conditions, and/or the Contract Documents.

ARTICLE 23. CLAIMS AND DISPUTES

Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq*. and 9204. A summary of those provisions is set forth below. A waiver of the rights granted by the referenced statutes is void and contrary to public policy, provided, however, that (1) upon receipt of a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) the District may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the statutory requirements, so long as the contractual provisions do not conflict with or otherwise impair the statutory timeframes and procedures. To the extent that the summary below is inconsistent with any requirement of those statutes, the statutes shall control. The terms below are intended to be consistent with the governing statutes, and any modifications shall be understood as lawful modifications or additions to the statutory requirements if at all possible.

Section 23.01. Notice of Potential Claim.

Design-Builder shall promptly provide a written Notice of Potential Claim to the District upon discovery of concealed or unknown conditions or discovery of facts regarding any disagreement, protest, direction, situation, event, or occurrence that may result in a claim, including but not limited to changes in work and delays. The written Notice of Potential Claim shall set forth the reasons for which Design-Builder believes application of an Allowance or Contingency or adjustment to the Contract Sum or Contract Time will or may be due, the nature of the costs and/or time involved, and, insofar as possible, the amount of the potential claim. The Notice shall be submitted as soon as practical, but no more than five (5) working days after the discovery of any facts or event that does or may give rise to the claim, unless a different period for notice is specified in the Contract. **Failure to timely submit the Notice of Potential Claim constitutes acknowledgement that the condition(s), fact(s), occurrence(s) or event(s) did not cause any increase in cost or time to perform and waives any Claim that Design-Builder otherwise may have had the right to submit based on such condition(s), fact(s), occurrence(s) or event(s).**

Section 23.02. Definitions.

"Claim" means a separate demand by Design-Builder sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) payment by the public entity of money or damages arising from work done by, or on behalf of, Design-Builder pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) payment of an amount that is disputed by the District.

"Mediation" means any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation.

"Public works contract" or "public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

"Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with Design-Builder or is a lower tier subcontractor.

Section 23.03. Claims Procedure.
All Claims under this Agreement shall be resolved using the following procedure.

23.03.01 The Claim shall be in writing and include the documents necessary to substantiate the Claim. The evaluation of the Claim will be based on the District's records and the Claim documentation submitted by Design-Builder, which shall include but not be limited to the following: an explanation of the background; a chronology (including dates of all key events and date(s) that the Notice of Potential Claim was given); an explanation of Design-Builder's position; supporting documentation of merit; analysis of delay for any claimed additional time, including CPM schedules; and a calculation of damages or additional amounts claimed, if any. Supporting documentation of merit may include, but not be limited to, Construction Documents, correspondence, conference or meeting notes, shop drawing logs, survey books, inspection reports, delivery schedules, test reports, daily reports, subcontracts, CPM schedules, photos, RFIs, Directives, and other such records. Supporting documentation of damages may include, but not be limited to, certified payroll reports; purchase orders; invoices; project as-planned and as-built costs; Subcontractor payment releases; quantity reports; other related records; general ledger and any other accounting materials.

Claims must be filed on or before the date of final payment, except that the Claim must be submitted no later than thirty (30) days from the date of the District Representative's estimate of sums due. Any Claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 23.04 below. **Failure to include these required certifications will constitute grounds for immediate rejection of the Claim and shall be deemed a waiver and absolute bar of the Claim, including any right to pursue the Claim further.**

23.03.02 If a Subcontractor, including a lower tier Subcontractor, lacks legal standing to assert a Claim against the District because privity of contract does not exist, then Design-Builder may present a Claim on behalf of such a Subcontractor. A first-tier Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that Design-Builder present a Claim on behalf of the Subcontractor for work that was performed by the Subcontractor. The Subcontractor requesting that the claim be presented shall furnish reasonable

documentation to support the Claim. Within 45 days of receipt of this written request, Design-Builder shall notify the Subcontractor in writing as to whether Design-Builder presented the Claim and, if Design-Builder did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.

23.03.03 Upon receipt of a Claim, the District shall conduct a reasonable review of the Claim. Within 30 days of receipt of the Claim, the District may request, in writing, any additional documentation supporting the Claim or relating to defenses to the Claim that the District may have against Design-Builder. Where additional information is requested by the District, the time in which the District must respond to a Claim shall be tolled until all requested information is provided. If additional information is thereafter required, then it shall be requested and provided upon mutual agreement of the District and Design-Builder.

23.03.04 Within 45 days of receipt of the Claim, as that time may be tolled as provided in Section 23.03.03 above, the District shall provide Design-Builder with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and Design-Builder may, by mutual agreement, extend the time period for a response. Failure by the District to respond to a Claim within the time periods described herein shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by failure of the District to respond shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of Design-Builder.

23.03.05 Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. The District shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the Agreement.

23.03.06 If Design-Builder disputes the District's written response, or the District fails to respond within the time prescribed, Design-Builder may so notify the District, in writing, either within 15 days of receipt of the District's response or within 15 days of the District's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by registered mail or certified mail, return receipt requested, the District shall schedule a meet and confer conference within 30 days for settlement of the dispute.

23.03.07 Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, then the District shall provide Design-Builder a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Failure by the District to provide the written statement within the time periods described herein shall result in the remaining Claim issues being deemed rejected in their entirety. Denial by failure of the District to respond shall not constitute an adverse finding with regard to the merits of the remaining Claim issues or the responsibility

or qualifications of Design-Builder. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement.

23.03.08 Any remaining disputed portion of the Claim following the meet and confer conference shall be submitted to nonbinding mediation, with the District and Design-Builder sharing the associated costs equally. The District and Design-Builder shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. Unless otherwise agreed to by the District and Design-Builder in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced. This Section does not preclude arbitration if mediation under this Section does not resolve the parties' dispute.

23.03.09 If mediation is unsuccessful, then Design-Builder may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the Claim remaining in dispute. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time Design-Builder submits its written Claim pursuant to Section 23.03.01 until the time that mediation of disputed portions of that Claim is completed. This Section does not apply to tort claims, and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

23.03.10 Amounts not paid in a timely manner as required by this Section shall bear interest at seven percent (7%) per year.

23.03.11 Claims of $375,000 or less are subject to the following procedures for civil actions filed to resolve the claims:

(a) The case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any such proceeding, consistent with the rules pertaining to judicial arbitration.

(b) The parties stipulate that the arbitrator shall be experienced in construction law and shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid

equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(c) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration award, requests a trial *de novo* but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial de novo.

(d) The court may, upon request by any party, order any witnesses to participate in arbitration process.

In any suit filed under Public Contract Code Section 20104.4, the District shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

Section 23.04. Claim Certification.
Design-Builder acknowledges that it has read and is familiar with the provisions of the False Claims Act (California Government Code sections 12650 *et seq*.). Submission by Design-Builder of any claim (as the term "claim" is defined in False Claims Act) to the District in connection with the Project, whether on its behalf or on behalf of a subcontractor or material supplier, shall constitute a representation by Design-Builder to the District that submission of the claim does not in any respect, violate the False Claims Act. Any party with an interest in the claim, including Design-Builder and any subcontractor or material supplier, shall certify under penalty of perjury the validity and accuracy of any claim submitted to the District, as provided below. Compliance with this claims certification requirement shall be a condition precedent to any obligation District might otherwise have to review the claim and failure to provide such certification shall constitute a waiver of the claim.

The claim certification required by this Section shall provide as follows:

CLAIM CERTIFICATION

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650 *et seq*., I certify that submission of the attached claim is made in good faith; that the supporting data prepared by the undersigned company are accurate and complete to the best of my knowledge and belief; that submission of the claim to the District does not violate the False Claims Act; and that I am duly authorized to certify the claim on behalf of the claimant.

Dated:_____ _____
(Company)

_____
(Signature)

Title:_____

Section 23.05. Continuance of Work.

In the event of a dispute between the parties as to performance of the Work or the interpretation of the Contract Documents, or payment or nonpayment for Work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, Design-Builder agrees to continue the Work diligently to completion. If the dispute is not resolved, Design-Builder agrees it will not stop the progress of the Work on the Project.

ARTICLE 24. ADDITIONAL PROVISIONS

Section 24.01. Conflict of Interest.
No official of the District who is authorized on behalf of the District to negotiate, make, accept, or approve, any architectural, engineering, inspection, construction, or materials supply contract, or any subcontract in connection with the design and/or construction of the Project, or any land acquisition in connection with the Project, shall become directly or indirectly interested personally in the contract or in any part thereof.

No officer, employee, architect, attorney, consultant, engineer, or inspector of or for the District who is authorized on behalf of the District to exercise any executive, supervisory, or other similar function in connection with the Construction of the Project shall become directly or indirectly interested personally in the contract or any part thereof.

Section 24.02. No Oral Agreements.
No oral agreement or conversation with any officer, agent, or employee of the District, either before, during, or after the execution of the Design-Build Agreement, shall affect or modify any term or condition contained in the Contract Documents, nor shall such oral agreement or conversation entitle Design-Builder to any additional payment or time to perform.

Section 24.03. Anti-Trust Assignment.
By execution of the Design-Build Agreements, or any Subcontract awarded by Design-Builder, Design-Builder or any Subcontractor offers and agrees to assign and hereby does assign to the District all rights, title, and interest in and to all causes of action Design-Builder or Subcontractor may have under Section 4 of the Clayton Act (15 USC section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with Section 16700), arising from purchases of goods, services, or materials pursuant to the Contract Documents or subcontract. This assignment shall be made and shall become effective at the time the District tenders final payment to Design-Builder, without further acknowledgement by the parties.

Section 24.04. Design-Builder Not Agent Or Employee.
Neither Design-Builder nor any subcontractor, nor any officer, agent, or employee of either, is, nor shall they represent themselves to be, an officer, agent, or employee of the District for any purpose whatsoever.

No person employed by Design-Builder, or by any subcontractors, are, nor shall they be construed to be in any manner or for any purpose whatsoever, employees of the District.

Section 24.05. Access to Records.
The District or the District's Authorized Representative shall have access, upon reasonable notice, during normal business hours, to any books, contracts, documents, accounting records, papers, project correspondence, project files, scheduling information and other relevant records of Design-Builder and all subcontractors directly or indirectly pertinent to the Work, original as well as change and claimed extra work, to verify and evaluate the accuracy of cost and pricing

data submitted with any permitted use of the Contingencies or Allowances, Change Order prospective or executed, or any claim for which additional compensation has been requested.

Such books, documents, and other records mentioned above shall include, but are not limited to, all those reasonably necessary in the opinion of the District to determine the accurate amount of direct and indirect costs, job site, area and home office overhead, delay and impact costs, however characterized, and shall include all documents related to the GMP Amendment and bidding conducted in connection therewith, as well as all documents related to the planned and actual Contract Schedule.

Such access shall include the right to examine and audit such records, and make excerpts, transcriptions, electronic copies, and/or photocopies at the District's cost.

Section 24.06. Waiver of Consequential Damages

Neither Design-Builder nor the District shall be liable for consequential or incidental damages, even if notification has been given as to the possibility of such damages, except to the extent that the potential liability for such damages arises from violation of intellectual property rights of a third party and/or from the indemnification obligation herein if such damages are awarded to a third-party. Nothing in this Section shall preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents or shall preclude, compromise, or modify the duties to indemnify and/or defend set forth in the Contract Documents.

Section 24.07. Force Majeure

No delay in, or failure of performance, shall constitute default if such delay or failure is caused by acts of the State in its sovereign capacity, fires, floods, earthquakes, disabling labor strikes, epidemics, quarantine restrictions, freight embargoes, riot, war, terrorism, extraordinary weather conditions, or any other cause beyond the reasonable control of either party, provided that the party asserting such an event as a cause of delay shall give the other party written notice of the same as soon as practical, but in no event later than five (5) days after the occurrence of the event giving rise to the delay.

EXHIBIT E

Insurance Requirements

Section I. Insurance.

Design-Builder shall obtain and maintain during the entire period for performance under the Contract Documents, all insurance required by Sections II, III, IV, and VI. Certificates of Insurance and required endorsements, including but not limited to Additional Insured Endorsements and Waivers of Subrogation in favor of the District, the District Architect, the Construction Manager, and any other District Consultants, and each of their officers, officials, directors, trustees, agents, employees and volunteers (herein after collectively referred to as "Additional Insureds"), shall be delivered to the District within five (5) days of execution of the Design-Build Agreement by the District. Design-Builder shall not commence work until all required insurance documentation has been submitted to and accepted by the District. If the District requests copies of the Insurance Policy or Policies, Design-Builder agrees to provide certified copies within 30 days of the District's request.

Every policy shall be endorsed or shall provide in the policy form to state that the policy shall not be canceled, materially reduced, or non-renewed without thirty (30) days prior written notice to District (ten [10] days for non-payment of premium).

Failure of Design-Builder to maintain all required insurance during the entire period for performance under the Contract Documents shall constitute a default entitling the District to all rights and remedies that exist under this Agreement and/or by law.

The insurance required in this Agreement shall be with carriers and on forms acceptable to the District and shall be subject to the approval of the District. Any acceptance of insurance certificates by the District, however, shall in no way limit or relieve Design-Builder of the duties and responsibilities in this agreement.

Section II. Effective Date and Term of Policies.

The insurance required by this Exhibit shall be maintained by Design-Builder in full force and effect at all times during prosecution of the work and, with the exception of Builder's Risk, until four (4) years after the final completion and acceptance thereof by District. This requirement includes, but is not limited to, Design Builder's obligation to maintain Products & Completed Operations coverage for itself and the Additional Insureds.

Section III. Workers' Compensation and Employers' Liability Insurance.

In accordance with the provisions of Section 3700 of the Labor Code, Design-Builder, and each Subcontractor, shall secure the payment of compensation to its employees. Design Builder and each Subcontractor shall provide Workers' Compensation insurance and occupational disease insurance, as required by law, and Employer's Liability insurance with minimum limits of $1,000,000 covering all workplaces involved in the Construction Documents.

Design-Builder shall sign and file with the District the following certificate on the form provided by the District:

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

Design-Builder shall require each Subcontractor to file such statement prior to allowing that Subcontractor to commence Work.

Design-Builder shall furnish a certificate of insurance or a certificate of permission to self-insure under the Workers' Compensation and Employers' Liability Insurance statutes of the State of California. The certificate shall provide that at least thirty (30) days' prior written notice (ten [10] days for non-payment of premium) shall be served on District prior to the cancellation or change of such insurance or self-insurance. Said certificate shall also include an endorsement evidencing that the insurer shall waive all rights of subrogation against the District, the District Architect, the Construction Manager, and any other District Consultants, and each of their officers, officials, directors, trustees, agents, employees and volunteers for losses arising from work performed by or on behalf of Design-Builder for the District. Such insurance shall be delivered to the District Representative within five (5) days of being notified of the intent to award the Contract, and before the District will execute the Design-Build Agreement.

With the exception of insurance provided by The State Compensation Insurance Fund of California, insurance is to be placed with insurers approved by the State of California Department of Insurance or otherwise authorized to transact insurance business in California and with a Bests' rating of no less than A- VII.

Any deductibles or self-insured retentions must be declared to and approved by the District.

Section IV. Liability Insurance.

Insurance is to be placed with insurers approved by the State of California Department of Insurance to transact insurance business in California and with a Bests' rating of no less than A- VII.

A. Design-Builder shall procure and maintain insurance on all of its operations during the progress of the work, with insurance companies and on forms acceptable to District, for the following minimum insurance coverages:

   1. **Commercial General Liability** Occurrence form insurance policy (ISO CG 00 01 or equivalent) covering all operations by or on behalf of Design-Builder, not excluding coverage for:

      a. Premises and Operations
      b. Products and Completed Operations
      c. Contractual Liability insuring the obligations assumed by the Design-Builder in this agreement or Blanket Contractual Liability Coverage
      d. Broad Form Property Damage (including Completed Operations)
      e. Explosion, Collapse, Subsidence, and Underground Hazards
      f. Personal Injury Liability

Commercial General Liability Limits shall not be less than:

$2,000,000 Each Occurrence (Combined Single Limit for Bodily Injury & Property Damage)

$2,000,000 Personal Injury Liability Each Occurrence

$4,000,000 Aggregate for Products and Completed Operations

$4,000,000 General Aggregate

The required General Liability limits must be present on the primary General Liability policy and cannot be met with Excess Liability limits.

2. **Commercial Automobile Liability** insurance policy (ISO CA 00 01 or equivalent) covering Bodily Injury, Property Damage and Contractual Liability coverage for "Any Auto" (Symbol 1) which includes coverage for any owned, hired, borrowed and non-owned automobile, trailer, and equipment coverage, with combined single limit of not less than $1,000,000.

3. **Excess Liability** Design-Builder shall have in place an Umbrella or Excess Liability Policy in the amount of $20,000,000. The policy shall be "Following Form" in excess of the above captioned policies and Workers' Compensation Employer's Liability. Evidence of this coverage shall be provided on the certificate of insurance.

4. **Professional Liability** As a condition precedent to Design-Builder performing any design-build operations under the Contract Documents, Design-Builder shall obtain at its own expense project specific Professional Liability (Errors & Omissions) coverage to protect, defend, and hold harmless the District and its officers, officials, directors, trustees, agents, employees and volunteers from all claims arising out of the professional services provided by Design-Builder under the Contract Documents. This policy shall also provide coverage for the acts and omissions of the Design-Builder's entire design team for this project. Design-Builder's policy shall have limits of not less than $10,000,000 and shall agree to waive all rights of subrogation. Design-Builder shall maintain coverage for this policy and retroactive dates that will continue coverage for a period of at least five years from the completion of the project. The District may require higher limits by written request.

5. **Pollution Liability** Should the scope of work include any elements that may give rise to a Pollution claim, the Design-Builder shall be required to carry Pollution Liability coverage with limits of at least $5,000,000. The District may require higher limits by written request. The policy shall be endorsed to include by name the "Additional Insureds" as additional insureds and shall include a waiver of subrogation endorsement in favor of the "Additional Insureds."

B. Additional coverages and/or limits may be required in the Contract Documents. If the Contract Documents require limits of General Liability and Automobile Liability insurance exceeding those stated above, Design-Builder shall carry Excess or Umbrella Liability insurance providing excess coverage at least as broad as the underlying coverage with a limit equal to the amount stated in the Contract Documents.

C. Should Design-Builder or any Subcontractor, Consultant, or Subconsultant maintain broader coverage and/or limits than those listed in this Agreement, those limits/coverages are hereby required and shall be made available to District.

B. The following terms shall be included in the General Liability and Auto Liability insurance, either within the policy or by endorsement:

1. All policies shall be endorsed to include by name "Additional Insureds" as additional insureds (the General Liability endorsement shall be at least as broad as ISO form CG 20 10 11 85, and shall provide coverage for Ongoing Operations as well as Products & Completed Operations coverage for the Additional Insureds for the period of time the Additional Insureds may be legally held liable for Design-Builder's work), and shall state that these policies are primary and that any Insurance, Self Insurance or Memorandum of Liability Coverage (MDLC) maintained by District shall be in excess of Design-Builder's insurance and shall not be called upon to contribute to any loss. Evidence of such shall be provided to the District.

2. Except with respect to bodily injury and property damage included within the Products and Completed Operations hazards, the aggregate limit, where applicable, shall apply separately to the project.

3. General Liability insurance shall be written on an "Occurrence" basis and defense costs shall be outside the policy limits of liability. "Modified Occurrence" and "Sunset" type clauses are not acceptable

4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the " Additional Insureds."

5. General Liability Coverage shall state that Design-Builder's insurance shall apply separately to each Insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and shall contain a severability of interest/cross liability clause to the effect that each Insured and Additional Insured is covered as if separate policies had been issued to each.

6. Each insurer(s) issuing the required policies shall, by policy provisions or separate endorsement, agree to waive all rights of subrogation against the " Additional Insureds." The General Liability waiver of subrogation must apply to Ongoing Operations as well as Completed Operations.

7. The policy(ies) must provide, by policy provisions or endorsement, that it shall not be canceled, suspended, voided, materially changed or any renewal or replacement policy be changed without thirty (30) days' prior written notice to the District (ten [10] for non-payment of premium). Evidence of such must be provided to the District,

8. The Contractual Liability coverage may be either on a blanket basis or a policy which specifically identifies this Agreement with a contractual liability endorsement.

9. Any deductibles or self-insured retentions must be declared to and approved by the District which amounts shall be no greater than $50,000. Any and all deductibles or self-insurance

retentions in the above described liability insurance policies shall be assumed by and be for the account of, and at the sole risk of Design-Builder.

10. All policies and endorsements are subject to approval at the sole discretion of the District. Endorsements with expiration dates will not be accepted.

Section V. Subcontractor's/Subconsultant's Insurance.

With the exception of policy limits as outlined in this Section, Design-Builder shall require each and every Subcontractor/Subconsultant to maintain insurance coverages commensurate with that which is required of the Design-Builder in Sections I, II, III, and IV of this Attachment 6, and shall incorporate this "Insurance Requirements" exhibit into each subcontract exhibit. This includes, but is not limited to, the Additional Insured and Waiver of Subrogation provisions.

Subcontractors, consultants, and subconsultants performing work valued at $1 million or less may carry General Liability limits no less than as outlined below so long as the policy is not a "wasting" policy or other form of policy that reduces the amount of coverage, in whole or in part, by amounts expended on defense of claims:

$1,000,000 Each Occurrence (Combined Single Limit for Bodily Injury & Property Damage)

$1,000,000 Personal Injury Liability Each Occurrence

$2,000,000 Aggregate for Products and Completed Operations

$2,000,000 General Aggregate

Commercial Automobile Liability: $1,000,000 Combined Single Limit

Employer's Liability: $1,000,000

Excess Liability: $1,000,000

Subcontractors, consultants, and subconsultants performing work valued at greater than the limit stated above, or those with "wasting" policies or other policies that reduce coverage amounts for costs of defense, must provide insurance of the above types for the full amounts required from Design-Builder.

In addition, if Design-Builder does not provide a primary project-specific Professional Liability Insurance policy, subconsultants that have any Project design responsibility must carry Professional Liability Insurance in an amount no less than $2,000,000 per claim. Where a project-specific policy is provided on a primary basis, subconsultants are not required to maintain Professional Liability insurance in connection with the Project.

Should Subcontractor's work include any elements that may give rise to a Pollution claim, Subcontractor shall be required to carry Pollution Liability coverage with limits of at least $2,000,000 per pollution event. The District may require higher limits by written request. The policy shall be endorsed to include by name the "Additional Insureds" as additional insureds and shall include a waiver of subrogation endorsement in favor of the "Additional Insureds."

Should any Subcontractor or consultant maintain broader coverage and/or limits than those required, those limits/coverages shall be made available to the District.

Design-Builder shall not allow any Subcontractor to commence work on its Subcontract until the Subcontractor has provided Design-Builder with Certificates of Insurance and applicable endorsements as well as the signed statement acknowledging compliance with Section 3700 of the Labor Code, as required in Section III. It shall be the responsibility of Design-Builder to ensure that all Subcontractors comply with this provision, and to verify their compliance when requested by the District.

If requested by the District, Design-Builder shall deliver certificates of insurance or copies of the insurance policies and endorsements of all Subcontractors; provided, however, that this authority shall not relieve Design-Builder of its obligation to ascertain the existence of such insurance.

Section VI. Builder's Risk/Installation Floater Insurance.

The Design-Builder shall, at its sole expense, purchase, maintain and keep in force at all times during the construction phase of the Contract, until the date of acceptance by the District, a Builder's Risk/Installation Floater policy (Property Insurance). Such insurance shall protect the District, the Contractor, Subcontractors, Sub-Subcontractors and Material Suppliers at every tier, as their interests may appear, from loss or damage to work in the course of construction. Property insurance shall be on a "Special Form" or equivalent policy and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, flood, windstorm, falsework, mechanical breakdown, or electrical damage including testing and startup, magnetic disturbance, changes in temperature or humidity, temporary buildings, loss that ensues from defective material or workmanship, explosion, and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the District Representative's, District Architect's, Construction Manager's, other District Consultants' and Contractor's services and expenses required as a result of such insured loss in the amount of one hundred percent (100%) of the replacement cost of the Project. In addition, there shall be coverage in the amount of twenty percent (20%) of the replacement cost for Extra Expense and Loss of Use and thirty percent (30%) of the replacement cost for Soft Costs coverage.

A. The following terms shall apply to such coverage:

2. Coverage shall be written on a replacement cost, completed value, non-reporting form and shall cover the property against all risks of physical loss or damage required above.

3. The property covered shall include the work and improvements of the Project, including any materials, equipment or other items to be incorporated therein while the same are located at the construction Site, with reasonable sub-limits for materials stored offsite, or while in transit. The policy shall contain a provision that Design-Builder and the District are Named Insureds under this policy and that the Subcontractors, Sub-Subcontractors, and Material Suppliers at every tier are Named Insureds or Additional Insureds as their interest may appear. A loss insured under the Builder's Risk/Installation Floater policy shall be adjusted by Design-Builder as fiduciary and made payable to Design-Builder as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. Design-Builder shall pay Subcontractors their just shares of insurance proceeds received by Design-Builder, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

4. When stated in the Contract Documents, Builder's Risk/Installation Floater insurance shall include Delay in Opening coverage with limits of liability, and for the period of time, as set forth in the Contract Documents. Coverage shall include interest and/or principal payments that become due and payable by the District upon completion of Construction or other date as set forth in the Contract Documents, debt service, expense, loss of earnings or rental income or other loss incurred by the District, without deduction, due to the failure of the Project being completed on schedule.

5. The maximum deductible under this policy shall be one hundred thousand dollars ($100,000). All deductibles shall be borne solely by Design-Builder, and the District shall not be responsible to pay any deductible in whole or in part.

B. The insurer shall by separate endorsement or policy provisions agree to waive all rights of subrogation against the District, the other "Additional Insureds," Design-Builder, Subcontractors, Sub-Subcontractors, and Material Suppliers at every tier for losses covered by the policy. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owner of such policies will cause them to be so endorsed to obtain such consent.

C. Design-Builder shall provide a copy of the Builder's Risk/Installation Floater policy to the District for approval.

D. If not covered by Builder's Risk/Installation Floater policy or any other property or equipment insurance required by the Agreement, Design Builder shall, at its sole expense, purchase, maintain and keep in force at all times during the term of the Agreement property insurance for portions of Design Builder's work and/or equipment to be incorporated therein stored offsite or in transit.

E. The District shall maintain in effect during the time for performance under the Contract Documents property insurance, including the perils of fire and flood on all pre-existing utilities, buildings, structures, paving, and equipment on the Site.

EXHIBIT F

Certification

I,_____, on behalf of _____, certify that, pursuant to Education Code Section 45125.1 and 45125.2 and Section 8.08 of the contract General Conditions, this business entity has conducted the required criminal background check(s) of all persons who will be providing continual supervision and monitoring of all persons who will be providing services to the Sacramento City Unified School District on behalf of this business entity, and that none of those persons have been reported by the Department of Justice as having been convicted of a serious or violent felony as specified in Penal Code sections 667.5(c) and/or 1192.7(c). I understand that this Certification is not to be signed and submitted until I have received clearance from DOJ regarding those persons named.

As further required by Education Code 45125.1, submitted herewith as Exhibit C is a list of names of the employees or agents of _____ who will be providing continual supervision and monitoring of all persons who will be providing services to the Sacramento City Unified School District on behalf of this business entity and who are required to be fingerprinted as provided in the Agreement. I agree to keep this list current and to notify Sacramento City Unified School District of any addition/deletions as they occur.

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

Executed this ___day of _____, 20___, in _____County, California.

By:

_____

[Name of Design-Builder's Authorized Representative]
(Please print)

_____
(Title)

_____
(Signature)

EXHIBIT G

List of Employees Who Are Authorized to Provide Supervision and Monitoring Services on School Campuses

Name:	School Site (if known)

EXHIBIT H
DVBE Good Faith Efforts Outreach Requirements

Definitions:
"Disabled Veteran Business Enterprise" (DVBE) means a business concern that is certified as a DVBE by the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS).

"Design-Builder" means the Design-Builder that will design and construct the Project.

"Participation Goal" or "Goal" means a numerically expressed DVBE objective that Design-Builder is required to make efforts to achieve in accordance with Section 17076.11 of the Education Code.

"Good Faith Efforts" means that Design-Builder took all necessary and reasonable steps to achieve the DVBE Participation Goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DVBE participation, even if they were not fully successful. Good Faith Efforts are further delineated below.

DVBE Certification:
In accordance with Education Code section 17076.11, this District has a Participation Goal for DVBEs of three percent (3%) per year. For any work performed by a DVBE subcontractor (including materials suppliers) to be counted toward meeting the DVBE Participation Goal, such business concern must possess current and valid certification as a DVBE through the OSDS. In addition, the work must conform to the most current regulations and requirements as published by the California Department of General Services (DGS) and/or OSDS.

A DVBE cannot self-certify. An OSDS certification letter or printout from the DGS certification website (https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx) verifying current DVBE status must be provided for each DVBE participating in the contract. The OSDS certification letter or website printout must be provided with the Proposal or during establishment of the Guaranteed Maximum Price. The District will not give Design-Builder DVBE credit for any DVBE for which Design-Builder fails to provide the required status verification.

Good Faith Efforts
Design-Builder shall either commit to meeting the Participation Goal or demonstrate Good Faith Efforts to do so, as described below. All DVBEs for which Design-Builder is claiming credit (including Design-Builder itself if it is a DVBE) must be listed in the Guaranteed Maximum Price Proposal (on the Subcontractor listing form) on which the GMP Amendment is based and identified as DVBEs, even if the work to be performed is less than one-half of one percent (0.5%) of the bid amount, involves supply of materials, or is to be performed by a lower-tier subcontractor.

Although Good Faith Efforts have been eliminated from Public Contract Code sections 10115 *et seq*., the District's obligation is separately stated under Education Code section 17076.10, so the District may find Design-Builder to have complied with the DVBE requirements if it establishes Good Faith Efforts. In order to establish Good Faith Efforts, Design-Builder must demonstrate at least the following directly and/or through bidders for the subcontracts:

1. Select portions of the work for which to solicit DVBEs in order to increase the likelihood that the DVBE goals will be achieved. This may include breaking out contract work items into smaller units.

2. Search at least the OSDS DVBE database to identify DVBEs to solicit to perform the portions of work identified. *Print the search results to include with the Good Faith Efforts documentation.*
3. Advertise for DVBE participation in focus or trade publications reasonably expected to reach DVBEs in the region as early in the process as is practicable. Depending on the project and results, multiple advertisements may be appropriate. Generally, the first publication should occur no later than one week before bids are due, whichever is earlier. *Submit a copy of the advertisement(s) with the Good Faith Efforts documentation.*
4. Solicit interest from identified DVBEs (from the OSDS database or otherwise) as early in the bidding process as practicable to allow the DVBEs to respond to the solicitation and submit a timely bid. Solicitations may be by phone, fax, email, letter, or other reasonable means, but must be documented. Submit documentation of all outreach efforts with the Good Faith Efforts documentation. *Include copies of all DVBE responses.*
5. Follow up initial solicitations. *Document all such efforts and DVBE responses as part of the Good Faith Efforts documentation.*
6. Work with interested DVBEs, including providing adequate information about the project and portions of work available and negotiating in good faith with interested DVBEs to assist them with being able to bid. *Document all such efforts with the Good Faith Efforts documentation.*

Substitutions

Design-Builder and its subcontractors must use the DVBE subcontractor(s) and/or supplier(s) proposed unless Design-Builder requests and receives authorization to substitute from the District. A DVBE subcontractor or supplier shall be replaced by another DVBE if possible. At a minimum, any request for substitution must include:

(1) The reason for the substitution, which shall be limited to the circumstances permitted under Public Contract Code section 4107(a).
(2) The identity of the listed DVBE and the name, address, contractor number, and DIR registration number of the proposed replacement.
(3) If a DVBE cannot be identified as a replacement, documentation of efforts to find available DVBEs.

The DVBE shall be given the rights afforded by Public Contract Code section 4107 prior to the District acting on a requested substitution.

FAILURE TO ADHERE TO AT LEAST THE DVBE PARTICIPATION PROPOSED WHEN ADOPTING THE GUARANTEED MAXIMUM PRICE MAY BE CAUSE FOR CONTRACT TERMINATION AND RECOVERY OF DAMAGES FOR DEFAULT.

END OF DOCUMENT

EXHIBIT I

Certification Regarding Russian Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” hereunder refers to sanctions imposed by the United States government in response to Russia’s actions in Ukraine, as those sanctions may be updated from time to time, as well as any sanctions imposed under state law. By its signature below, the Respondent represents that it is not a target of Economic Sanctions.

Should the District determine that the Respondent is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for rejection of the Respondent’s Proposal **for lack of responsibility** any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination for default by the District. The LLB Entity will be required to obtain a similar certification from all proposed trade contractors subject to the protections of Public Contract Code section 4100 *et seq.;* failure to obtain such certification and/or a determination that any such proposed subcontractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities will be grounds for rejection of the proposed subcontractor.

I, the official named below, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this certification is executed on _____at _____, California.
[Date] [City]

RESPONDENT: _____

BY: _____
Signature

_____
Type/Print Name

_____
Title

EXHIBIT J
Project Labor Agreement

PROJECT LABOR AGREEMENT

for the

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

PREAMBLE

This Project Labor Agreement ("Agreement") is entered into by and between the Sacramento City Unified School District ("District"), together with contractors and/or subcontractors, who shall become signatory to this Agreement by signing the "Agreement To Be Bound" (Attachment A), and the Sacramento-Sierra Building & Construction Trades Council ("Council") and the local Unions that have executed this Agreement.

RECITALS

WHEREAS, the purpose of this Agreement is to promote efficiency of construction operations during the construction of the District's projects subject to this Agreement, through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without work disruptions or delays, thereby promoting the District's interest and the public's interest in assuring the timely and cost-effective completion of the District's construction projects; and

WHEREAS, the purpose of this Agreement is to also mutually acknowledge and support the District's Core Value statement and Equity, Access, and Social Justice Guiding Principle; and

WHEREAS, the District's Core Value statement states, *we recognize that our system is inequitable by design and we vigilantly work to confront and interrupt inequities that exist to level the playing field and provide opportunities for everyone to learn, grow, and reach their greatness*; and

WHEREAS, the District's Equity, Access, and Social Justice Guiding Principle ("Guiding Principle") states that *all students are given an equal opportunity to graduate with the greatest number of postsecondary choices from the widest array of options*; and

WHEREAS, the District places high priority upon comprehensive educational programs, training, work-based learning, and workforce development programs for District students and staff in order to best achieve the District's Guiding Principle and to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the successful and efficient completion of the District's construction projects is of the utmost importance to the District and its educational programs and mission; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions affiliated with the Council; 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, the Council and Unions commit to use of skilled and trained workforce requirements described in sections 17250.25 and 17407.5 of the Education Code and sections 2600 through 2602 of the Public Contract Code on applicable Projects covered by this Agreement; and

WHEREAS, it is recognized that District construction projects require multiple contractors and bargaining units on the job site at the same time over an extended period of time, and that the potential for work disruption is substantial in the absence of a binding commitment to maintain continuity of work; and

WHEREAS, the Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the construction projects subject to this Agreement in order to promote a satisfactory, continuous and harmonious relationship among the parties to this Agreement; and

WHEREAS, the District desires to provide construction training and employment opportunities for students of and residents within the District through local hire, apprentice and pre-apprentice programs; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards mutually satisfactory and successful completion of all District construction projects subject to the Agreement; and

WHEREAS, the Sacramento City Unified School District has previously adopted Resolution No. 2774 regarding the use of Project Labor Agreements on District projects.

NOW, THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, do mutually agree as follows:

ARTICLE 1

DEFINITIONS

1.1 "Agreement" means this Project Labor Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto and incorporated herein as Attachment A) required to be executed by any Employer(s) working on the Project as a precondition to performing Covered Work on the Project.

1.3 "Council" means the Sacramento-Sierra Building and Construction Trades Council, which is the local jurisdictional division of the State Building and Construction Trades Council of California, with affiliated trades unions within its geographical jurisdiction of Sacramento, Yolo, Placer, El Dorado, Amador, Nevada, and Sierra Counties.

1.4 "Completion" means the point at which there is Final Acceptance by the District of a Construction Contract. For purposes of this definition of "Completion," "Final Acceptance" shall mean that point in time at which the District has determined upon final inspection that the work on a Construction Contract has been completed in all respects and all required contract documents, including repairs, warranty work, modifications or punch list work as required under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract, 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.

1.5 "Construction Contract" means, except as to section 2.5 (exclusions from Covered Work) public works or improvement contracts approved by the District, including design-bid, design-build, lease-leaseback, or other contracts under which construction work is performed, that are necessary to complete the Project.

1.6 "District" means the Sacramento Unified School District and the administrative employees under its Superintendent, including any in house Project Manager designated by the District for the Project.

1.7 "Contractor(s)" means any person, firm, corporation, or other entity, or any combination thereof, including joint ventures, and any of its contractors or subcontractors of any tier, or any successor or assigns of such persons or entities, that has entered into a contract with the District, or with any other person or entity contracting for work on the Project on behalf of the District (whether by design-bid, design-build, lease-leaseback or other means), with respect to the construction of any part of the Project under contract terms and conditions approved by the District.

1.8 "Local Area" shall be defined as the area within the boundaries of the District, the City of Sacramento, Sacramento County, and the nine counties in section 1.8.4. Residents of the Local Area shall be first referred for the Project, including journey-level workers and apprentices covered by this Agreement, in the following order of priority:

1.8.1 Priority 1: Residents residing within the boundaries of the District.

1.8.2 Priority 2: Residents of the City of Sacramento.

1.8.3 Priority 3: Residents of Sacramento County.

1.8.4 Priority 4: Residents of the Counties of Yolo, Placer, El Dorado, Amador, Sutter, Yuba, Nevada, Sierra, and San Joaquin.

1.9 "Master Agreement" means the multi-employer collective bargaining agreement of each of the Unions that covers the geographic area of the Project, copies of which shall be provided to the District upon request.

1.10 "Project" means all District construction projects where either the engineer's estimate of the total cost of the project, or the actual cumulative bid amounts submitted by the contractor(s)

awarded the Construction Contracts for the Project, exceeds five hundred thousand dollars ($500,000). All Construction Contracts required to complete an integrated District construction project shall be considered in determining the threshold value. The District and the Council may mutually agree in writing to add additional projects to the scope of Projects to be covered by this Agreement. The term “Project” applies to each and all projects as defined in this section, whether used in the singular or plural herein. Routine maintenance of District properties is not covered by the scope of this Agreement.

1.11 "Project Manager" means a person, including a District employee, firm or other entity designated by the District to manage, coordinate or administer the construction work on a Project subject to this Agreement.

1.12 "Union" or "Unions" means the Sacramento-Sierra Building and Construction Trades Council and the local Unions that are 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. The Council and the local Unions are collectively referred to herein as the "Unions."

ARTICLE 2

SCOPE OF AGREEMENT

2.1 Parties. This Agreement shall apply and is limited to all Contractor(s), the District and the Unions that are signatory to this Agreement.

2.2. Applicability. For purposes of this Agreement, Construction Contracts shall be considered completed as set forth in Section 1.4, including when the District directs a Contractor to engage in repairs, warranty work, modifications or punch list work as required under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract. This Agreement shall govern all Construction Contracts awarded on the District Projects that are subject to this Agreement. Except for exclusions from the Covered Work described in section 2.5, for purposes of this Agreement, a Construction Contract shall be considered completed as described in Section 1.4, except when the District's authorized representative directs a Contractor to engage in repairs, warranty work, modifications, or punch list work as required under a Construction Contract 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 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 covered by an applicable Master Agreement or 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 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) that is in effect as of the execution date of this Agreement.

2.3.3 It is expressly agreed and understood by the Parties that the District shall have the right to purchase material and equipment from any source and the craftsperson covered under this Agreement will handle and install such material and equipment. There shall be no limitation or restriction upon the choice of material or upon the full use and installation of equipment, machinery, materials, tools or other labor-saving devices other than as set forth herein. The lawful fabrication provisions of the appropriate national or local agreements shall be applicable.

2.3.4 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 hauling and 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 to the fullest extent allowed by prevailing wage law and determinations of the California Department of Industrial Relations. 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 written request or as required by bid specifications.

2.3.5 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that installation of specialty items which may be furnished by the District or a Contractor shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role; provided, however, in limited circumstances requiring special knowledge of the particular item(s), may be performed by construction persons of the manufacturer where necessary to protect a manufacturer's warranty, provided the Contractor/Employer using the manufacturer can demonstrate by an enumeration of specific tasks that the work cannot be performed by craft workers under this Agreement. All work of a specialty nature to

be performed by the employees of an equipment manufacturer necessary to protect the warranty on such equipment shall be identified and discussed at the Preconstruction Conference provided in Article V of this Agreement.

2.3.6 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 any 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, XV and XVI of this Agreement shall apply to such work.

2.4 The following shall be excluded from Covered Work:

2.4.1 Work of non-manual employees, including, but not limited to, superintendents, supervisors above the level of general foreman (except those covered by any applicable Master Agreement), staff engineers, building inspectors, timekeepers, clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, executive and management employees;

2.4.2 Equipment and machinery owned or controlled and operated by the District;

2.4.3 Any work performed on or near or leading to or on to the site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractor, or by public utilities or their contractors;

2.4.4 Off-site maintenance of leased equipment and on-site supervision of such work;

2.4.5 Work performed by employees of a manufacturer or vendor on the manufacturer's or vendor's equipment if necessary to satisfy the guarantee or warranty on such equipment and where performance of the work is expressly stated in the manufacturer's or vendor's written warranty or guarantee to be a condition for the warranty or guarantee for such products. For any work performed pursuant to this provision, the Contractor shall provide copies of the written warranty requirement to the District, Project Manager, the Council and the affected local Union prior to the commencement of work by the manufacturer or vendor. This exclusion does not apply to any on site construction work subcontracted by such manufacturer or vendor.

2.4.6 District procurement or use of modular buildings;

2.4.7 Off-site maintenance of leased equipment and on-site supervision of such work;

2.4.8 Laboratory or specialty testing or inspection not covered by an applicable Master Agreement;

2.4.9 Non-construction support services contracted by the District or any Contractor in connection with this Project;

2.4.10 All Maintenance work contracted by the District;

2.4.11 All work by employees of the District.

ARTICLE 3

SUBCONTRACTING

3.1 Each Contractor agrees that it will contract for the assignment, awarding or subcontracting of Covered Work, or authorize another party to assign, award or subcontract Covered Work, only to a person, firm, corporation, or other entity that, at the time the contract is executed, has become a party to this Agreement by executing Attachment A, the Agreement to be Bound.

3.2 Each Contractor agrees that it will contract or subcontract the performance of Covered Work only to a person, firm, corporation, or other entity that is or becomes a party to this Agreement. Any Contractor performing Covered Work on the Project shall, as a condition to working on the Project, perform all work under the terms of this Agreement and the applicable Master Agreement. Before being authorized to perform any Covered Work, Contractors shall become a party to this Agreement by signing Attachment A, the Agreement to be Bound. Every Contractor shall notify the Council in writing within five (5) business days after it has contracted to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work in accordance with Section 3.1 or this Section 3.2 and shall at the same time provide to the Council a copy of the executed Agreement to be Bound. The District shall also provide copies to the Council of all executed Agreements to be Bound that it receives within fifteen (15) days of receipt.

3.3 Contractors and all subcontractors of whatever tier who have been awarded contracts for work covered by this Agreement commit to comply with the skilled and trained workforce requirements provided in California Education Code sections 17250.25 and 17407.5 and California Public Contract Code sections 2600 et seq. on applicable Projects.

3.4 Nothing in this Agreement shall in any manner whatsoever limit the rights of the District or any Contractor to subcontract Covered Work or to select its contractors or subcontractors; provided, however, that all Contractors, at all tiers, assigning, awarding, contracting, or performing Covered Work, or authorizing another to assign, award, contract or perform Covered Work, shall be required to comply with the provisions of this Agreement. Each Contractor shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the assigning, awarding, or subcontracting of any Covered Work, or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement. Any Contractor that fails to provide the Council with the Agreement to be

Bound executed by its contractor or subcontractor shall be liable for any failure of that contractor or subcontractor, or any contractor or subcontractor at a lower tier, to comply with the provisions of this Agreement, including any contributions to any trust funds that the contractor or subcontractor, or any subcontractor to that subcontractor, fails to make. 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 Contractors on the Project.

3.5 Nothing in this Agreement shall limit the District's right to combine, consolidate, or cancel contracts for Project construction, or to comply with public agency contracting laws.

ARTICLE 4

WAGES AND BENEFITS

4.1 All employees covered by this Agreement (including foremen and general foremen if they are covered by the Master Agreement) shall be classified and paid wages and other compensation, including but not limited to travel, subsistence, and shift premium pay, and contributions made on their behalf to multi-employer trust funds, all in accordance with the then current multi-employer Master Agreement of the applicable Union and in compliance with the applicable prevailing wage rate determination established pursuant to the California Labor Code by the Department of Industrial Relations.

4.2 During the period of construction on this Project, the Contractors agree to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining parties on the effective date as set forth in the applicable Master Agreement. The Unions shall notify the Contractors in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.

ARTICLE 5

NO STRIKES - NO LOCKOUTS

5.1 During the term of this Agreement, there shall be no strikes, sympathy strikes, picketing, work stoppages, picket-related hand billing, slowdowns, interference with the work or other disruptive activity for any reason by the Union or by any employee, and there shall be no lockout by any Contractor. Failure of any Union or employee to cross any picket line established at the Contractor's Project site is a violation of this Article.

5.2 The Union shall not sanction, aid or abet, encourage, or continue any work stoppage, strike, picketing or other disruptive activity at the Project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to

disciplinary action, including discharge, and, if justifiably discharged for the above reasons, shall not be eligible for rehire on the same project for a period of not less than ninety (90) days.

5.3 The Union(s) agrees that if any union or any other persons, whether parties to this Agreement or otherwise, engage in any picketing or work stoppages, the signatory Unions shall consider such work stoppage or picketing to be illegal and refuse to honor such picket line or work stoppage.

5.4 In the event of any work stoppage, strike, sympathy strike, picketing interference with the work or other disruptive activity in violation of this Article, the Contractor may suspend all or any portion of the Project work affected by such activity at the Contractor's discretion and without penalty, and the District may replace any Contractor whose employees have not reported to work with any other contactor or subcontractor.

5.5 In addition to any other action at law or equity, any party may elect to have the matter decided by a neutral arbitrator in accordance with the following procedure when a breach of this Article is alleged, after the Union(s) or Contractor(s) has been notified of the fact.

5.5.1 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 that the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the American Arbitration Association shall select an alternative arbitrator within 24 hours of notice. Notice to the Arbitrator shall be by the most expeditious means available, with notice by fax or electronic means or any other effective written means to the party alleged to be in violation and the involved International Union President and/or local Union.

5.5.2 Upon receipt of said notice, the District Superintendent, or their designee, shall contact the designated Arbitrator identified above who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

5.53 The Arbitrator shall notify the parties by fax or electronic means or any other effective written means of the place and time he has chosen for this hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Arbitrator.

5.5.4 The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The Award which shall be final, and binding shall be issued in writing within three (3) hours after the close of the hearing and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The Arbitrator may order cessation of the violation of this Article by the Union or Contractor, 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) for the first shift for which it failed to comply, or portion thereof, and ten thousand dollars ($10,000) for each subsequent shift for which it failed to comply, until such violation is ceased. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this Section.

5.5.5 Such Award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. The fax or electronic notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's Award as issued under Section 5.5.4 of 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 by delivery to their last known address or by certified mail.

5.5.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to whom they accrue.

5.5.7 The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.

5.6 The procedures contained in Section 5.5 shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation, or mitigation of any violation of this Article, shall be resolved under the grievance procedures of Article 9.

5.7 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the District and the Contractor(s) three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business days’ 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(s)' or their subcontractor’s workforce, during which time the Contractor shall have the opportunity to correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor 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. In the event the Union or any of its members withhold their services from such contractor or subcontractor, District shall have the right to replace such contractor or subcontractor with any other contractor or subcontractor who executes the Agreement to be Bound.

5.8 It will not be a violation of this Agreement when the Contractor considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the Contractor requests employees to wait in a designated area available for work, the employees will be compensated for the waiting time.

5.9 If a Master Agreement expires before the Contractor completes the performance of work under the Construction Contract and the Union or Contractor gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered under this Agreement and the Union and the Contractor agree that the expired Master Agreement shall 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 agrees to comply with any retroactive terms of the new or modified Master Agreement which are applicable to employees who were employed on the projects during the interim, with retroactive payment due within seven (7) days of the effective date of the modified Master Agreement subject to section 4.3.

ARTICLE 6

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

6.1 The assignment of Covered Work will be solely the responsibility of the Contractor 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.

6.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractors 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 Contractors and Unions parties to this Agreement.

6.3 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.

6.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature and the Contractor's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

ARTICLE 7

JOINT LABOR/MANAGEMENT MEETINGS

7.1 Joint Labor/Management Meetings. During the period of any work performed under this Agreement, the Project Manager, or District designee, may schedule monthly Joint Labor/Management Meetings that include the Project Manager, or the District's designee, the Contractors and the Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the employees and the Contractors on the Project. These meetings may include a discussion of safety, craft resource requirements, scheduling and productivity of work performed at the Project. The Union representative shall keep minutes of any such meetings and the minutes shall be subject to approval at any subsequent meeting. Any such meetings may be in person, virtually or by conference call. It shall be mandatory for a representative of the Unions to participate in such meetings.

7.2 A Pre-Job Conference shall be scheduled by the District prior to the commencement of work to establish the scope of work in each Contractor's contract. When a contract has been let to a Contractor covered by this Agreement, a job conference and/or markup meeting shall be scheduled by the District upon request of any Union, Contractor or the District.

ARTICLE 8

MANAGEMENT RIGHTS

8.1 The Contractor(s) retains full and exclusive authority for the management of their work forces for all work performed under this Agreement. This authority includes, but is not limited to the right to:

A. Plan, direct and control the operation of all the work.

B. Decide the number and types of employees required to perform the work safely and efficiently. The lawful staffing provisions of the applicable Master Agreement shall be recognized.

C. Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required.

D. Require all employees to observe the District and Contractor Project Rules, Security and Safety Regulations, consistent with the provisions of this Agreement. These Project Rules and Regulations shall be reviewed and mutually agreed upon at the Pre-Job meeting and supplied to all employees and/or posted on the jobsite.

E. Discharge, suspension or discipline will be handled under the applicable craft agreement.

F. Assign and schedule work at its sole discretion and determine when overtime will be worked. There shall be no refusal by a craft to perform work assigned, including overtime work. However, individual craftspeople shall not be required to work overtime unless specifically dispatched for overtime work. Any cases of a craft's refusal to work overtime shall be subject to the grievance procedure.

G. Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designator (in accordance with Article 2).

H. The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Contractors, therefore, retain all legal rights not specifically enumerated in this Agreement.

8.2 All workers employed or otherwise used on a Project shall comply with the District's Drug and Alcohol-Free Workplace Policy (BP 4020) and Employee Drug Testing Policy (BP 41 12.41, 4212.41, 4312.41) and applicable regulations as amended from time to time. If not otherwise specified, the drug testing protocol shall be in compliance with 49 Code of Federal Regulations (CFR) section 382.105 (Testing procedures) which incorporates 49 CFR Part 40.

ARTICLE 9

GRIEVANCE PROCEDURE

9.1 It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than matters subject to Section 5.5 and Union jurisdictional disputes subject to Article 6) shall be considered a grievance. Questions between or among parties signatory to a Master Agreement arising out of or involving the interpretation of a Master Agreement shall be resolved under the grievance procedure provided in that Master Agreement.

9.2 The District and other Contractors, as well as the Unions, may bring forth grievances under this Article.

9.3 A grievance shall be considered null and void if not brought to the attention of the effect party by the grievant within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered, whichever is later. The term "working days" as used in this Article shall exclude Saturdays, Sundays, or holidays regardless of whether any work is actually performed on such days.

9.4 Grievances shall be settled according to the following procedure, except those grievances that do not involve an individual grievant, which shall be discussed by the District, and the Council and then, if not resolved within five (5) working days of written notice unless extended by mutual consent, commence at Step 4:

Step 1

The Steward and the grievant shall attempt to resolve the grievance with the craft supervisor within five (5) working days after the Grievance has been brought to the attention of the Contractor.

Step 2

In the event the matter remains unresolved in Step 1 above after five (5) working days, within five (5) working days thereafter, the alleged grievance may be referred in writing to the Business Manager(s) of the Union(s) affected and the site construction manager or Labor Relations representative of the Contractor(s) for discussion and resolution. A copy of the written grievance shall also be mailed, faxed or emailed to the District.

Step 3

In the event the matter remains unresolved in Step 2 above within five (5) working days, within five (5) working days thereafter, the grievance may be referred in writing to the Business Manager(s) of the affected Union(s) involved and the Manager of Labor Relations of the Contractor(s) or the Manager's designated representative and the District for discussion and resolution.

Step 4

If the grievance is not settled in Step 3 within five (5) working days, within five (5) days thereafter, either party may request the dispute be submitted to neutral arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a copy to the District. Should the parties be unable to mutually agree on the selection of a neutral Arbitrator, selection for that given arbitration shall be made by seeking a list of seven (7) labor arbitrators with construction experience from the Federal Mediation and Conciliation Service and alternately striking names from the list of names on the list until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. District shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first.

9.5 The Arbitrator shall conduct a hearing at which the parties to the grievance shall be entitled to present testimonial and documentary evidence. Hearings will be transcribed by a certified court reporter. The parties shall be entitled to file written briefs after the close of the hearing and receipt of the transcript.

9.6 Upon expiration of the time for the parties to file briefs, the Arbitrator shall issue a written decision that will be served on all parties and on the District. The Arbitrator shall have the authority to utilize any equitable or legal remedy to prevent and/or cure any breach or threatened breach of this Agreement. The Arbitrator's decision shall be final and binding as to all parties signatory to this Agreement.

9.7 The cost of the Arbitrator and the court reporter, and any cost to pay for facilities for the hearing, shall be borne equally by the parties to the grievance. All other costs and expenses in connection with the grievance hearing shall be borne by the party who incurs them.

9.8 The Arbitrator's decision shall be confined to the issue(s) posed by the grievance, and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from any provision of this Agreement.

9.9 Any party to a grievance may invite the District to participate in resolution of a grievance. The District may, at its own initiative, participate in Steps 1 through 3 of the grievance procedure.

9.10 In determining whether the time limits of Steps 2 through 4 of the grievance procedure have been met, a written referral or request shall be considered timely if it is personally delivered, sent by overnight mail or faxed within the five (5) working day period. Any of the time periods set forth in this Article may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, sent by overnight mail or faxed during the extended time period.

ARTICLE 10

EMPLOYEE REPRESENTATION AND REFERRAL

10.1 The Employers recognize the Unions as the sole bargaining representatives of all craft employees performing Covered Work under this Agreement. Authorized representatives of the Unions shall have reasonable access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project. All authorized representatives of the Unions must comply with the required check-in procedure prior to visiting the work area.

10.2 Employees are not required to become or remain union members as a condition of performing Covered Work under this Agreement. Employers shall make and transmit all deductions for union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. Nothing in this Section 10.2 is intended to supersede the requirements of applicable Master Agreements as to those Employers otherwise signatory to such Master Agreements and as to the employees of those Employers who are performing Covered Work.

10.3 In filling craft job requirements, Employers performing Covered Work shall utilize and be bound by the registration facilities and referral systems established or authorized by the Unions ("Job Referral System"). Such Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and non-discrimination. The Employers shall have the right to reject any applicant referred by the Unions in accordance with this Article 10.

10.4 The Employers shall have the unqualified right to select and hire directly all supervisors above general foreman it considers necessary and desirable, without such persons being referred by the Unions.

10.5 In the event that referral facilities maintained by the Union are unable to fill the requisition of an Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Employer, the Employer shall

be free to obtain such workers from any source. An Employer who hires any personnel 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 this Article 10.10.6 Unions will exert their utmost efforts to recruit sufficient numbers of skilled and trained craft persons to fulfill the requirements of the Contractor/Employer(s). On Projects governed by Education Code sections 17250.25 and 17407.5, the Unions shall consider a Contractor's request to transfer skilled and trained employees to work on Projects in a manner consistent with the Union's referral procedures.

10.7 Subject to the limitation of applicable law and the hiring hall procedures of the Unions, the Parties to this Agreement mutually support the development of increased numbers of skilled construction workers from District graduates and the residents of the City of Sacramento specifically and from the residents of Sacramento County generally, to meet the needs of the Projects and the requirements of the industry generally. To facilitate this goal, the Unions agree to encourage the referral and utilization of qualified District graduates and the City of Sacramento and Sacramento County residents as journeypersons and apprentices on the Projects.

ARTICLE 11

REFERRAL-LOCAL COMMUNITY WORKFORCE PROVISIONS

11.1 Contractors performing Covered Work on the Project shall, in filling craft job vacancies, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory to this Agreement. The Union will exert and document their best efforts to recruit and identify residents of the Local Area, in a manner that is consistent with the District's Core Value and Guiding Principle, and those individuals shall be referred for Project work first, to the extent allowed by law, and consistent with the Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, including journeymen and apprentices covered by this Agreement.

11.2 The Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and non-discrimination. The Contractor(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement. The Unions shall be the primary source of all craft labor employed on the Project, however, a Contractor with a core workforce may request by name, and the local Union shall honor, referral of such Contractor's regular and experienced personnel ("Core Employees") who have applied to the applicable Union to perform Covered Work on the Project. For purposes of this Agreement, a Core Employee is a person who meets all the following:

(l) Possesses any license required by state or federal law for the Project work to be performed;

(2) Worked a total of at least one thousand (l ,000) hours in the construction craft during the prior two (2) years;

(3) Has been on the Contractor's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the contract award; and

(4) Has the ability to perform safely the basic functions of the applicable trade.

11.3 The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft and will then refer one of the Contractor's Core Employees as a journeyman, until such Contractor has hired six (6) Core Employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work on the Project, the ratio shall be maintained. When such Contractor's workforce is reduced, employees shall be reduced in the same one for one ratio of Core Employees to hiring hall referrals as was applied in the initial hiring. Contractors that are signatory to a Master Agreement with Union(s) signatory hereto must comply with the hiring hall provisions contained in the applicable Master Agreement, and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the Master Agreement(s) as they apply to such Contractors.

11.4 In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Contractor within a forty-eight (48) hour period after such requisition is made by the Contractor (Saturdays, Sundays and holidays excepted), the Contractor may employ applicants from any source. Contractors shall immediately notify and provide the appropriate Union(s) with the name and address of such gate-hires, who shall be bound by the provisions of this Article.

It is in the interest of the parties to this Agreement to facilitate employment of District and Local Area residents, including parents, guardians or other care givers of students attending the District's schools, and to use resources in the Local Area in construction of a Project. The "Local Area" shall be defined as the area within the boundaries of the District, the City of Sacramento, Sacramento County, and the nine counties outlined in section 1.8.4, in priority order outlined in section 1.8. To the extent allowed by law, and consistent with the Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents of the Local Area shall be first referred for Project work, including journeymen and apprentices covered by this Agreement. It is the goal of the parties that not less than fifty (50) percent of all hours worked on the Project, on a craft-by-craft basis, be worked by residents of the Local Area (including fifty (50) percent of the total hours worked by any Core Employees). The Union shall provide a list of individuals referred for Project work and their applicable zip code of residence to the District, upon request. Contractors will be required to submit certified weekly payroll records to the District along with monthly workforce utilization reports documenting the Contractor's compliance with the requirements described in this Article. At a minimum, the monthly reports must include data on Local Area resident work hour utilization on the Project. An annual report shall be submitted to the Board on the number of workers employed, or contracted for,

within the Local Area. Provisions of this article shall be an item for discussion at each Pre-Job Conference outlined in Article.

ARTICLE 12

MUTUAL COMMITMENT TO SUPPORTING EDUCATIONAL AND CAREER DEVELOPMENT OPPORTUNITIES FOR DISTRICT STUDENTS

12.1 The Parties agree that this Agreement is also intended to formalize partnerships between the Unions and the District to support the educational and career development of the District's students, and to help develop the next generation of skilled construction workers. The Parties agree to support District Construction and Design Academies or Pathways within the District ("Academy" or "Pathway") in order to carry out the training and employment objectives of this Agreement, including providing District students with the opportunities and skills necessary to enter post-secondary study and to pursue lifelong training within the broader context of the building trades industry, and to develop and reinforce academic course standards in order to maximize career opportunities and technical competency. The Parties agree to the following actions in order to implement this mutual commitment.

12.2 Contractors shall employ apprentices in the respective drafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. The Parties agree that apprentices may comprise up to twenty (20) percent of each craft's workforce at any time, unless the state approved apprenticeship standards or regulations or the applicable Master Agreement establish a lower maximum percentage.

12.3 The Union shall provide speakers at District Academies, at no cost to the District, through the Multi-Craft Core Curriculum (MC3) program and at other mutually agreed upon school functions and events.

12.4 In order to facilitate the goals of the Academy, the District and Council agree to create an Advisory Board for the Luther Burbank High School Construction and Design Academy, American Legion High School's Residential and Commercial Construction Academy (collectively "High Schools"), Rosemont High School Engineering , Construction and Design, and participate in the District-level Pathway Advisory Board, which will conduct meetings as determined by the District during the school year to develop the goals of the Academy; plan for the presentation and content of training lectures to facilitate employable skills in the construction trades; develop a summer schedule for training; organize and develop summer internship positions; assist in planning curriculum scope and sequencing; design cocurricular activities; identify sources for educational and financial support; and otherwise initiate steps to carry out the goals of the Academy.

12.4.1 The High School Advisory Boards shall consist of the appropriate membership as outlined by current regulations and requirements placed upon the District. The Advisory Board, in coordination with the District's Career Services representative, shall develop and implement a plan for annual assessment of the goals and

objectives to maximize the employability of students and District graduates, including summer internship opportunities. A quorum for the Advisory Board meeting shall be at least one member representing the building trades JATCs; one member representing the Council; and one member representing the District.

12.4.2 The Academy Advisory Board will collaborate with post-graduate training programs, such as the Northern California Construction Training and American River College's Stripe Program, in order to assist graduates in obtaining an internship into a JATC.

12.4.3 The training and employment program of the interns shall be developed by the Academy Advisory Board such that graduating interns shall possess the skills, training, and educational background to help the graduate achieve priority on the lists of the building trades to the degree allowed under each JATC's application process including those programs that allow direct entry. It is recognized that the Apprenticeship Programs operate according to existing Standards approved by the California Department of Industrial Relations, Division of Apprenticeship Standards, and the standards set forth in the collective bargaining agreements for each building trades union and that any such priority shall be in accordance with such Standards and agreements.

12.5 The Parties agree to meet and identify additional mutually agreed upon specific actions to meet these goals, including, but not limited to, consideration of: (1) measures to facilitate teacher training in Multi-Craft Core Curriculum (MC3); (2) measures to provide student employment opportunities through externships, internships and/or post-graduation apprenticeship placement; (3) measures to provide hands-on training opportunities for students; (4) measures to facilitate identification of funding sources to provide recent women, minoritized and low-income District graduates scholarships or assistance in the purchase of tools and other equipment needed for apprenticeship programs; (5) support to identify and find funding for a Pre-Apprentice / Internship / Apprenticeship Coordinator to assist District Academies. These additional commitments shall be set forth in a Memorandum of Understanding (MOU) to this Agreement ("Union Educational and Career Development Support MOU"). Parties agree to meeting twice before August 1, 2022, and throughout the month of August to identify the mutually agreeable terms of the MOU and shall finalize the MOU no later than September 1, 2022.

12.6 The Union shall provide the District with an annual report by June 30 of each year on the implementation of the provisions set forth in this Article and in the Union Educational and Career Development Support MOU. The report shall provide any information requested by the District to assist the District in reporting work-based learning indicator on the State of California's College and Career Dashboard.

ARTICLE 13

NON-DISCRIMINATION

13.1 The Unions and Contractors shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, political affiliation, national origin, age, religion, Vietnam veteran or Vietnam Era status, disability as identified in the Americans with Disabilities Act, membership in a labor organization in hiring and dispatching workers for the Project, or any other basis recognized by law. The parties to this Agreement understand and agree that nothing in this Agreement shall supersede or take precedence over any District Board of Education policy or requirement including, but not limited to, the construction contract and general conditions for the Project.

13.2 All qualified (as determined by the District and applicable law) contractors and subcontractors may bid and be awarded work on a Project without regard to whether they are otherwise parties to collective bargaining agreements provided they comply with the provisions of this Agreement.

ARTICLE 14

HOURS OF WORK SHIFTS AND HOLIDAYS

14.1 The standard workday shall be in accordance with the applicable Master

Agreements. Common start times may be established by the Contractor during the standard workday established by the applicable Master Agreements. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

14.2 Common shifts may be established when considered necessary by the Contractor. The Contractor shall provide at least one week notice to the Council prior to any change in shift time. Any shifts established shall continue for the established work week.

14.3 Recognized holidays shall be in accordance with the applicable Master Agreements. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate, but in no case shall such overtime rate be more than double the straight time rate.

ARTICLE 15

GENERAL PROVISIONS

15.1 If any article or provision of this Agreement shall become invalid, inoperative and/or unenforceable by operation of law or by declaration of any competent authority of the executive, legislative, judicial or administrative branches of the federal or state government, the District, the Contractors and the Council shall suspend the operation of such article or provision during the period of its invalidity, and the District and the Council shall negotiate in its place and stead an article or provision that will satisfy the objections to its validity and that, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question. The new article or provision negotiated by the District and the Council shall be binding on all parties signatory to this Agreement.

15.2 If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above-mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

15.3 Except as enumerated in this Agreement, all other terms and conditions of employment described in the Master Agreement of the Union having traditional and customary jurisdiction over the Covered Work shall apply.

15.4 The provisions of this Agreement shall take precedence over conflicting provisions of any Master Agreement or any other national, area or local collective bargaining agreement, except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement and the National Cooling Tower Agreement. In addition, all instrument calibration work and loop checking Covered Work shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and work within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreements of the International Union of Elevator Constructors. Notwithstanding the provisions of this section, Articles 5, 6 and 9 of this Agreement shall apply to all Covered Work.

15.5 Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

15.6 This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any signature pages may be assembled to form a single original document.

15.7 To the fullest extent consistent with the applicable Master Agreement and trust agreement, it is agreed that any liability under this Agreement by District, the Council, a Union, or any other Contractor shall be several and not joint. Any alleged breach of this Agreement by a party shall not affect the rights, liabilities, obligations, and duties among the other parties or between that party and any other party.

ARTICLE 16

HELMETS TO HARDHATS

16.1 The Contractors and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center"), a joint Labor-Management Cooperation Trust Fund, established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Section 175(a), and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Section and a charitable tax exempt organization under Section 501 (c)(3) of the Internal Revenue Code, 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.

16.2 The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans and members of the National Guard and Reserves interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Contractors and Unions will give credit to such veterans and members of the National Guard and Reserves for bona fide, provable past experience.

ARTICLE 17

DURATION OF AGREEMENT; MID-TERM ASSESSMENT

17.1 This Agreement shall remain in full force and effect for a period of five (5) years from the date approved by the Board of Education on June 9, 2022. Notwithstanding the term of the Agreement as set forth above, the Agreement will continue to apply until the completion of all Covered Work pursuant to Section 2.1 where the initial bid for any Construction Contract for a Project is awarded or approved by the Board on or before the date the Agreement terminates.

17.2 At the two-year mark, a mid-term assessment, including mutually agreed upon metrics, shall be reported to the Board.

SIGNATURES

Sacramento City Unified School District

Christina Pritchett Date: 8/5/22

Name: Christina Pritchett

Title: SCUSD Board President.

Sacramento-Sierra Building and

Construction Trades Council

DocuSigned by:
Kevin Ferreira
B4C87250B34241A... Date: _____

Name: Kevin Ferreira

Title: Executive Director

Sacramento-Sierra Building and

Construction Trades Council

Karl Pineo Date: 7-29-22

Name: Karl Pineo

Title: President

DocuSign Envelope ID: F932C669-183B-4831-96FA-B972F05A003B

Sacramento-Sierra Building and

Construction Trades Council

Date: 8/2/2022

Name: Todd Schiavo

Title: Vice-President

UNIONS

DocuSigned by:
6C910C1A0D294D5...
Asbestos Workers Local #16

DocuSigned by:
CD7DE50D9167457...
Iron Workers Local #118

DocuSigned by:
D48B5A45BA76425...
Bricklayers Local #3

DocuSigned by:
C20514D4BD51437...
Laborers Local #185

DocuSigned by:
C23CEC6C30BC44A...
Boilermakers Local #549

Operating Engineers Local #3

DocuSigned by:
4F8BF44AA19D47C...
Cement Masons Local #400

DocuSigned by:
BB5F4751AD96435...
Plasterers & Cement Masons Local #300

DocuSigned by:
C10D2576816641F...
Asbestos, Lead and Mold Laborers Local #67

DocuSigned by:
18EECB2BF4504BA...
UA of Journeymen & Apprentices of the Plumbing & Pipe Fitting Ind. Local #355

DocuSigned by:
0D9AD26FD7DF4CE...
District Council #16 International Union of Painters & Allied Trades

DocuSigned by:
9CC33EC099FB4FA...
Plumbers & Pipefitters Local #447

DocuSigned by:
B9EDEF97DCC4462...
Elevator Constructors Local #8

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09D284A82D354D7...
Roofers Local #81

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C0069C1D0CA54AC...
International Brotherhood of Electricians Local #340

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73EA33F8D61046A...
Sheet Metal Workers Local #104

DocuSigned by:
9BF3BF3C661649A...
Sprinkler Fitters Local #669

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BC6F45A38B6746A...
Teamsters Local #150

Northern California Carpenters Regional Council on behalf of itself and its affiliated Local Unions

4942-008j

UNIONS

Asbestos Workers Local #6

Laborers Local #185

Bricklayers Local #3

Millwrights Local #102

Boilermakers Local #549

Northern California District Council of Laborers

Carpenters 46 Northern California Counties Conference Board

Operating Engineers Local #3

Cement Masons Local #400

Plasterers & Cement Masons Local #300

District Council #16 International Union of Painters & Allied Trades

Pile Drivers Local #34

District Council of Plasterers & Cement Masons of Northern California

Plumbers & Pipefitters Local #447

Drywall/Latherers Local #9109

Roofers Local #81

International Brotherhood of Electricians Local #340

Sheet Metal Workers Local #104

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ATTACHMENT A

PROJECT LABOR AGREEMENT

Project:
Bid Number:

AGREEMENT TO BE BOUND

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

The undersigned hereby certifies and agrees that:

1.) It is a Contractor as that term is defined in Section I .7 of the Sacramento City Unified School District Agreement ("Agreement") because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work (as defined in Section 2.3) on the Project (as defined in Section 1.9), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2.) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing, or which are later made thereto.

3.) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4.) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5.) It will secure a duly executed Agreement to be Bound, in form identical to this document, from any Contractor(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work, and it will provide a copy of such executed Agreement to be Bound to the Sacramento-Sierra Building & Construction Trades Council within fifteen (15) days of such contracting or subcontracting in accordance with Section 3.2 of the Agreement.

DATED: _____ Name of Contractor _____

_____
(Authorized Officer & Title)

_____

_____
(Address)

EXHIBIT K
Payment and Performance Bond Forms

PAYMENT BOND FORM

Bond No._____

PAYMENT BOND

THAT, WHEREAS, the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT ("District") has awarded to _____ ("Design-Builder") a requiring the furnishing of all labor, materials, equipment, transportation and services for the construction of _____located in _____County, California ("Project").

WHEREAS, the improvements to be constructed by the Design-Builder are more particularly set forth in the Contract for the Project dated _____, (the "Contract"), the terms and conditions of which are expressly incorporated herein by reference, and

WHEREAS, said Design-Builder is required to furnish a bond in connection with said Contract to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;

NOW THEREFORE, we the undersigned Design-Builder and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California ("Surety"), are held and firmly bound unto the District in the sum of _____DOLLARS ($_____), said sum being not less than one hundred percent (100%) of the Total Contract Value under the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, and assigns, jointly and severally, firmly by these presents.

1. THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Design-Builder, or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in State of California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Design-Builder and subcontractors pursuant to the State of California Unemployment Insurance Code section 13020 with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall become and be null and void.

2. This Bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under California law, including but not limited to those specified in California Civil Code section 9100, so as to give a right of action to them or their assigns in any suit brought upon this bond.

3. Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder. Surety further waives the provisions of State of California Civil Code section 2845.

4. Amounts owed by the District to Design-Builder under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under the Performance Bond. By Design-Builder furnishing and the District accepting this Payment Bond, they agree that all funds earned by Design-Builder in the performance of the Contract are dedicated to satisfy obligations of Design-Builder and Surety under this Bond, subject to the District's priority to use the funds for the completion of the work or the satisfaction of the District's claims, including liquidated damages, under the Contract.

5. Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with the Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or

against less than all of them without impairing the District rights against the other.

6. In the event suit is brought upon this bond, the parties not prevailing in such suit shall pay reasonable attorneys' fees and costs incurred by the prevailing parties in such suit.

7. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____day of _____, 20___.

Design-Builder:

_____
(Name of Firm)

By: _____

Title: _____

Surety: _____
(Name of Firm)

By: _____

Title: _____

Address for Notices:

_____
_____
_____

Phone #_____

Fax # _____

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached

Address for District Notices:

Sacramento City Unified School District
Attn: Chris Ralston, Assistant Superintendent – Faciliti Support Services
5735 47th Ave.
Sacramento, CA 95824-4528

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached.

PERFORMANCE BOND FORM

Bond No._____

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT ("District") has awarded to _____, ("Design-Builder") a Contract requiring the furnishing of all labor, materials, equipment, transportation and services for the construction of _____ located in _____County, California ("Project").

WHEREAS, The improvements to be constructed by Design-Builder are more particularly set forth in the Contract for the Project dated _____ (the "Contract"), the terms and conditions of which are expressly incorporated herein by reference, and

WHEREAS, Design-Builder is required by the Contract to perform the terms thereof and to furnish a bond for the faithful construction of improvements required by the Contract.

NOW, THEREFORE, Design-Builder, as principal, and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California ("Surety"), are held and firmly bound unto the District and Claimants, as defined herein, in the penal sum of _____ DOLLARS ($_____), said sum being not less than one hundred present (100%) of the Total Contract Value under the Contract, for the payment of which sum well and truly to be made as provided in this Performance Bond.

1. Design-Builder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to District for the performance of the Contract, including the improvements to be constructed thereunder, which is incorporated herein by reference.

2. If Design-Builder timely performs each and every obligation under the Contract, including all Guarantee and/or warranty obligations, Surety and Design-Builder shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. Surety's obligation under this Performance Bond shall arise after:

   3.1 District has declared a Design-Builder Default and has notified Design-Builder and Surety at its address described in Paragraph 10 below that District has declared a Design-Builder Default and has requested and attempted to arrange a conference with Design-Builder and Surety to be held not later than seven (7) days after receipt of such notice to discuss methods of performing all remaining obligations of Design-Builder pursuant to the Contract; and

   3.2 District has agreed to pay any remaining payments, as provided for in the Contract, to Surety in accordance with the terms of the Contract or to a Design-Builder selected to complete the Project in accordance with the terms of the Contract.

4. When District has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:

   4.1 Arrange for Design-Builder, with consent of District, to perform and complete the Project (District retains the right in its sole and absolute discretion to reject the use of Design-Builder to perform and complete the Project); or

   4.2 Undertake to perform and complete the Project itself, through its agents or through independent Design-Builders; or

4.3 Obtain bids or negotiated proposals from qualified Design-Builders acceptable to District for a contract for performance and completion of the Project, arrange for a contract to be prepared for execution by District and the Design-Builder selected with District's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to District the amount of damages as described in Paragraph 6 in excess of the Balance of the Total Contract Value as provided for under the terms of the Contract, incurred by District resulting from Design-Builder's Default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new Design-Builder and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to District and, as soon as practicable after the amount is determined, tender payment thereof to District; or

.2 Deny liability in whole or in part and notify District citing specific reasons therefore.

5. If Surety does not proceed as provided in Paragraph 4 within twenty (20) days from receipt of the notice described in paragraph 3.1 (whether or not a conference has been held pursuant to paragraph 3.1), or such longer period upon which District and Surety may agree in writing, Surety shall be deemed to be in default on this Bond. If Surety proceeds as provided in Subparagraph 4.4, and District refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice District shall be entitled to enforce any remedy available to District.

6. After District has declared an Design-Builder Default, and if Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to District shall not be greater than those of Design-Builder under the Contract, and the responsibilities of District to Surety shall not be greater than those of the District under the Contract. To the limit of the amount of this Performance Bond, but subject to commitment by District of any remaining Balance of the Total Contract Value to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

6.1 The responsibilities of Design-Builder for correction of defective work, materials and equipment and completion of the Project, including all Guarantee and warranty obligations;

6.2 Additional legal, design professional, construction management and delay costs resulting from the Design-Builder's Default, and resulting from the actions or failure to act of Surety under Paragraph 4; and

6.3 Liquidated damages.

7. Surety shall not be liable to District or others for obligations of Design-Builder that are unrelated to the Contract, and the Balance of the Total Contract Value shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or Design-Builder other than District or its heirs, executors, administrators or successors.

8. Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder. Surety further waives the provisions of State of California Civil Code section 2845.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to be taxed as an item of costs.

10. Notice to Surety, District or Design-Builder shall be mailed or delivered to the address, or sent via facsimile to the facsimile number, shown on the signature page.

11. DEFINITIONS

11.1 Balance of the Total Contract Value: The total amount payable by District to Design-Builder under the Contract after all proper adjustments have been made, including allowance to Design-Builder of any amounts received or to be received by District in settlement of insurance or other claims for damages to which Design-Builder is entitled, reduced by all valid and proper payments made to or on behalf of Design-Builder under the Contract.

11.2 Contract: The Contract between the District and the Design-Builder identified on the first page of this bond, including all Contract Documents and changes thereto.

11.3 Design-Builder Default: Failure of the Design-Builder, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

DESIGN-BUILDER, as principal	SURETY
By: _____	By: _____
Its: _____	Its: _____
Address: _____	Address: _____
Phone #: _____	Phone #: _____
Fax #: _____	Fax #: _____

Note: Notary Acknowledgement for Surety and Surety's Power of Attorney must be attached

Address for Owner Notices:

Sacramento City Unified School District
Attn: Chris Ralston, Assistant Superintendent – Facilities Support Services
5735 47th Ave.
Sacramento, CA 95824-4528

EXHIBIT L
Guarantee Form

{Print on Design-Builder Letterhead}

_____ ("Design-Builder") hereby unconditionally guarantees that the Work performed at _____[insert Project name and address] ("Project") has been done in accordance with the requirements of the Design-Build Agreement and the Construction Documents ("Contract"), therefore and further guarantees the Project Work to be and remain free of defects in workmanship and materials for a period of two (2) years from and after completion of the Project and recordation of the Notice of Completion of the Project, unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. Design-Builder specifically waives any right to claim or rely on the statutory definition of completion set forth in Civil Code section 9200. Design-Builder specifically acknowledges and agrees that completion shall mean Design-Builder's complete performance of all Work required by the Contract, including without limitation any change orders, construction change directives, and punch lists, and the District's formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. Design-Builder hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Contract or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to the District, ordinary wear and tear and unusual abuse and neglect only excepted. Design-Builder has provided contract bonds, which will remain in full force and effect during the guarantee period.

Design-Builder further agrees that, within ten (10) calendar days after being notified in writing by the District of any Work not in accordance with the requirements of the Contract or any defects in the Work, it will commence and prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a period of time stipulated in writing. In the event it fails to so comply, Design-Builder does hereby authorize the District to proceed to have such Work done at Design-Builder's expense and it will pay the cost thereof upon demand. The District shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon Design-Builder's refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding anything to the contrary herein, in the event of an emergency constituting an immediate hazard to the health or safety of the employees, students, or property of the District, or of the public, the District may undertake at Design-Builder's expense and without prior notice, all Work necessary to correct such hazardous condition as was caused, in whole or in part, by the Work of Design-Builder not being in accordance with

the requirements of the Contract, or being defective, and to charge the same to Design-Builder as specified herein.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing the District's rights to enforce all terms of the Contract referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, the District's rights on such contract.

_____
DESIGN BUILDER'S SIGNATURE

_____
PRINT NAME

NOTICE: SIGNATURE(S) ON BEHALF OF DESIGN-BUILDER MUST BE NOTARIZED. A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of Design-Builder. This section provides, at part (b): "Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made."

EXHIBIT M
Skilled and Trained Workforce Report

The following report must be provided to the District at completion of construction by Design-Builder for itself and all subcontractors of every tier, and at any other time requested by the District, for the specified contractors. Receipt of this report is a condition on entitlement to payments for any month in which it is required.

Project Name: _____ Date: _____

ENTITY AND TRADE/ SUBCONTRACTORS **(If a contractor performs work in multiple apprenticeable occupations, list each on a separate line.)**	**LICENSE NUMBER**	**COMPLIANCE BY HOURS OR PERCENT OF WORKFORCE?** **(H) OR (%)**	**FOR EACH TRADE, THE PERCENTAGE OF SKILLED JOURNEYPERSON WORK OR HOURS WORKED BY GRADUATES OF AN APPROVED APPRENTICESHIP PROGRAM TO DATE**

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650 *et seq.,* I, _____[print name], certify that I have made a reasonable investigation to verify the accuracy of data reported above, that the information is accurate and complete to the best of my knowledge and belief, and that I am duly authorized to certify the report on behalf of the company identified below. I acknowledge that submission of this report is an express condition on payment.

Dated: _____ Company: _____

Signature: _____ Title/Position: _____

EXHIBIT F

MAP FOR LOCATION TO SUBMIT SOQ

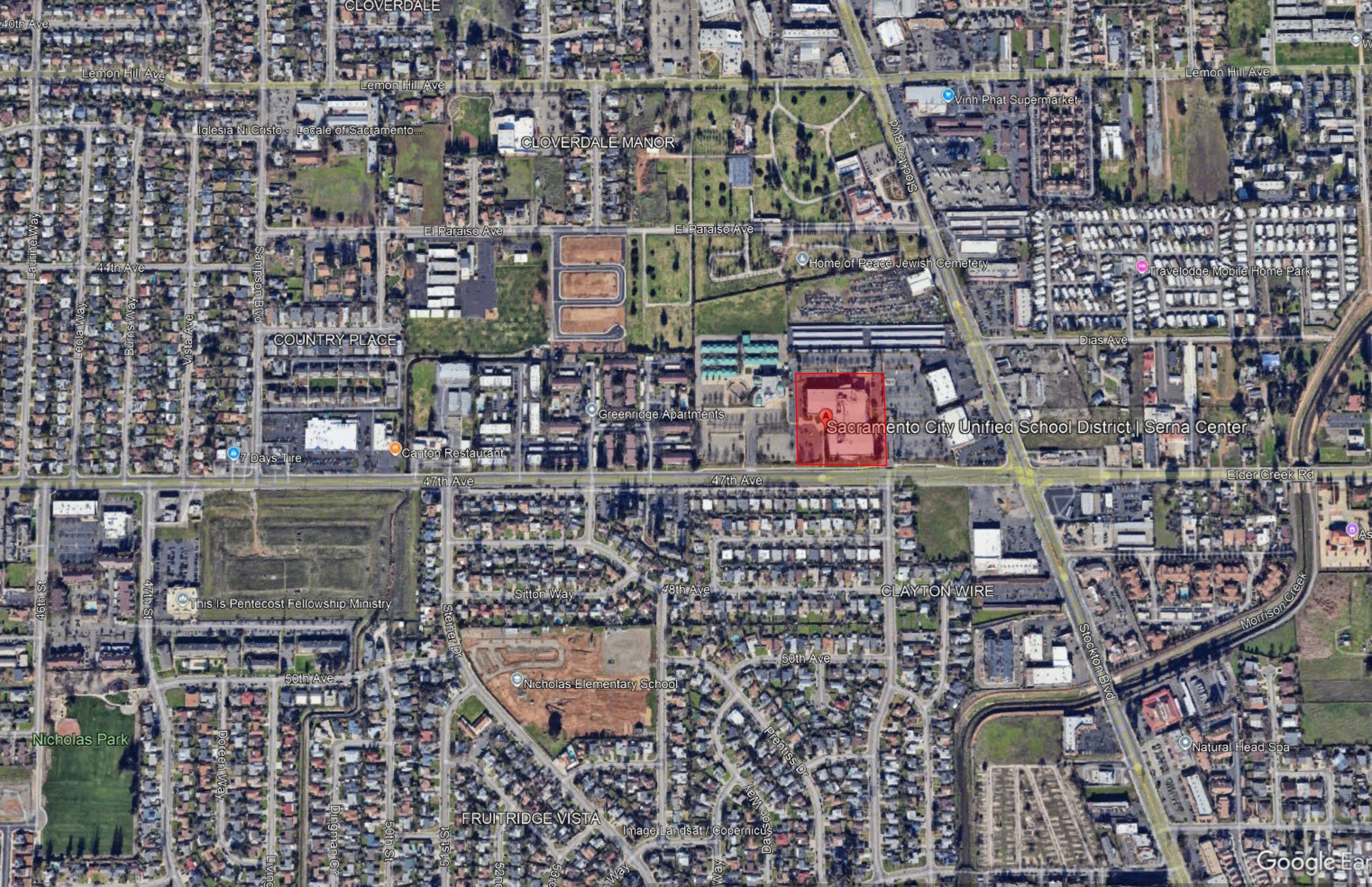
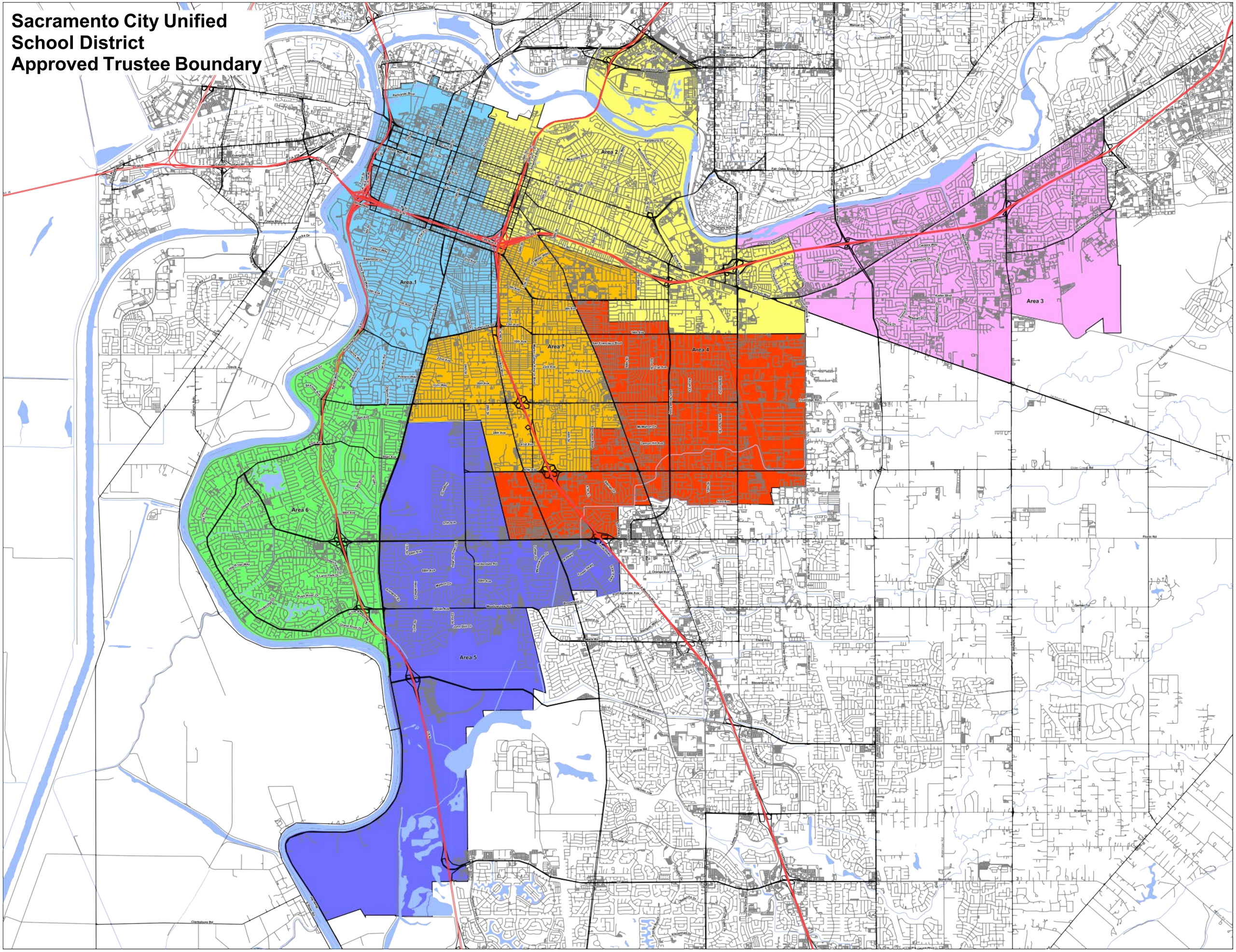

CLOVERDALE
40th Ave
Lemon Hill Ave
Lemon Hill Ave
Lemon Hill Ave
Vinh Phat Supermarket
Iglesia Ni Cristo - Locale of Sacramento...
CLOVERDALE MANOR
Stockton Blvd
El Paraiso Ave
El Paraiso Ave
Laurine Way
44th Ave
Sampson Blvd
Home of Peace Jewish Cemetery
Travelodge Mobile Home Park
Leola Way
Burns Way
Vista Ave
COUNTRY PLACE
Dias Ave
Greenridge Apartments
Sacramento City Unified School District | Serna Center
7 Days Tire
Canton Restaurant
47th Ave
47th Ave
Elder Creek Rd
46th St
47th St
This Is Pentecost Fellowship Ministry
Sitton Way
48th Ave
CLAYTON WIRE
Morrison Creek
Steiner Dr
50th Ave
50th Ave
Nicholas Elementary School
Stockton Blvd
Nicholas Park
Doreen Way
Prentiss Dr
Natural Head Spa
Dingman Cir
50th St
51st St
FRUITRIDGE VISTA
Image Landsat / Copernicus
Davison Way
Google Earth

EXHIBIT G

DISTRICT BOUNDARIES

Sacramento City Unified School District Approved Trustee Boundary