LYNWOOD
UNIFIED SCHOOL DISTRICT

BID DOCUMENT

***BID No.* 08MOT26**

Lynwood High School-Imperial Site, Demolition (No DSA), Campus Renovations

***Mandatory Pre-Bid Job Walk:* February 6, 2026 at 10:00 am**

***Location:* Lynwood High School, 4050 Imperial Hwy, Lynwood, CA 90262**

***Bid Due Date:* February 24, 2026**

***Location:* Lynwood Unified School District, 11321 Bullis Road, Lynwood, CA 90262**
Purchasing Department, Office #213

SCOPE OF WORK (SOW)

1. General Requirements & Compliance

- *Regulatory Adherence: All work must comply with CCR Title 24 and Title 8 (Cal/OSHA).*
- *Storm Water Pollution Prevention Plan (SWPPP): Implementation of Best Management Practices (BMPs) to prevent runoff into storm drains.*
- *Daily Clean-up: Strict silica dust control and daily debris removal to maintain a safe campus environment.*

2. Site Preparation & Hazardous Materials - Hazardous Material Report

- *Abatement: Removal and legal disposal of Asbestos-Containing Materials (ACM), Lead-Based Paint (LBP), and PCBs (often found in older caulking and ballasts).*
- *Utility Decommissioning: * Disconnecting and capping of gas, water, and sewer lines (typically 5 feet from the property line).*
    - *Safe removal of refrigerants (EPA compliance) and Propylene Glycol from older HVAC systems.*
- *Salvage Operations: Identification and removal of "District Retained" items (e.g., smart boards, specific casework, or historical artifacts) before mass demolition begins.*

3. Selective Internal Demolition - Matterport Model Link , Drawing Package

- *Structural Gutting: Removal of all interior non-load-bearing partitions, ceilings, and floor finishes down to the concrete slab or wood framing.*
- *MEP Systems: Complete "strip-out" of outdated Mechanical, Electrical, and Plumbing systems, including legacy boilers and ductwork.*
- *Accessibility Prep: Precise concrete saw-cutting for new plumbing trenches and ADA-compliant restroom reconfigurations.*

4. Exterior & Site Demolition

- *Hardscape Removal: Demolition of cracked asphalt community active spaces, concrete walkways, and non-compliant ADA ramps.*
- *Structure Razing: If replacing 75+ year-old buildings, complete demolition down to the footings is required to qualify for OPSC replacement grants.*
-
- *Vegetation: Removal of designated trees and shrubs, including stump grinding, while protecting "trees to remain" per the arborist report.*

5. Earthwork & Finishing

- *Footing Removal: Total removal of concrete footings and grade beams to a depth of at least 3 feet below existing grade.*
- *Backfill & Compaction: Voids left by demolished structures must be backfilled with engineered fill and*

compacted to 90%–95% density, verified by a third-party geotechnical engineer.

- *Waste Management: California Green Building Standards (CALGreen) require a minimum of 65% diversion of construction and demolition waste from landfills.*

Modernization Scope Checklist

Category	***Typical Activity***
Safety	*Temporary 6ft chain-link fencing with privacy screening/dust mesh.*
Environmental	*Air monitoring for lead/asbestos during "hot" demo phases.*
Utilities	*Safe-off and "GPR" (Ground Penetrating Radar) utility locating.*
Concrete	*Saw-cutting for new "thickened slab" footings for seismic upgrades.*
Documentation	*Submission of weight tickets and recycling logs for LEED/CALGreen.*

1.0 General Conditions & Mobilization (Fencing, SWPPP, Signage)LS12.0Hazardous Material Abatement (Asbestos/Lead/PCBs)LS13.0Soft Demo: Carpeting, ceiling tiles, non-structural partitionsSF—4.0Hard Demo: Concrete slabs, CMU walls, footings, and asphaltCY—5.0Utility Safe-off: Capping of MEP/FP systems at sourceEA—6.0Concrete Saw-cutting: For new plumbing/electrical trenchesLF—7.0Off-site Disposal & Recycling (65% Min.

The Work is subject to the **Community Workforce Agreement ("CWA")** between the District and the Los Angeles/Orange Counties Building and Trades Council. Each Bidder must submit the completed and executed CWA Letter of Assent concurrently with submitting its Bid Proposal. All Subcontractors must complete and execute the CWA Letter of Assent as a condition to perform any Work. Link provided: Community Work Force Agreement

Prequalification Required

As a condition of bidding for this Project, and in accordance with California Public Contract Code section 20111.5, prospective Bidders are required to prequalify through Quality Bidders & Register for CUPCCAA projects by clicking on the link Quality Bidders-Contractor Prequalification & CUPCCAA Registration by no later than **February 24, 2026** [not less than five days prior to Bid opening date].

For questions send email to: *Daniela Navarro, Sr. Buyer at* ***dnavarro@mylusd.org*** *and cc:* ***purchasingfinal@mylusd.org***

Responses of the District to the notice of any errors or discrepancies herein, or clarifications will be issued by a written addendum posted on the district website Purchasing page under Active Bids & RFPs, Bids & RFPs.
It is the responsibility of the Respondents to regularly check the aforementioned web page for current written BID modifications through an addenda prior to BID submittal.

Important: Firms interested in submitting a response to this BID, are not to contact by any means, any Board Member, Administrator, or staff member of the District other than the designated Buyer identified above regarding this BID. If this directive is violated, the District may deem the Firm's "submittal" to be "Non-Responsive", and no further consideration will be given.

Phone calls for information concerning this BID will not be accepted

District Representative	Procurement Officer
Contact Name: Daniela Navarro, Sr. Buyer Email: dnavarro@mylusd.org	Contact Name: Ricardo Harris, Director of Purchasing, Contracts & Warehouse Email: rharris@mylusd.org

Published: January 30, 2026 & February 6, 2026
Norwalk Patriot Newspaper & LUSD Website

BID No. 08MOT26
Lynwood High School-Imperial Site, Demolition (No DSA)
Campus Renovations

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SECTION 1

NOTICE TO CONTRACTORS

NOTICE TO CONTRACTORS; CALL FOR BIDS

The District reserves the right to change and/or modify the scheduled timeline.

Scheduled Timeline	Dates	Time
BID Published– 1st Week	January 30, 2026	
BID Published – 2nd Week	February 6, 2026	
Mandatory Pre-Bid Job Walk -Lynwood High School	**February 6, 2026**	10:00 am
Mandatory Pre-Bid Job Walk -Lynwood High School	**February 12, 2026**	10:00 am
RFI DUE	February 18, 2026	12:00 pm
Responses to RFI DUE	February 20, 2026	
BIDs Due	February 24, 2026	10:00 am
Notice of Intent to Award	February 25, 2026	
Board of Education Meeting for Award	March 12, 2026	5:00 pm
Notice of Award	March 13, 2026	
Notice to Proceed	March 23, 2026	

NOTICE IS HEREBY GIVEN that Lynwood Unified School District, acting by and through its Board of Education, will receive up to, but not later than the above-stated date and time, Bid Proposals for the Work of the Project described above.

1. Bid Proposal. All information or responses of a Bidder in its Bid Proposal and other documents accompanying the Bid Proposal shall be complete, accurate and true; incomplete, inaccurate or untrue responses or information provided therein by a Bidder shall be grounds for the District to reject such Bidder's Bid Proposal for non-responsiveness. Bid Proposals shall be submitted with the following:
    - Bid Proposal
    - Qualification Statement
    - Attachment A: Subcontractor's List
    - Attachment B: DVBE Participation Statement
    - Attachment C: Non-Collusion Affidavit
    - Attachment E: Drug-Free Workplace Certification
    - Attachment G: Bid Bond *(10% of the total Bid amount)*
    - Attachment L: Certificate of Insurance, Endorsed to Lynwood Unified School District
    - Exhibit 1: Letter of Assent
2. Bidder and Subcontractors DIR Registered Contractor Status. Pursuant to Labor Code § 1771.1, Bidders must be a DIR Registered Contractor when submitting a Bid Proposal. The Bid Proposal of a Bidder who is not a DIR Registered Contractor when the Bid Proposal is submitted will be rejected for non-responsiveness. All Subcontractors identified in a Bidder's Subcontractors' List must be DIR Registered contractors at the time the Bid Proposal is submitted.
3. Duration of Bid Proposals. Bid Proposals shall not be withdrawn by any Bidder for a period of Sixty days (60) days after the opening of Bid Proposals. During this time, all Bidders shall guarantee prices quoted in their respective Bid Proposals.

SECTION 2

SCOPE OF WORK

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1. General Requirements & Compliance

- *Regulatory Adherence: All work must comply with CCR Title 24 and Title 8 (Cal/OSHA).*
- *DSA Notification & Approval: .*
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SECTION 3

INSTRUCTIONS TO BIDDERS

INSTRUCTIONS FOR BIDDERS

1. Preparation and Submittal of Bid Proposal. All information required by the bid forms must be completely and accurately provided. Numbers shall be stated in both words and figures where required in the bid forms; conflicts between a number stated in words and in figures are governed by the words. Partially completed Bid Proposals or Bid Proposals submitted on other than the bid forms included herein are non-responsive and will be rejected. Any document submitted with a Bid Proposal which is not complete, accurate and executed, as required by each document, will result in the Bid Proposal being deemed non-responsive. All Bid Proposals shall be submitted before the latest date/time for submitting Bid Proposals (See Notice to Contractors). Bidders are solely responsible for timely submission of Bid Proposals to the District at the place designated in the Notice to Contractors.
2. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in the form of: (i) a certified or cashier's check made payable to the District or (ii) a Bid Bond, in the form and content included with the Contract Documents in an amount equal to Ten Percent (10%) of the Bid Proposal amount, inclusive of the price(s) proposed for additive Alternate Bid Items, if any. A Bid Proposal submitted without the required Bid Security is non-responsive and will be rejected. If the Bid Security is a Bid Bond, the Bidder's Bid Proposal shall be deemed responsive only if the Bid Bond is issued by an Admitted Surety Insurer under Code of Civil Procedure §995.120 in the form and content included herein, duly completed and executed (with notary acknowledgements) on behalf of the Bidder and Surety. Bid Security shall be submitted as set forth in the Call for Bids.
3. Bidder Modifications; Withdrawal or Modification of Submitted Bid Proposal.
   3.1. Erasures; Inconsistent or Illegible Bid Proposals. Bid Proposals must not contain any erasures, interlineations or other corrections unless the same are suitably authenticated by affixing in the margin immediately opposite such erasure, interlineations or correction the initials or surname(s) of the person(s) signing the Bid Proposal. Any Bid Proposal not conforming with the foregoing may be deemed by the District to be non-responsive. If any Bid Proposal or portions thereof, is determined by the District to be illegible, ambiguous or inconsistent, the District may reject such a Bid Proposal as being non-responsive.
   3.2. Withdrawal or Modification of Submitted Bid Proposal. Bid Proposals may be withdrawn or modified only if: (i) the Bidder submitting the Bid Proposal submits a written request for withdrawal or modification to the District; and (ii) the written withdrawal or modification request is actually received by the District prior to the latest date/time for submittal of Bid Proposals. Requests for withdrawal of a Bid Proposal after the public opening of Bid Proposals pursuant to Public Contract Code §5100 et seq. will be considered only if in strict conformity with requirements of Public Contract Code §5100 et seq.
4. Examination of Site and Contract Documents. Each Bidder shall, at its sole cost and expense, inspect the Site and to become fully acquainted with the Contract Documents and conditions affecting the Work. The failure of a Bidder to receive or examine any of the Contract Documents or to inspect the Site shall not relieve such Bidder from any obligation with respect to the Bid Proposal, or the Work required under the Contract Documents. The District assumes no responsibility or liability to any Bidder for, nor shall the District be bound by, any understandings, representations or agreements of the District's representatives, agents, employees or officers concerning the Contract Documents or the Work made prior to execution of the Contract which are not in the form of Bid Addenda duly issued by the District. The submission of a Bid Proposal shall be deemed prima facie evidence of the Bidder's full compliance with the requirements of this section.
5. Contract Time. The Project must be completed within the Contract Time of **60** calendar days after the commencement date established by the District's Notice to Proceed.

6. Agreement and Bonds. The Agreement which the successful Bidder, as Contractor, will be required to execute along with the forms for the Labor and Material Payment Bond, Performance Bond and other documents and instruments which will be required to be furnished by the successful are included or described in the Contract Documents and shall be carefully examined by the BidderPre-Bid Questions; Contract Document Interpretation and Modifications.

   6.1. Bidder Pre-Bid Questions. Any Bidder in doubt as to the true meaning of any part of the Contract Documents, finds discrepancies, errors or omissions therein, or finds variances in any of the Contract Documents with the Laws ("Pre-Bid Questions"), shall submit Pre-Bid Questions as set forth in the Call for Bids. Bidders are solely and exclusively responsible for submitting Pre-Bid Questions no later than the time/date designated in the Call for Bids. Responses to Pre-Bid Questions will be by written addenda. Failure to request interpretation or clarification of any portion of the Contract Documents pursuant to the foregoing is a waiver of any discrepancy, defect or conflict therein.

   6.2. No Oral Interpretations. No person is authorized to: (i) render an oral interpretation or correction of any portion of the Contract Documents; or (ii) provide oral responses to Pre-Bid Questions. No Bidder is authorized to rely on any such oral interpretation, correction or response.

   6.3. District's Right to Modify Contract Documents; Addenda. Before the public opening and reading of Bid Proposals, the District will respond to Pre-Bid Questions and other revisions to the Work or the Contract Documents by written addenda. If the District issues any addenda during the bidding, the failure of any Bidder to acknowledge such addenda in its Bid Proposal will render the Bid Proposal non-responsive and rejected. **If the District conducts a Mandatory Pre-Bid Job Walk, addenda will only be distributed to Bidders on the Bidders List compiled from Bidders attending the Mandatory Job Walk.** Responses of the District to the notice of any errors or discrepancies herein, or clarifications will be issued by a written addendum posted on the district website, Bids & RFPs. All addenda/s must be acknowledged in your BID Submittal.

   6.4. Bidder's Assumptions. The District is not responsible for any assumptions made or used by the Bidder in calculating its Bid Proposal Amount including, without limitation, assumptions regarding costs of labor, materials, equipment or substitutions/alternatives for any material, equipment, product, item or system incorporated into or forming a part of the Work which have not been previously expressly approved and accepted by the District. The successful Bidder, upon award of the Contract by the District, if any, will be required to complete the Work for the amount bid in the Bid Proposal within the Contract Time and in accordance with the Contract Documents.

7. Award of Contract.

   7.1. Waiver of Irregularities or Informalities. The District reserves the right to reject any and all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.

   7.2. Award to Responsible Bidder Submitting Lowest Priced Responsive Bid Proposal. The award of the Contract, if made by the District through action of its Board of Education, will be to the responsible Bidder submitting the lowest priced responsive Bid Proposal

   7.3. Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the Bidder will execute and deliver to the District the Agreement in the form attached hereto within Five (5) calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District:

   - Agreement
   - **Letter of Assent from all Subcontractors**
   - Workers Compensation Certification
   - Certificates of Insurance evidencing all insurance coverages the Bidder and its Subcontractors are required to obtain under the Contract Documents
   - Labor and Material Payment Bond *(100% of the contract amount)*
   - Performance Bond

- W-9 IRS Form

Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescinding award of the Contract and/or forfeiture of the Bidder's Bid Security. In such an event, the District may, in its sole and exclusive discretion, elect to award the Contract to the responsible Bidder submitting the next lowest priced Bid Proposal or reject all Bid Proposals.

7.4. Responsive Bid Proposal. A responsive Bid Proposal means a Bid Proposal which conforms, in all material respects, to the Bid and Contract Documents. A Bid Proposal which does not conform to material bidding requirements, as reasonably determined by the District, is subject to rejection for non-responsiveness.

7.5. Responsible Bidder.

7.5.1. Bidder Capacity. Factors affecting the Bidder's capacity to perform and complete the Work will be assessed, including: (i) Bidder's access to labor, materials and other resources necessary to complete the Work; (ii) Bidder's ability to complete the Work within the time established for completion of the Work, or portions thereof; and (iii) Bidder's ability to complete warranty obligations.

7.5.2. Bidder Character, Integrity. Factors reflecting the character and integrity of the Bidder, including: (i) other public agency finding/determination, within the past five (5) years, that the Bidder is not responsible; (ii) currently debarred from bidding public works projects or debarment from bidding within past five (5) years; and (iii) false claims liability within the past five (5) years under local, state or federal laws.

7.5.3. Bidder Financial Capability. Factors considered include: (i) sufficiency of the Bidder's financial resources; (ii) whether the Bidder is currently in payment of debts and performance of other financial obligations; and (iii) bankruptcy or insolvency proceedings have been instituted within the past five (5) years.

7.5.4. Bidder Prior Performance. The Bidder's prior performance on prior public works contracts, including without limitation: (i) cost overruns; (ii) compliance with general conditions and other contractual requirements, including schedule development, schedule updates and coordination of labor, material/equipment procurements and subcontractors; (iii) completion within allocated time; (iv) submittal of unsubstantiated, unsupported or excessive cost proposals, claims or contract adjustment requests; (v) completion of a project by a surety; (vi) owner's exercise of default remedies; and (vii) finding or determination by any public agency that the Bidder is not a responsible bidder.

7.5.5. Safety. Factors include: (i) findings of serious or willful safety violations of safety laws, regulations or requirements by any local, state or federal agency within the past five (5) years; (ii) adequacy and implementation of safety plans, programs for on-site and off-site and related activities; and (iii) Workers Compensation Insurance EMR rating exceeding 1.25.

7.5.6. Subcontractors; Subcontractors List. Each Bidder shall identify its proposed Subcontractors for the proposed Work, including any Alternate Bid Items, who will perform/provide portions of the Work valued at or more than one-half (½) of one percent (1%) of the amount proposed by the Bidder for the Work. The Bidder's proposed Subcontractors shall be identified in the form of Subcontractors List. The Subcontractors List requires the Bidder's disclosure of information relating to each listed Subcontractor as set forth in the Subcontractors List. Failure of a Bidder to provide all required information for all listed Subcontractors will result in rejection of the Bidder's Bid Proposal for non-responsiveness. All Bidders are referred to the Contract Documents and the notation therein that all Contract Documents are intended to be complementary and that the organization or arrangements of the Specifications and Drawings shall not limit the extent of the Work of the Contract Documents. The omission of any portion

or item of Work from the Bid Proposal or from the sub-bidders' sub-bids which is/are necessary to produce the intended results and/or which are reasonably inferable from the Contract Documents is not a basis for adjustment of the Contract Price or the Contract Time. Dissemination of the Contract Documents to sub-bidders and dissemination of addenda issued during the bidding process is solely the responsibility of each Bidder.

8. DVBE Participation Goal. Bidders must meet the DVBE Participation Goal or demonstrate that Good Faith Efforts were made to meet the DVBE Participation Goal. The DVBE Participation Goal is not a quota or a set-aside, but Good Faith Efforts must be made to achieve the DVBE Participation Goal. The DVBE Participation Goal and related documents establishing a Bidder's achievement of the DVBE Participation Goal are set forth in the DVBE Participation Policy and DVBE Worksheets. All Bid Proposals be submitted with the completed DVBE Worksheets. The Bid Proposal of a Bidder who did not meet the DVBE Participation Goal and who does not demonstrate by the DVBE Worksheets that Good Faith Efforts were made to achieve the DVBE Participation Goal will be rejected for non-responsiveness.
9. Workers' Compensation Insurance. Pursuant to California Labor Code §3700, the successful Bidder shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The successful Bidder shall execute and deliver to the District the form of Workers Compensation Certification included in the Contract Documents concurrently with such Bidder's delivery of the executed Agreement to the District.
10. Bid Security Return. The Bid Security of the (4) Bidders submitting the (4) lowest priced responsive Bid Proposals, will be held by the District for ten (10) calendar days after the period for which Bid Proposals must be held open (which is set forth in the Call for Bids) or until posting by the successful Bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever occurs later, at which time the Bid Security of such other Bidders will be returned to them.
11. Forfeiture of Bid Security. If the Bidder awarded the Contract fails or refuses to execute the Agreement within time set forth in the Bid Proposal, the District may declare the Bidder's Bid Security forfeited as damages caused by the failure of the Bidder to enter into the Contract and may thereupon award the Contract for the Work to the responsible Bidder submitting the next lowest priced Bid Proposal or may call for new bids, in its sole and exclusive discretion.
12. Contractors' License. No Bid Proposal will be considered from a Bidder who, at the time Bid Proposals are opened, is not licensed to perform the Work, in accordance with the Contractors' License Law, California Business & Professions Code §§7000 et seq. This requirement is not a mere formality and will not be waived by the District or its Board of Education. The required California Contractors' License classification(s) for the Work is set forth in the Call for Bids.
13. **CWA Letter of Assent. The Work is subject to the Community Workforce Agreement ("CWA") between the District and the Los Angeles/Orange Counties Building and Trades Council. Each Bidder must submit the completed and executed CWA Letter of Assent concurrently with submitting its Bid Proposal. All Subcontractors must complete and execute the CWA Letter of Assent as a condition to performing any Work. The full agreement can be downloaded using the link provided, Community Work Force Agreement**
14. Bidder's Qualifications. Each Bidder shall submit with its Bid Proposal the form of Qualifications Statement, which is included within the Contract Documents. All information required by the Qualifications Statement shall be completely and fully provided. Any Bid Proposal not accompanied by the Qualifications Statement completed with all information required and bearing the signature of the Bidder's duly authorized representative under penalty of perjury will render the Bid Proposal non-responsive and rejected. If the District determines that any information provided by a Bidder in the Qualifications Statement is false or misleading, or is incomplete so as to be false or misleading, the District may reject the Bid Proposal submitted by such Bidder as being non-responsive. If any response to the "Essential Requirements" section of the Qualifications Statement is a "not qualified" response, the Bidder's Bid Proposal will be rejected for failure of the Bidder to meet minimum qualifications for the Work.

1. Job-Walk. The District will conduct a Job-Walk at the time(s) and place(s) designated in the Call for Bids. If attendance at the Job Walk is indicated in the Call for Bids as being mandatory, the failure of any Bidder to have its authorized representative present at the entirety of the Job-Walk **will** render the Bid Proposal of such Bidder to be non-responsive.
2. Public Records. Bid Proposals and other documents responding to the Call for Bids become the exclusive property of the District upon submission to the District. At such time as the District issues the Notice of Intent to award the Contract pursuant to these Instructions for Bidders, all Bid Proposals and other documents submitted in response to the Call for Bids become a matter of public record and shall be thereupon be considered public records, except for information contained in such Bid Proposals deemed to be Trade Secrets (as defined in California Civil Code §3426.1) and information provided in response to the Qualifications Statement. A Bidder that indiscriminately marks all or most of its Bid Proposal as exempt from disclosure as a public record, whether by the notations of "Trade Secret," "Confidential," "Proprietary," or other similar notations, may result in, or render, the Bid Proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Bid Proposals are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded access for inspection and/or copying of such Bid Proposals, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Bid Proposal deemed exempt from disclosure hereunder, the Bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.
15. Notice of Intent to Award Contract. Following the public opening and reading of Bid Proposals, the District will issue a Notice of Intent to Award the Contract, identifying the Bidder to whom the District intends to award the Contract and the date/time/place of the District's Board of Education meeting at which award of the Contract will be considered.
16. Bid Protest.
    16.1. Submittal of Bid Protest. Any Bidder submitting a Bid Proposal to the District may file a protest of the District's intent to award the Contract provided that all of the following are complied with: (i) the bid protest is in writing; (ii) the bid protest is filed and received by the District's Assistant Superintendent, Business Services ("Assistant Superintendent'') not more than five (5) calendar days after the date of issuance of the District's Notice of Intent to Award the Contract; and (iii) the written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and credible evidence. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid.
    16.2. District Review and Disposition of Bid Protest. Provided that a bid protest is filed in strict conformity with the foregoing, the Assistant Superintendent or such individual(s) as may be designated by him/her ("Designee") will review and evaluate the basis of the bid protest. The Assistant Superintendent or Designee shall provide the Bidder submitting the bid protest with a written statement concurring with or denying the bid protest ("Bid Protest Response"). The Bid Protest Response is deemed the final action of the District and not subject to appeal or reconsideration by

any other employee or officer of the District or the Board of Education of the District. The issuance of the Bid Protest Response by the Assistant Superintendent or the Designee is an express condition precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals. If any such legal or equitable proceedings are instituted and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. Each Bidder shall acknowledge in the Bid Proposal that the foregoing is a binding attorneys' fee agreement pursuant to Civil Code §1717 and shall be enforceable against the Bidder and the District.

[END OF SECTION]

SECTION 4
BID PROPOSAL

BID PROPOSAL

Project Name: Lynwood High School-Imperial Site, Demolition (No DSA), Campus Renovations
Project Number: BID No. 08MOT26

Bidder Information	_____ (Bidder Name) _____ (Street Address) _____ (City, State, Zip Code) (_____)_____ (Telephone)		
Bidder Contact Person and Email	_____ (Name) _____ (Email Address)		
Contractors' License	_____ (License Number)	_____ (Expiration Date)	_____ (License Classifications)
DIR Registration Number	_____		

Bid Proposal Price.

1.1. Base Bid Price. The undersigned Bidder, having become familiarized with the Contract Documents and the local conditions affecting the performance or cost of to perform the Work, the Bidder proposes and agrees to perform the Work of the Contract Documents including, without limitation, providing and furnishing any and all of the labor, materials, tools, equipment and services necessary to perform all obligations under the Contract Documents for the sum of:

_____Dollars ($_____).

1.2. Allowances. The District has established the following Allowance Amount for each Allowance Item set forth in the following:

Allowance Item No.	Allowance Item Description	Allowance Amount
A-1	Unforeseen Allowance	$30,000
A-2	Lunch Shelter Structural Steel Demolition	$70,000
	Aggregate Allowance Amount	$100,000

1.3 Bid Proposal Price. The Bid Proposal Price is the sum of the Base Bid Price (Paragraph 1.1) plus Aggregate Amount (Paragraph 1.2) which is:

_____Dollars ($_____).

[CONTINUED NEXT PAGE]

1.4 Addenda. The Bidder confirms that: (i) it has received and reviewed all Addenda issued by the District, if any, as set forth below; and (ii) that this Bid Proposal incorporates and is inclusive of, all items or other matters contained in all Addenda, if any, issued by or on behalf of the District. ***Failure of the Bidder to acknowledge all Addenda may result in rejection of the Bid Proposal for non-responsiveness.***

ADDENDUM NO.	ADDENDUM ISSUE DATE

1.5 **DVBE Participation Goal.** The Bidder acknowledges that the District has established a three percent (3%) Participation Goal for DVBEs in connection with the Work. The Bidder certifies to the District that the Bidder achieved the DVBE Participation Goal or the Bidder did not achieve the DVBE Participation Goal, but made Good Faith Efforts to achieve the DVBE Participation Goal, as noted by the **checkbox below**.

☐ The Bidder achieved the DVBE Participation Goal.

☐ The Bidder did not achieve the DVBE Participation Goal, but made Good Faith Efforts to achieve the DVBE Participation Goal

1.6 The Bidder acknowledges that if this Bid Proposal and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, Instructions for Bidders and in each of the foregoing documents, the Bid Proposal may be rejected as non-responsive.

1.7 **Contractors' License**. The Bidder certifies that: (i) it is possesses a valid and in good standing Contractors' License, in the necessary class(es), for performing the Work as set for in the Call for Bids; (ii) that such license shall be in full force and effect throughout the duration of the performance of the Work; and (iii) that all Subcontractors providing or performing any portion of the Work are properly licensed to perform their respective portions of the Work at the time of submitting this Bid Proposal and will remain so properly licensed at all times during their performance of the Work.

A. The successful bidder must possess a valid and active Class "B" and "C-21" Contractor's License at the time of bid and throughout the duration of this Contract.

1.8 **Award of Contract**. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form set forth in the Contract Documents within five (5) business days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages required under the Contract Documents; (ii) the Performance Bond; and (iii) the Labor and Material Payment Bond. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescission of the award of the Contract and/or forfeiture of the Bidder's Bid Security. In such an event, the District may, in its sole and exclusive discretion, elect to award the Contract to the responsible Bidder submitting the next lowest Bid Proposal, or to reject all Bid Proposals.

1.9 **Acknowledgments, Certifications and Authority**. The Bidder acknowledges its receipt, review and understanding of the Drawings, the Specifications and other Contract Documents pertaining to the proposed Work. The Bidder certifies that the Contract Documents are, in its opinion, adequate, feasible and complete for providing, performing and the Classroom Building in a sound and suitable manner for the use specified and intended by the Contract Documents. The Bidder certifies that it has, or has available, all necessary equipment, personnel, materials, facilities and technical and financial ability to complete the Work for the amount bid herein within the Contract Time and in accordance with the Contract Documents. The undersigned is an employee of the Bidder and is authorized by the Bidder to execute this Bid Proposal on behalf of the Bidder and to bind the Bidder to this Bid Proposal.

By: _____
(Signature)

_____
(Typed or Printed Name)

Title: _____

LYNWOOD
UNIFIED SCHOOL DISTRICT

SUBCONTRACTORS LIST

Project Name: Lynwood High School-Imperial Site, Demolition (No DSA), Campus Renovations
Project Number: BID No. 08MOT26

Project Name ("the Work")	_____
Bidder Name	_____
Bidder's Representative Signature	_____ (Signature) _____ (Typed or Printed Name)

Must be fully filled out

Licensed Name of Subcontractor	Address of Office, Mill or Shop & Phone #	Trade or Portion of Work	Contractors' License Number	DIR Registration Number

[DUPLICATE THIS FORM FOR ADDITIONAL SUBCONTRACTORS]

SECTION 5

QUALIFICATIONS STATEMENT

QUALIFICATIONS STATEMENT

The District will review this information to determine if you are a **"Responsible"** Respondent.

1. RESPONDENT QUALIFICATIONS

1.1. Respondents must be a California Department of Industrial Relations registered contractor at the time of submitting the BID response.
(Provide proof; submit a copy and label as **Exhibit Q.2.1**.)

1.2. Must possess a valid and active "B" and "C-21" California Contractor's Licenses at the time of bid and throughout the duration of this Contract.

1.3. Be able to assign sufficient skilled, knowledgeable and experienced personnel to complete and implement project obligations.
⬜ Affirm

1.4. Not be suspended or debarred from accepting contract awards from State of California and Federal Government entities.
⬜ Affirm

1.5. At any time during the last ten (10) years, the Respondent, or any predecessor to the Respondent, **has not been** convicted of a crime involving any federal, state, or local law related to a public project similar in nature and scope to this BID.
⬜ Affirm

1.6. Judgments and Arbitration Awards. Within the past ten (10) years, the Respondent has **not been** a party to a judgment entered in a civil proceeding or an arbitration award issued by an arbitrator in a binding arbitration proceeding related to a public project similar in nature and scope to this BID.
⬜ Affirm

[CONTINUED ON NEXT PAGE]

1.1. Performance Bond. Within the past five (5) years no claims have been made against any Performance Bond issued for Respondent, or a predecessor to the Respondent related to a public project similar in nature and scope to this BID.
⬜ Affirm

1.2. Insurance. The Respondent is able to meet the District's insurance requirements described below.
⬜ Affirm

Required Insurance Policy Certificate	Minimum Coverage Limits
Workers Compensation	In accordance with the State of California law
Employers Liability	One Million Dollars ($1,000,000)
Comprehensive General Liability (including property damage and automobile liability)	One Million Dollars ($1,000,000) per occurrence/Two Million Dollars ($2,000,000) in the aggregate
Professional Liability	One Million Dollars ($1,000,000) per claim Two Million Dollars ($2,000,000) in the aggregate

The undersigned is duly authorized to execute this Qualifications Statement under penalty of perjury on behalf of the above-identified Respondent.

The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Qualifications Statement and/or that he/she has conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Qualifications Statement.

The undersigned declares and certifies that the responses to this Qualifications Statement are complete and accurate; there are no omissions of material fact or information that would render any response to be false or misleading and there are no misstatements of fact in any of the responses.

If the District determines that any response herein is false or misleading or contains misstatements of fact, the Response will not further participate in the BID selection for award process.

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

Name of Representative: _____

Title of Representative: _____

Respondents Firm Name: _____

Signature of Representative: _____ Date:_____

[END OF SECTION

SECTION 6

ENCLOSURES
&
ATTACHMENT

Appendix I

ATTACHMENT A

LETTER OF ASSENT "A"

To be signed by all contractors awarded work covered by the Community Workforce Agreement prior to commencing work.

Provide with your Notice of Award
(Awardee and Sub-contractors must provide a signed letter)

[Contractor's Letterhead]
Community Workforce Coordinator
C/O Lynwood Unified School District
11321 Bullis Rd.
Lynwood, CA 90262

Attn:

Re:
Community Workforce Agreement - Letter of Assent

Dear Sir:

This is to confirm that **[name of company]**_____ agrees to be party to and bound by the Lynwood Unified School District Community Workforce Agreement effective 2024, as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project and this Company shall require all of its contractors and subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical Letter of Assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By:

Name:

Title:

Contractor State License No.

[Copies of this letter must be submitted to the Community Workforce Coordinator and to the Council per Section 2.5(b).

ATTACHMENT B

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION STATEMENT

Each bidder must complete this form in order to comply with the Lynwood Unified School District ("District") policy for participation of disabled veteran business enterprises (School District projects funded in whole or in part by the State of California pursuant to the Leroy F. Greene School Facilities Act of 1998. (Education Code §17070.10, et seq.)

Project Name: _____

Bid No.: _____

DSA No.: _____

The undersigned, on behalf of the Contractor named below, certifies that the Contractor has made reasonable efforts to secure participation by DVBE in the Contract to be awarded for the above-referenced Bid No., including participation by DVBE subcontractors and/or material suppliers.

Check only one of the following:

❑ The Contractor was unable after reasonable efforts to secure DVBE participation in the Contract for the above-referenced Project/Bid No. However, the Contractor will use DVBE services if the opportunity arises at any time during construction of the Project. Upon completion of the Project, the Contractor will report to the District the total dollar amount of DVBE participation in any Contract awarded to Contractor, and in any change orders, for the above-referenced Project.

❑ The Contractor has secured DVBE participation in the Contract for the above referenced Project/Bid No., and anticipates that such DVBE participation will equal approximately _____dollars ($_____), which represents approximately _____percent (3%) of the total Contract for such Project. Upon completion of the Project, Contractor will report to the District the actual total dollar amount of DVBE participation in the Contract awarded to Contractor, and in any change orders, for such Project

Company: _____

Name: _____

Title: _____

Signature: _____ Date: _____

LYNWOOD
UNIFIED SCHOOL DISTRICT

Attachment C
Non-Collusion Affidavit

STATE OF CALIFORNIA COUNTY OF _____

I, _____, being first duly sworn, deposes and says
(Typed or Printed Name)

that I am the _____of _____,
(Title) (Bidder Name)

the party submitting the foregoing Bid Proposal ("the Bidder"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

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

Executed this _____day of _____, 20_____at _____
(City, County and State)

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

Signature_____ Date_____

Name Printed or Typed_____

LYNWOOD
UNIFIED SCHOOL DISTRICT

Attachment D
Non-Collusion Affidavit

I, _____ the _____ of
(Name) (Title)

_____, declare, state and certify that:
(Contractor Name)

1. I am aware that California Labor Code §3700(a) and (b) provides:
   "Every employer except the state shall secure the payment of compensation in one or more of the following ways:
   (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
   (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees".
2. I am aware that the provisions of California Labor Code §3700 require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this Contract.
3. The following information pertains to the Workers Compensation Insurance policy:

Name of Insurer
Policy No.
Expiration Date
Name, Address, Telephone, Fax and Email Address of contact for Insurer or Broker

_____
(Contractor Name)
By_____ Date_____
(Signature)
_____
(Typed or printed name

Attachment E

Drug Free Work Place

I, _____, am the _____of
(Print Name) (Title)
_____. I declare, state and certify to all of the following:
(Contractor Name)

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following
   2.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;
   2.2. Establishing a drug-free awareness program to inform employees about all of the following:
      (i) The dangers of drug abuse in the workplace;
      (ii) Contractor's policy of maintaining a drug-free workplace;
      (iii) The availability of drug counseling, rehabilitation and employee-assistance programs; and
      (iv) The penalties that may be imposed upon employees for drug abuse violations;
   2.3. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.
3. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, *inter alia*, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
4. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, *et seq*.
5. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, *et seq*. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.
6. I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and

   correct. Executed at _____this _day of _____, 20_____.
   (City and State)

_____

(Signature)

_____

(Handwritten or Typed Name)

LYNWOOD
UNIFIED SCHOOL DISTRICT

ATTACHMENT F1
FINGERPRINT CERTIFICATE

I, _____, am the _____of
(Print Name) (Title)

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

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

   The District requires Entity/Contractor to be able to comply with method (1.2) above. As such, **Entity/Contractor must have a California Department of Justice issued ORI number** under which Entity's/Contractor's employees have been fingerprinted, allowing the California Department of Justice to notify Entity/Contractor upon ascertaining that an individual whose fingerprints were submitted to it has been convicted of a violent or serious felony. Upon such notification, Entity/Contractor shall immediately remove any such individual from District sites.

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

   Entity/Contractor DOJ issued ORI # ⇨ [ ] ⇦
2. I have personal knowledge of and/or have made due and diligent inquiry with respect to the following, and based on said knowledge and/or inquiry I certify that:
   2.1. The fingerprints of each person identified on Fingerprint Certificate Attachment, providing continual supervision and monitoring of all of Entity's/Contractor's staff, including subcontractors of all tiers, while Entity/Contractor/subcontractor(s) are on District Sites, have been submitted to the California Department of Justice under the ORI number provided above pursuant to Education Code §45125.1 and §45125.2; and
   2.2. The California Department of Justice has issued written or electronic verification that each person identified on Fingerprint Certificate Attachment has not been convicted of a felony, as defined in Education Code §45122.1, and has no criminal felony proceedings, as defined in Education Code §45122.1, pending against him or her.
3. Entity/Contractor and I understand that if the District determines that Entity/Contractor has either: (a) made a false certification herein, or (b) violates this certification by failing to carry out and to implement the requirements of California Education Code §45125.1, the Contract is subject to termination, suspension of payments, or both.
4. I am authorized to execute this Fingerprint Certificate on behalf of the Entity/Contractor. All of the statements set forth above and all of the information provided in the Fingerprint Certificate Attachment are true, correct, complete, and accurate. Further, there are no omissions or misstatements of material fact in the foregoing statements or in the information set forth in the Fingerprint Certificate Attachment which would render such statements and/or information to be false or misleading.
5. Unsupervised Contact with students means contact that provides the person opportunity and probability for personal communication or touch with students when not under direct District supervision. Entity/Contractor shall ensure that Entity/Contractor, any subcontractors of all tiers, and their officers, employees, and agents will have no Unsupervised Contact with students while on District property. Entity/Contractor will work with the District and with Entity's/Contractor's subcontractors to ensure compliance with this requirement and shall take all measures necessary to ensure compliance with this requirement, without compromising the day-to-day educational operations at each school site where Entity/Contractor is performing work. If Entity/Contractor is unable to ensure through a security plan (which

   includes but is not limited to provision of an on-site Superintendent who has passed DOJ fingerprinting, and is present at the work areas whenever work is being performed, installation of temporary barriers and fencing, isolation of the work areas or rooms from the rest of the campus or , provision of separate sanitation and break areas for the workers, and provision of a separate path or supervised escort to and from the work for employees) that prevention of unsupervised

contact with students in a particular circumstance, cannot be achieved, then Entity/Contractor shall immediately notify the District before commencing or continuing any work that could result in Unsupervised Contact, and shall refrain from commencing or continuing the work until Entity/Contractor has remedied the issues which may lead to Unsupervised Contact with students.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.
Executed at _____this _____day of _____, 20_____.
(City and State)

_____

(Signature)

_____

(Handwritten or Typed Name

Intentionally Left Blank

FINGERPRINT CERTIFICATE ATTACHMENT MUST BE COMPLETED IN ACCORDANCE WITH THE ABOVE

ATTACHMENT F2

FINGERPRINT CERTIFICATE ATTACHMENT

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

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

NAME	DATE OF DOJ VERIFICATION

ATTACHMENT G

BID BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **Lynwood Unified School District** ("the Obligee") for payment of the penal sum hereof in lawful money of the United States, as more particularly set forth herein.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal has submitted the accompanying Bid Proposal to the Obligee for the Work commonly described as **BID No.08MOT26 LHS-Imperial Site, Demolition (No DSA) Campus Renovations**

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

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

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

[CONTINUED NEXT PAGE]

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

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

_____

(Bidder/Principal Name)

By: _____

(Signature)

_____

(Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

_____

(Surety Name)

By: _____

(Signature of Attorney-In-Fact for Surety)

_____

(Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)

Contact name, address, telephone number and email address for notices to the Surety

_____

(Contact Name)

_____

(Street Address)

_____

(City, State & Zip Code)

(_____) _____ (_____) _____

Telephone Fax

_____

(Email address)

ATTACHMENT H

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **Lynwood Unified School District** ("the Obligee") for payment of the penal sum of _____Dollars ($_____) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as *BID No. 08MOT26 LHS-Imperial Site, Demolition (No DSA) Campus Renovations*

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

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

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

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

If the Obligee terminates the Contract due to the Principal's breach or default of the Principal's obligations thereunder, within twenty (20) days after written notice from the Obligee to the Surety of the Principal's breach or default of the Contract Documents and Obligee's termination of the Contract, the Surety shall notify Obligee in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract Documents and complete the Work at its own expense ("the Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Obligee, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

If the Surety fails to issue its Notice of Election to Obligee within the time provided for hereinabove, the

Obligee may thereafter cause the cure or remedy of the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be jointly and severally liable to the Obligee for all damages and costs sustained by the Obligee as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion of the Work exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligee upon the Principal's failure of performance or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes to the Work which increases the Contract Price. If suit or other proceeding is brought upon this Bond by the Obligee, the Surety and Principal shall be jointly and severally liable for payment to the Obligee of all costs, expenses and fees incurred by the Obligee therewith, including without limitation, attorneys' fees.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this __day of _____, 20____by their duly authorized agent or representative.

_____

(Bidder/Principal Name)

By: _____

(Signature)

_____

(Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

_____

(Surety Name)

By: _____

(Signature of Attorney-In-Fact for Surety)

_____

(Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)

Contact name, address, telephone number and email address for notices to the Surety

_____

(Contact Name)

_____

(Street Address)

_____

(City, State & Zip Code)

(_____) _____ (_____) _____

Telephone Fax

_____

(Email address)

ATTACHMENT I

LABOR AND MATERIALS PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and

_____, as Principal, are jointly and severally, along with their respective

heirs, executors, administrators, successors and assigns, held and firmly bound unto **Lynwood Unified School District** ("the Obligee") for payment of the penal sum of _____Dollars ($_____) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as **BID No.08MOT26 LHS-Imperial Site, Demolition (No DSA) Campus Renovations**

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

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

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

The term "Claimant" shall refer to any person, corporation, partnership, proprietorship or other entity including without limitation, all persons and entities described in California Civil Code §9100, providing or furnishing labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard for whether such labor, materials or services were sold, leased or rented. This Bond shall insure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

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

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

[CONTINUED NEXT PAGE]

Documents, the Drawings or the Specifications of any other portion of the Contract Documents.
IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 20__by their duly authorized agent or representative.

_____
(Bidder/Principal Name)

By: _____
(Signature)

_____
(Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

_____
(Surety Name)

By: _____
(Signature of Attorney-In-Fact for Surety)

_____
(Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)

Contact name, address, telephone number and email address for notices to the Surety

_____
(Contact Name)

_____
(Street Address)

_____
(City, State & Zip Code)

(_____) _____ (_____) _____
Telephone Fax

_____
(Email address)

LYNWOOD
UNIFIED SCHOOL DISTRICT

ATTACHMENT J

VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER

I am the _____ for _____ in
(Superintendent/Project Manager) (Contractor)

connection with _____.
(Project Name)

1. This Verification is submitted to Lynwood Unified School District concurrently with the Contractor's submittal of an Application for Progress Payment to the District, identified as Application For Progress Payment No. _____("the Pay Application").
2. The Pay Application requests the District's disbursement of a Progress Payment for the value of Work performed between _____, 20____and _____, 20_____.
3. The Contractor has submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees of the Contractor engaged in performance of Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.
4. All Subcontractors who are entitled to any portion of payment to be disbursed pursuant to the Pay Application have submitted their CPRs to the Labor Commissioner for all of their employees performing Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.
5. I have reviewed the Contractor's CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Contractor are complete and accurate for the period of time covered by the Pay Application.
6. I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Subcontractors are complete and accurate for the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the foregoing is true and correct. I executed this Certification on the _____day of_____, 20_____at_____
(City and State)

By: _____

_____

(Typed or Printed Name)

ATTACHMENT K

GUARANTEE

(SUBMIT WITH FINAL PAYMENT REQUEST)

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

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

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

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

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

Contractor

(Contractor Name)_____

_____ Date_____

(Signature of Contractor's Authorized Employee

_____

Officer Or Representative)

_____

(Printed Name and Title)

SECTION 8
SAMPLE CONTRACT

SAMPLE CONTRACT

Contract No. 26-_____

THIS AGREEMENT is entered as of _____ in the City of Lynwood, County of Los Angeles, State of California, by and between **Lynwood Unified School District**, a California Unified School District hereinafter "District" and _____("Contractor").

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

1. **The Work**. Within the Contract Time and for the Contract Price, subject to adjustments thereto pursuant to the Contract Documents, the Contractor shall perform and provide all necessary labor, materials, tools, equipment, utilities, services and transportation to complete in a workmanlike manner all of the Work required in connection with the work of improvement commonly referred to as_____ The Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications prepared by the Architect, _____ and other Contract Documents enumerated in Article 5 below, along with all modifications and addenda thereto issued in accordance with the Contract Documents.
2. **Contract Time**. The Contractor shall achieve Substantial Completion of the Work within the Contract Time which is 60 calendar days after the date established in the Notice to Proceed issued by or on behalf of the District for commencement of the Work.
3. **Contract Price**. The District shall pay the Contractor as full consideration for the Contractor's full, complete and faithful performance of the Contractor's obligations under the Contract Documents, subject to adjustments of the Contract Price in accordance with the Contract Documents, the Contract Price of _____ Dollars ($_____). The District's payment of the Contract Price shall be in accordance with the Contract Documents. The Contract Price is based upon the Contractor's Base Bid Proposal, and the following Alternate Bid Items, if any: _____.
4. **Liquidated Damages**. The Contractor shall be subject to assessment of Liquidated Damages set forth in the Special Conditions if the Contractor: (i) fails to submit each Submittal required by the Contract Documents in accordance with the Submittal Schedule incorporated into the Contractor's Schedule; or (ii) fails to achieve Substantial Completion of the Work within the Contract Time, subject to adjustments thereto in accordance with the Contract Documents; and/or (iii) fails to complete all Punch List items within the time established pursuant to the Contract Documents.
5. **Limitation on Damages**. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by said breach or default of the District and shall exclude any and all special or consequential damages, if any, suffered by the Contractor. By executing this Agreement, the Contractor expressly acknowledges the foregoing limitation to the recovery only of general damages from the District if the District is in breach or default of its obligations under the Contract Documents. The Contractor expressly waives any right to and foregoes the recovery of any special or consequential damages from the District including, without limitation, damages for: i) lost or impaired bonding capacity; and/or, ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents; and/or iii) loss of productivity.

00 45 46	Fingerprint Certification
00 52 00	Agreement
00 61 10	Bid Bond
00 61 13	Performance Bond
00 61 14	Labor and Material Payment Bond
00 62 90	Verification of Certified Payroll Records Submittal to Labor Commissioner
00 63 90	Guarantee Form
00 65 37	Contractor Certification of Subcontractor Claim
00 72 00	General Conditions

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

00 01 13	Call for Bids, including Bid Addenda, if any
00 01 21	DSA Form 103
00 21 13	Instructions for Bidders
00 41 00	Bid Proposal
00 41 13	Alternate Bid Items Proposal Form
00 43 13	Subcontractors List
00 45 15	Qualifications Statement
00 45 19	Non-Collusion Affidavit
00 45 26	Certificate of Workers Compensation Insurance
00 45 27	Drug-Free Workplace Certification
00 45 58.01	DVBE Attachment A, Bidder DVBE Statement

00 73 00	Special Provisions
	Drawings
	Specifications

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

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

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

"DISTRICT"
Lynwood Unified School District

By: _____

Title: _____

"CONTRACTOR"

_____

By: _____

Title: _____

LYNWOOD UNIFIED SCHOOL DISTRICT

GENERAL CONDITIONS

1. DEFINITIONS; GENERAL

1.1. District
1.2. Contractor
1.3. Architect.
1.4. The Work.
1.5. The Project.
1.6. Surety.
1.7. Subcontractors; Sub-Subcontractors.
1.8. Material Supplier.
1.9. Drawings and Specifications.
1.10. Special Conditions; Supplemental Conditions.
1.11. Contract Documents
1.12. Intent and Correlation of Contract Documents.
1.12.1. Work of the Contract Documents
1.12.2. Technical Terms
1.12.3. Conflict in Contract Documents
1.12.4. Drawing Dimensions
1.13. Shop Drawings; Samples; Product Data ("Submittals")
1.14. Division of State Architect ("DSA"
1.15. Project Inspector
1.16. Contract Document Terms
1.17. Contractor's Superintendent
1.18. Record Drawings
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1.20. Equipment
1.21. Site
1.22. Field Clarifications
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1.25. Notice to Proceed
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2.3. Partial Occupancy or Use
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2.4. The Project Inspector.
2.4.1. Authority of Project Inspector
2.4.2. Limitations on Project Inspector
2.4.3. Contractor Access for Project Inspector
2.4.4. Contractor and District Responsibilities for Costs and Fees of Project Inspector

3. ARCHITECT; PROJECT MANAGER AND CONTRACT ADMINISTRATION

3.1. Administration of the Contract.
3.2. Architect's Periodic Site Observations
3.3. Contractor Responsibility for _____ Means, Methods and Sequences
3.4. Review of Applications for Payment
3.5. Rejection of Work
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3.6.1. Processing of Submittals
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3.9. Interpretation of Contract Documents; Architect as Initial Arbiter of Disputes.
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3.11. Communications
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GENERAL CONDITIONS

1. DEFINITIONS; GENERAL

1.1. District. The "District" refers to **Lynwood Unified School District** and unless otherwise stated, includes, the District's authorized representatives, including the Project Manager, if a Project Manager is designated, the District's Board of Education and the District's officers, employees, agents and representatives.

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

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

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

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

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

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

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

1.9. Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing generally, the design, location and dimensions of the Work and may include without limitation, plans, elevations, sections, details, schedules or diagrams. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards, criteria and workmanship for the Work and related services. The Drawings and Specifications are intended to delineate and describe the Work and its component parts so as to permit skilled and competent contractors to bid upon the Work and prosecute the same to completion. Large scale Drawings shall take precedence over smaller scale Drawings as to shape and details of . Figured dimensions on Drawings shall govern, but Work which is not dimensioned shall be as directed or required by field conditions. Specifications shall govern as to materials, workmanship and installation procedures.

1.10. Special Conditions; Supplemental Conditions. Special Conditions and Supplemental Conditions, if any, are part of the Contract Documents, setting forth provisions and requirements applicable to the Work which is not otherwise established in the Contract Documents.

1.11. Contract Documents. The Contract Documents consist of the Agreement between the District and the Contractor, Conditions of the Contract (whether General, Special, Supplemental or otherwise),

Drawings, Specifications, including addenda issued prior to execution of the Agreement and any other documents listed in the Agreement. The Contract Documents shall include modifications issued after execution of the Agreement. The Contract Documents form the Contract for .

1.12. Intent and Correlation of Contract Documents

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

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

1.12.3. Conflict in Contract Documents. Conflicts, inconsistencies or ambiguities in the Contract Documents shall be resolved by the Architect in accordance with Article 3.1.9 of the General Conditions; where conflicts or inconsistencies arise between the Drawings and the Specifications, in resolving such conflicts or inconsistencies, the Architect will be governed generally by the following standards: the Drawings are intended to describe matters relating to placement, type, quantity and the like; the Specifications are intended to describe matters relating to quality, materials, compositions, manufacturers and the like. In the event of conflicting provisions between the Contract Documents that were not called to the attention of the Architect or District prior to award of the Contract, the Architect shall determine which of the conflicting requirements shall govern. In general, the Architect shall use as a guideline the more stringent requirements or the more expensive material unless, in the opinion of the Architect, other requirements are more appropriate. The decision of the Architect is final and shall not be further reviewable or appealable by arbitration or litigation. If conflicts exist between portions of the Contract Documents regarding the quality of any item, product, equipment or materials, unless otherwise directed or authorized by the District, the Contractor shall provide the item, product, equipment or material of the highest or more stringent quality. If conflicts, inconsistencies, or ambiguities exist between the Special Conditions and the General Conditions, the Special Condition shall prevail.

1.12.4. Drawing Dimensions. Dimensions given on the Drawings take precedence over scaled measurements, and large-scale Drawings take precedence over small scale Drawings. Figures take precedence over scaled dimensions. Scaling of dimensions is performed at the Contractor's own risk.

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

Samples and Product Data prepared or furnished by the Contractor or any of its Subcontractors or Material Suppliers are collectively referred to as "Submittals".

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

1.15. Project Inspector. The Project Inspector is the individual designated and employed by the District in accordance with the requirements of Title 24 of the California Code of Regulations. The Project Inspector shall be authorized to act on behalf of the District as provided for in the Contract Documents and the Laws, including without limitation, in Title 24 of the California Code of Regulations, as the same may be amended from time to time.

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

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

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

1.19. Project Manager, The Project Manager is an independent contractor retained by the District and is authorized and empowered to act on behalf of the District as set forth in the Contract Documents. The District reserves the right to remove or replace the Project Manager prior to completion of the Work without adjustment of the Contract Price or the Contract Time or otherwise affect, limit or restrict Contractor's obligations hereunder. The Project Manager for the Work is identified in the Special Conditions. If no Project Manager is designated for the Work, references to the Project Manager in the Contract Documents are deemed deleted and replaced with references to the Architect, Project Inspector and/or the District as applicable and appropriate in the context of usage.

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

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

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

1.23. Defective or Non-Conforming Work. Defective or non-conforming Work is any Work which is unsatisfactory, faulty or deficient by: (i) not conforming to the requirements of the Contract Documents; (ii) not conforming to the standards of workmanship of the applicable trade or industry; (iii) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (iv) damage occurring prior to Final Completion of all of the Work. The Contractor shall promptly correct, repair or replace any portion of the Work subject to a Notice of Non-Compliance.

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

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

1.26. Progress Reports; Verified Reports. Progress Reports are written reports prepared by the Contractor and its Subcontractors on a daily basis. Daily Progress Reports shall be completed and submitted to the District not later than 9:00 A.M. of the ensuing business day. Daily Progress Reports must include: (i) the number of labor and supervising personnel at the Site; (ii) the labor/work classification of each laborer; (iii) a detailed description of the Work in progress and completed; (iv) weather/environmental conditions; and (v) problems encountered with a potential impact to the Contract Time or the Contract Price. Verified Reports are periodic written reports prepared by the Contractor and submitted to the DSA; Verified Reports shall be in such form and content as required by the applicable provisions of Title 24 of the California Code of Regulations. A material obligation of the Contractor is the preparation of complete and accurate Progress Reports, if required, and Verified Reports as well as the timely submission of the same.

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

1.28. Change Directive. A Change Directive is a written instrument issued by or on behalf of the District to the Contractor directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. A material obligation of the Contractor is timely performance of Work noted in a Change Directive. A Change Directive may be effectuated by issuance of a Field Order or similar instruction by the Architect when authorized by the District.

2. DISTRICT

2.1. Information Required of the District.

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

2.1.2. Permits; Fees. Except as otherwise provided in the Contract Documents, the District shall secure and pay for necessary permits, approvals, easements, assessments and charges required for , use or occupancy of permanent structures or for permanent changes in existing facilities which are part of the Work. If permits or other authorization of public authorities with jurisdiction over any portion of the Work are designated as the responsibility of the Contractor under the Contract Documents, the Contractor shall be solely responsible for obtaining the same. The cost of such permits or authorizations and any costs incurred by the Contractor in obtaining such permits shall be included within the Contract Price, unless otherwise expressly provided for in the Contract Documents. Notwithstanding any provision of the Contract Documents the contrary, without adjustment of the Contract Time or the Contract Price, the Contractor shall pay for and obtain the following as necessary for completion or performance of the Work: (i) temporary Fire Department permits for temporary material handling, storage and/or dispensing facilities for fuel, oil, liquid or gasses; (ii) Air Quality Management District permits relating to temporary facilities used in connection with any portion of the Work; and (iii) City of Lynwood business license.

2.1.3. Drawings and Specifications. Without adjustment of the Contract Time or the Contract Price, the Contractor shall be responsible for completing all Work and other obligations of the Contractor under the Contract Documents. At the commencement of the Work, the District, through the Project Manager or the Architect, will provide the Contractor with the number of sets of the Contract Documents indicated in the Special Conditions. The Contractor may obtain additional sets of the Contract Documents at the cost of reproduction.

2.1.4. Furnishing of Information. Information or services to be provided by the District under the Contract Documents shall be furnished by the District with reasonable promptness to avoid delay in the orderly progress of the Work. Information about existing conditions furnished by the District under the Contract Documents is obtained from sources believed to be reliable, but the District neither guarantees nor warrants that such information is complete and accurate. The Contractor shall verify all information provided by the District. To the extent that the Contract Documents depict existing conditions on or about the Site, or the Work involves the renovation, removal or remodeling of existing improvements or the Work involves any tie-in or other connection with any existing improvements, the conditions and/or existing improvements depicted in the Contract Documents are as they are believed to exist. Contractor shall bear the risk of any variations between conditions or existing improvements depicted in the Contract Documents and those conditions or existing improvements actually encountered in the performance of the Work. Subject to the provisions of Article 4.2.3, the existence of any variations between conditions or existing improvements depicted in the Contract Documents and those actually encountered in the performance of the Work shall not result in any District liability therefor, nor shall any such variations result in an adjustment of the Contract Time or the Contract Price.

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

2.3. Partial Occupancy or Use.

2.3.1. District's Right to Partial Occupancy. The District may occupy or use any completed or partially completed portion of the Work, provided that: (i) the District has obtained the consent of, or is otherwise authorized by, public authorities with jurisdiction thereof, to so occupy or use such portion of the Work and (ii) the District and the Contractor have accepted, in writing, the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, utilities, damage to the Work, insurance and the period for correction of the Work and commencement of warranties required by the Contract Documents for such portion of the Work partially used or occupied by the District. If the Contractor and the District are unable to agree upon the matters set forth in (ii) above, the District may nevertheless use or occupy any portion of the Work, with the responsibility for such matters subject to resolution in accordance with the Contract Documents. Immediately prior to such partial occupancy or use of the Work, or portions thereof, the District, the Project Inspector, the Contractor, Project Manager, and the Architect shall jointly inspect the portions of the Work to be occupied or to be used to determine and record the condition of the Work. Repairs, replacements or other corrective action noted in such inspection shall be promptly performed and completed by the Contractor so that the portion of the Work to be occupied or used by the District is in conformity with the requirements of the Contract Documents and the District's occupancy or use thereof is not impaired. The District's use or occupancy of the Work or portions thereof pursuant to the preceding shall not be deemed "completion" of the Work as that term is used in Public Contract Code §7107.

2.3.2. No Acceptance of Defective or Nonconforming Work. Unless otherwise expressly agreed upon by the District and the Contractor, the District's partial occupancy or use of the Work or any portion thereof, shall not constitute the District's acceptance of Defective or Non-Conforming Work. Notwithstanding the District's partial occupancy of the Work, the Contractor shall promptly correct, repair or replace all Defective or Non-Conforming Work in areas partially occupied by the District.

2.4. Project Inspector.

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

Inspector shall not relieve or limit the Contractor's performance of its obligations under the Contract Documents.

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

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

2.4.4. Contractor and District Responsibilities for Costs and Fees of Project Inspector. The District is responsible only for payment of the fees of the Project Inspector for standard eight (8) hour work days Mondays through Fridays, excepting holiday days ("Project Inspector Standard Workdays"). Unless the District directs the Contractor to perform Work exceeding the Project Inspector Standard Workdays, for any Work performed by the Contractor outside the Project Inspector Standard Workdays, the Contractor shall be responsible for payment of Project Inspector fees for Project Inspector services relating to such Work. All services provided by the Project Inspector exceeding an eight (8) hour workday Mondays through Fridays and/or the first eight (8) hours on Saturdays shall be at one and one-half (1½) times the Project Inspector's basic hourly rate. All hours of service provided by the Project Inspector in excess of eight (8) hours on Saturdays, and all hours of service provided by the District's Inspector on holiday days or on Sundays are at two (2) times the Project Inspector's basic hourly rate. Fees for services provided by the Project Inspector beyond the Project Inspector Standard Workdays set forth above are the sole responsibility of the Contractor; the District may deduct such fees from the Contract Price then or thereafter due the Contractor.

3. PROJECT MANAGER AND CONTRACT ADMINISTRATION

3.1. Administration of the Contract. The Architect and the Project Manager will provide administration of the Contract as described in the Contract Documents, and will be the District's representatives during until the time that Final Payment is due the Contractor under the Contract Documents. The Architect and Project Manager will advise and consult with the District and the Project Inspector with respect to the administration of the Contract and the Work. The Architect and the Project Manager are authorized to act on behalf of the District to the extent provided for in the Contract Documents; and shall have the responsibilities and powers established by the Laws, including Title 24 of the California Code of Regulations. The Project Manager is authorized to stop the Work whenever deemed necessary in the sole discretion of the Project Manager to ensure that the Work is completed in accordance with the Contract Documents.

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

3.3. Contractor Responsibility for Means, Methods and Sequences. Neither the District, Project

Inspector, Architect or the Project Manager will have control over or charge of and be responsible for means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, these being solely the Contractor's responsibility. The District, Architect, Project Inspector or Project Manager have no control over or charge of and are not responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

3.4. Review of Applications for Payment. The Architect, Project Inspector and Project Manager will each review the Contractor's Applications for Progress Payments and for Final Payment, evaluate the extent of Work performed and certify to the District the amount properly due the Contractor on such Application for Payment.

3.5. Rejection of Work. The Architect and/or Project Manager are authorized to reject Work which is defective or does not conform to the requirements of the Contract Documents. Whenever the Architect, Project Inspector or the Project Manager consider it necessary or advisable, for implementation of the intent of the Contract Documents, they shall have authority to require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. The authority of the Architect, Project Inspector or the Project Manager or a decision made in good faith by the Architect, Project Inspector or Project Manager to exercise or not to exercise such authority shall not give rise to a duty or responsibility to the Contractor, Subcontractors, Material Suppliers, their agents or employees, or other persons performing portions of the Work.

3.6. Submittals.

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

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

approval of an assembly of which the item is a component with the Submittal(s) required and relating to such assembly have been reviewed by the Architect.

3.6.3. Time for Architect's Review. The Architect's review of Submittals will be conducted promptly so as not to delay or hinder the progress of the Work or the activities of the Contractor, the District or the District's separate contractors while allowing sufficient time, in the Architect's reasonable professional judgment, to permit adequate review of Submittals. The foregoing notwithstanding, the Architect's review and return of Submittals will conform with the time limits and other conditions, if any, set forth in the Specifications or the Submittal Schedule if the Submittal Schedule is required by other provisions of the Contract Documents.

3.7. Changes to the Work; Change Orders. The District will prepare Change Orders, and with the written approval of the District, may authorize minor Changes in the Work which do not result in adjustment of the Contract Time or the Contract Price. The District is authorized to issue Field Clarifications and Field Orders.

3.8. Completion. The Architect, Project Inspector and the Project Manager will conduct observations to determine the date(s) of Substantial Completion and the date(s) of Final Completion. The Project Manager will receive from the Contractor and forward to the District, for the District's review and records, written warranties and related documents or other items required by the Contract Documents upon close-out of the Work which are assembled by the Contractor. If a Project Manager is not retained for the Work, the Contractor shall submit such items to the Architect for forwarding to the District. The Architect, Project Inspector and Project Manager will verify that the Contractor has complied with all requirements of the Contract Documents and is entitled to receipt of Final Payment.

3.9. Interpretation of Contract Documents; Architect as Initial Arbiter of Disputes. The Architect will interpret and decide matters concerning the requirements of the Contract Documents on written request of either the District or the Contractor. The Architect's response to such requests will be made with reasonable promptness and within the time limits agreed upon, if any. If no agreement is reached establishing the time for the Architect's review and response to requests, the Architect shall be afforded a ten (10) calendar day period after receipt of such request to review and respond thereto. Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both the District and the Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith. The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents. If there is any disagreement, dispute or other matter in controversy between the District and the Contractor, in addition to other requirements established by the Contract Documents or by law, the submission of the same to the Architect for its decision shall be a condition precedent to initiation of dispute resolution procedures.

3.10. Request for Information. If the Contractor encounters any condition which the Contractor believes, in good faith and with reasonable basis, is the result of an ambiguity, conflict, error or omission in the Contract Documents (collectively "the Conditions"), it shall be affirmative obligation of the Contractor to timely notify the Architect and the Project Manager, in writing, of the Conditions encountered and to request an interpretation from the Architect necessary to address and resolve any such Conditions before proceeding with any portion of the Work affected or which may be affected by such Conditions. If the Contractor fails to timely notify the Architect and the Project Manager in writing of any Conditions encountered and the Contractor proceeds to perform any

portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting an interpretation of the Architect to address and resolve any Conditions the Contractor shall act with promptness in submitting any such written request so as to allow the Architect a reasonable period of time to review, evaluate and respond to any such request, taking into account the current status of the progress and completion of the Work and the actual or potential impact of any such Conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the Architect. If the Architect reasonably determines that any of Contractor's request(s) for information: (i) does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; or (ii) does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract Documents; or (iii) is not justified for any other reason, Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any such request for interpretation, including without limitation, fees of the Project Manager and the Architect as well as any other design consultant to the Architect or the District. If the Contractor requests further clarification of a response to a Request for Interpretation, the subsequent Request for Interpretation shall be identified by the same number as the initial Request for Information followed by an alphabetical letter, beginning with the letter "A". In responding to any of Contractor's Request(s) for Interpretation, the Architect shall, in the response, indicate if the Architect has made the determination pursuant to the preceding sentence and, if so, the amount of costs to be borne by the Contractor for the processing, review, evaluation and response to the Request for Interpretation. Thereafter, the District is authorized to deduct such amount from any portion of the Contract Price then or thereafter due the Contractor.

3.11. Communications. All communications regarding the Work, the performance thereof or the Contract Documents shall be in writing; verbal communications shall be reduced to writing. Communications between the Contractor and the District or the Architect shall be through the Project Manager, if one is retained for the Work. Communications between the Contractor and the District's separate contractors, if any, shall be through the District. All written communications between the Contractor and any Subcontractor, Material Supplier or others directly or indirectly engaged by the Contractor to perform or provide any portion of the Work shall be available to the District, the Project Manager and the Architect for review, inspection and reproduction as may be requested from time to time. Failure or refusal of the Contractor to permit the District, the Project Manager or Architect to review, inspect or reproduce such written communications may be deemed a default of Contractor hereunder. The District reserves the right to implement a computerized data logging and storage system for communications relating to the Work. The Contractor's use and access to such data logging systems will be as established by the District and the Project Manager. The Contractor's use of the data logging system will be without charge or expense to the Contractor; provided, however, the Contract Time and the Contract Price shall not be subject to adjustment on account of the use of the data logging system or training of the Contractor's personnel on the use and functions of the data logging system.

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

4. THE CONTRACTOR

4.1. Contractor Review of Contract Documents.

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

4.1.2. Field Measurements. Prior to commencement of the Work, or portions thereof, the Contractor shall take field measurements and verify field conditions at the Site and shall carefully compare such field measurements and conditions and other information known to the Contractor with information provided in the Contract Documents. Errors, inconsistencies or omissions discovered shall be reported in writing to the Architect, Project Inspector and the Project Manager at once.

4.1.3. Dimensions; Layouts and Field Engineering. Unless otherwise expressly provided, dimensions indicated in the Drawings are intended for reference only. The Drawings are intended to be diagrammatic and schematic in nature; the Contractor shall be solely responsible for coordinating the Work of the Contract Documents. All field engineering required for laying out the Work and establishing grades for earthwork operations shall be by the Contractor at its expense. Any field engineering or other engineering to be provided or performed by the Contractor under the Contract Documents and required or necessary for the proper execution or installation of the Work shall be provided and performed by an engineer duly registered under the laws of the State of California in the engineering discipline for such portion of the Work. Upon commencement of any item of the Work, the Contractor is responsible for dimensions of such item of Work and related Work; without adjustment of the Contract Time or Contract Price, the Contractor is responsible for making component parts of the Work fit together properly. Before ordering any materials or doing any Work, the Contractor and each Subcontractor shall verify measurements and shall be responsible for the correctness and accuracy of the same. No extra charge or compensation will be allowed on account of differences between actual dimensions and the dimensions indicated on the Drawings. Any difference between actual field dimensions and those indicated in the Drawings shall be submitted to the Architect for resolution before proceeding with the Work in affected areas.

4.1.4. Work in Accordance with Contract Documents. The Contractor shall perform all of the Work in strict conformity with the Contract Documents and approved Submittals.

4.2. Site Investigation; Subsurface Conditions.

4.2.1. Contractor Investigation. The Contractor shall be responsible for, and by executing the Agreement acknowledges, that it has carefully examined the Site and has taken all steps it deems reasonably necessary to ascertain all conditions which may affect the Work, or the cost thereof, including, without limitation, conditions bearing upon transportation, disposal, handling or storage of materials; availability of labor and materials; access to the Site; and the physical conditions and the character of equipment, materials, labor and services necessary to perform the Work. Any failure of the Contractor to do so will not relieve it from the responsibility for fully and completely performing all Work without adjustment to the Contract

Price or the Contract Time. The District assumes no responsibility to the Contractor for any understandings or representations concerning conditions or characteristics of the Site, or the Work, made by any of its officers, employees or agents prior to the execution of the Agreement, unless such understandings or representations are expressly set forth in the Agreement.

4.2.2. Subsurface Data. By executing the Agreement, the Contractor acknowledges that it has examined the boring data and other subsurface data available and satisfied itself as to the character, quality and quantity of surface and subsurface materials, including without limitation, obstacles which may be encountered in performance of the Work, insofar as this information is reasonably ascertainable from an inspection of the Site, review of available subsurface data and analysis of information furnished by the District under the Contract Documents. Subsurface data or other soils investigation report provided by the District hereunder are not a part of the Contract Documents. Information contained in such data or report regarding subsurface conditions, elevations of existing grades, or below grade elevations are approximate only and is neither guaranteed or warranted by the District to be complete and accurate. The Contractor shall examine all boring and other subsurface data to make its own independent interpretation of the subsurface conditions and acknowledge that its bid is based upon its own opinion of the conditions which may be encountered.

4.2.3. Subsurface Conditions. If the Work under the Contract Documents involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly and before the following conditions are disturbed, notify the Project Inspector, in writing, of any: (i) material that the Contractor believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I or Class II or Class III disposal site in accordance with provisions of existing law; (ii) subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the Work or the character provided for in the Contract Documents. If upon notice to the District of the conditions described above and upon the District's investigation thereof, the District determines that the conditions so materially differ or involve such hazardous materials which require an adjustment to the Contract Price or the Contract Time, the District shall issue a Change Order in accordance with Article 9 hereof. In accordance with California Public Contract Code §7104, any dispute arising between the Contractor and the District as to any of the conditions listed in (i), (ii) or (iii) above, shall not excuse the Contractor from the completion of the Work within the Contract Time and the Contractor shall proceed with all Work to be performed under the Contract Documents. The District reserves the right to terminate the Contract pursuant to Article 15.2 hereof should the District determine not to proceed because of any condition described in (i), (ii) or (iii) above.

4.3. Supervision and Procedures.

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

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

4.3.3. Layouts; Surveys. The Contractor is solely responsible for laying-out the Work so that of the Work conforms to the requirements of the Contract Documents and so that all component parts of the Work are coordinated. The Contractor is responsible for maintenance and preservation of benchmarks, reference points and stakes for the Work, with all costs associated therewith included in the Contract Price. The Contractor is solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes.

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

4.3.5. Utilities. The District will furnish and pay the costs of utility services for the Work as set forth in the Special Conditions; all other utilities necessary to complete the Work and the Contractor's obligations, including utility connections, temporary distributions, temporary transformers, routing, and removal thereof at completion of the Work shall be obtained by the Contractor without adjustment of the Contract Price or the Contract Time. The installation and/or removal of any such temporary utility services and distributions by the Contractor shall be coordinated with the District's facilities operations and other District activities at the Site, so operations and activities at or about the Site are not interrupted and utility services are not impaired or interrupted.

4.3.6. Existing Utilities; Removal, Relocation and Protection.

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

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

4.3.6.3. Contractor Responsibility for Maintaining Utility Services. The Contractor shall maintain in service all utility services provided through the Underground and Overhead Facilities unless the Contractor has notified the District and Manager in writing of utility service disruptions at least three (3) working days in advance of the anticipated disruption of utility services. Notwithstanding the Contractor's notice pursuant to the foregoing, the District may, in the sole discretion of the District, direct alternative times/days for the anticipated utility service disruption as necessary for conduct of on-going activities or operations of the District at and about the Site. The Contractor shall be liable for all costs, fees or charges incurred by the District to provide utility services if there is disruption, interruption or limitation of any utility services for which the Contractor has not provided the advance written notice of utility disruption pursuant to the foregoing. The District may deduct such costs, fees or charges from the Contract Price then or thereafter due the Contractor. Utilities include heating, A/C, plumbing and electrical.

4.3.6.4. Unmarked; Unknown Utilities. Additional Underground Facilities not shown in the Contract Documents or USA data may exist on or about the Site. The Contractor shall be alert to their existence; if they are encountered, Contractor shall immediately report such Underground Facilities to the Project Inspector, Project Manager and District for disposition of the same prior to disturbing any existing condition. In accordance with California Government Code §4215, the District is responsible for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Site which are not identified in the Contract Documents. Contractor shall be compensated for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Contract Documents with reasonable accuracy, and for equipment on the Site necessarily idled during such work. Contractor shall not be assessed Liquidated Damages for delay in completion of the Work when such delay is caused by the failure of the District or the District of the utility to provide for removal or relocation of such utility facilities. Nothing in this Article 4.3.6 shall be deemed to require the District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meters and junction boxes, on or adjacent to the Site. If such utility facilities are owned by a public utility, the public utility shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

4.3.7. Conferences and Meetings. A material obligation of the Contractor under the Contract Documents is the attendance at required meetings by the Contractor's supervisory personnel for the Work and the Contractor's management personnel as required by the Contract Documents or as requested by the District. The Contractor's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of the

Contractor and to bind the Contractor. The Contractor is solely responsible for arranging for the attendance by Subcontractors, Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by the District.

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

4.3.7.2. Progress Meetings. Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). The Contractor's representatives and representatives of Subcontractors (as requested by the District) shall attend Progress Meetings. Progress Meetings will be chaired by the Project Manager, District or Architect and will generally include as agenda items: Site safety, field issues, coordination of Work, a review of a three week look-ahead schedule prepared by the Contractor's Superintendent, progress and impacts to timely completion, if any. The purposes of the Progress Meetings include: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress Schedule and Submittals.

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

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

Contractor, Subcontractors and others as directed by the District at Special Meetings is a material obligation of the Contractor under the Contract Documents.

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

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

4.3.9. Noise and Dust Control.

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

4.3.9.2. Dust Control. The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and District personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the Laws, including without limitation, the regulations established by the EPA and OSHA. Additionally, the Contractor shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of the Laws, and any amounts expended by the District to pay such damages shall be due and payable to the District on demand. Contractor shall replace any damaged property or

part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in the District's reasonable determination, debris, powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the District, at the District's request, the Contractor shall schedule the performance of all such Work around normal District hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

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

4.4. Labor and Materials.

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

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

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

4.4.4. Contractor's Project Manager and Superintendent.

4.4.4.1. Qualifications of Contractor's Superintendent and Contractor Project Manager. Prior to start of Work at the Site, the Contractor shall submit in writing to the District and

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

4.4.4.2. Contractor Superintendent. Competency of the Contractor Superintendent shall include, without limitation, a minimum of three (3) years prior experience as a superintendent for a general contractor on projects similar in size, scope and complexity to the Work. The Contractor's communications relating to the Work or the Contract Documents shall be through the Contractor Superintendent. The Contractor Superintendent shall represent the Contractor and communications given to the Contractor Superintendent shall be binding as if given to the Contractor.

4.4.4.3. Contractor Project Manager. The Contractor shall employ a Contractor PM who shall be a senior management employee of the Contractor. The Contractor PM shall be at the Site periodically to observe the progress and quality of the Work in progress and in place. The Contractor PM shall be responsible for directing and coordinating human and material resources of the Contractor and Subcontractors throughout the course of the Work using management techniques so that the Work is completed for the Contract Price and within the Contract Time.

4.4.5. Prohibition on Harassment.

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

4.4.5.2. Contractor's Adoption of Anti-Harassment Policy. Contractor shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing

appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Contractor shall require that any Subcontractor or Sub-subcontractor performing any portion of the Work to adopt and implement policies in conformity with this Article 4.4.5.

4.4.5.3. Prohibition on Harassment at the Site. Contractor shall not permit any person, whether employed by Contractor, a Subcontractor, Sub-subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and implemented pursuant to Article 4.4.5.2 above. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of the District or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon the District's receipt of any notice or complaint that any person employed directly or indirectly by Contractor in performing or providing the Work has engaged in a prohibited form of harassment, the District will promptly undertake an investigation of such notice or complaint. In the event that the District, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the District shall promptly notify the Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless the District's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, District shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. Contractor and the Surety shall defend, indemnify and hold harmless the District and its employees, officers, agents, and representatives from any and all claims, liabilities, judgments, awards, actions or causes of actions, including without limitation, attorneys' fees, which arise out of, or pertain in any manner to: (i) the assertion by any person dismissed from performing or providing work at the direction of the District pursuant to this Article 4.4.5.3; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of the Contractor has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of the Contractor and the Surety under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

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

4.6. Permits, Fees and Notices; Compliance with Laws.

4.6.1. Payment of Permits, Fees. Unless otherwise provided in the Contract Documents, the District shall secure and pay for the building permits, other permits, governmental fees, licenses and inspections necessary or required for the proper execution and completion of the Work. The foregoing notwithstanding, whether or not set forth in the Special Conditions, without

adjustment of the Contract Price, the Contractor shall pay all fees, costs or other expenses associated with or arising in connection with Deferred Approval Items.

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

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

4.6.4. DIR Registration. At all times during the Work, the Contractor shall be a DIR registered contractor. Performance of any Work by the Contractor without the Contractor being a DIR registered contractor at the time Work is performed is the Contractor's default in performance of a material obligation of the Contractor under the Contract Documents.

4.7. Submittals.

4.7.1. Purpose of Submittals. Shop Drawings, Product Data, Samples and similar submittals (collectively "Submittals") are not Contract Documents. The purpose for submission of Submittals is to demonstrate, for those portions of the Work for which Submittals are required, the manner in which the Contractor proposes to provide or incorporate such items of the Work in conformity with the information given and the design concept expressed in the Contract Documents. Refer to the Special Conditions for any requirements relating to Phasing of the Work and additional Submittal requirements.

4.7.2. Contractor's Submittals.

4.7.2.1. Prompt Submittals. The Contractor shall review, approve and submit to the Project Manager and Architect or such other person or entity designated by the District, the number of copies of Submittals required by the Contract Documents. All Submittals required by the Contract Documents shall be prepared, assembled and submitted by the Contractor to the Project Manager and the Architect within the time frames set forth in the Submittal Schedule incorporated and made a part of the Approved Schedule prepared and submitted by the Contractor pursuant to Article 7 of these General Conditions. Contractor's submission of Submittals in conformity with the Submittal Schedule is a material obligation of the Contractor. In the event of Contractor's failure or refusal to prepare and deliver Submittals in accordance with the Submittal Schedule, the Contractor shall be subject to per diem assessments in the amount set forth in the Special Conditions for each day of delayed submission for any Submittal beyond the date set forth in the Submittal Schedule for Contractor's submission of such Submittal. Contractor and District acknowledge and agree that if Contractor shall fail to deliver Submittals in accordance with the Submittal Schedule, the District will incur costs and expenses not contemplated by the Contract Documents, the exact amount of which are difficult to ascertain and fix. Contractor and the District acknowledge and agree that the per diem assessment for delayed submission of Submittals set forth in the Special Conditions represents a reasonable

estimate of costs and expenses the District will incur as a result of delayed submission of Submittals and that the same is not a penalty. Notwithstanding Contractor's submission of all required Submittals in accordance with the Submittal Schedule, in the event that the District or the Architect reasonably determines that all or any portion of such Submittals fail to comply with the requirements of Articles 4.7.2.2, 4.7.2.3 and 4.7.2.4 of these General Conditions and/or such Submittals are not otherwise complete and accurate so as to require resubmission, Contractor shall submit revised Submittals within seven (7) days and bear all costs associated with the review and approval of resubmitted Submittals, including without limitation Architect's fees incurred in connection therewith; provided that such costs are in addition to, and not in lieu of, any per diem assessments imposed under this Article 4.7.2.1 for Contractor's delayed submission of Submittals. In the event of the District's imposition of the per diem assessments due to the Contractor's delayed submission of Submittals or in the event of the District's assessment of costs and expenses incurred to review incomplete or inaccurate Submittals, the District may deduct the same from any portion the Contract Price then or thereafter due the Contractor. Submittals not required by the Contract Documents or which do not otherwise conform with the requirements of the Contract Documents may be returned without action. No adjustment to the Contract Time or the Contract Price shall be granted to the Contractor on account of its failure to make timely submission of any Submittal.

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

4.7.2.3. Verification of Submittal Information. By approving and submission of Submittals, the Contractor represents to the District, Project Manager and Architect that the Contractor has determined and verified materials, field measurements, field criteria, catalog numbers and similar data related thereto and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. Each Submittal shall include the following certification duly executed by the Contractor's Superintendent for the Work:

> "The Contractor has reviewed and approved the field dimensions and criteria of the attached Submittal. The Contractor has verified that the Submittal includes notations of any portion of the Work depicted in the Submittal which is not in strict conformity with the Contract Documents. The information in the attached Submittal has been reviewed and coordinated by the Contractor with information included in other Submittals."

4.7.2.4. Information Included in Submittals. All Submittals shall be accompanied by a written transmittal or other writing by the Contractor providing an identification of the portion of the Drawings or the Specifications pertaining to the Submittal, with each Submittal numbered consecutively for ease of reference along with the following information: (i) date of submission; (ii) project name; (iii) name of submitting Subcontractor; and (iv) if applicable, the revision number. The foregoing information is in addition to, and not in

lieu of, any other information required by the Contract Documents for the Architect's review, evaluation and acceptance of the Contractor's Submittals.

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

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

4.7.3. Architect Review of Submittals. The purpose of the Architect's review of Submittals and the time for the Architect's return of Submittals to the Contractor shall be as set forth elsewhere in the Contract Documents. If the Project Manager and Architect return a Submittal as rejected or requiring correction(s) with re-submission, the Contractor, so as not to delay the progress of the Work, shall thereafter resubmit, within seven (7) days, a Submittal conforming with the requirements of the Contract Documents; the resubmitted Submittal shall indicate the portions thereof modified in accordance with the Architect's direction. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications accompanying Submittals. The Architect's review of the Submittals is for the limited purposes described in the Contract Documents.

4.7.4. Submittal Review Notations. Unless otherwise provided elsewhere in the Contract Documents, the following notations or notations of a similar nature noted on a reviewed Submittal will require the Contractor action noted below.

Architect Notation	Contractor Action
No Exceptions Taken	No formal revision required.
Make Corrections Noted	Make revision notes; re-submission of revised Submittal not required.
Revise; Re-Submit	Revise Submittal in accordance with notations and re-submit for subsequent review.
Rejected; Re-Submit	Prepare new alternative Submittal and resubmit for review.

4.7.5. Deferred Approval Items. For all Work designated in the Contract Documents as a "Deferred Approval," the Contractor shall be solely and exclusively responsible for the preparation of designs, calculations and other materials for each Deferred Approval item ("Deferred Approval Design"). Where required by the Laws or the nature of a Deferred Approval, the Deferred Approval Design shall be completed and stamped by a California licensed architect or California registered engineer. The Deferred Approval Design shall: (i) incorporate all requirements of the Deferred Approval as set forth in the Contract Documents; (ii) be coordinated with other

portions of the Work; (iii) be completed in a timely manner so as not to delay, disrupt or interfere with completion of the Work within the Contract Time; and (iv) be completed in accordance with the applicable professional standard of care. The Contractor shall submit each completed Deferred Approval Design to the Architect for review and acceptance. The Contractor shall modify each Deferred Approval Design as necessary to obtain the Architect's acceptance of the entirety thereof. Upon the Architect's acceptance of a Deferred Approval Design, the Contractor shall be responsible for: (i) submittal of the Deferred Approval Design to DSA for review and approval; (ii) modifications to the Deferred Approval Design as necessary to obtain DSA approval; and (iii) payment of fees or charges imposed by DSA for review and approval of a Deferred Approval Design without adjustment of the Contract Price. Notwithstanding review and acceptance of a Deferred Approval Design by the Architect or DSA issuance of approval to pursuant to the Contractor's Deferred Approval Design, the Contractor remains liable to the District for all losses, damages, costs, or other consequences of the failure of any Contractor's Deferred Approval Design to: (i) conform to the applicable design professional standard of care; (ii) conform to design intent and/or aesthetic requirements established in the Contract Documents; or (iii) perform and function in accordance with requirements established in the Contract Documents.

4.8. Materials and Equipment.

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

4.8.2. Approval of Substitutions or Alternatives. The Contractor may propose to furnish alternatives or substitutes for items specified in the Contract Documents, provided that: (i) such proposed substitution or alternative complies with the requirements of the Specifications relating to substitutions of specified items; (ii) the Contractor certifies to the Architect that the quality, performance capability and functionality (including visual and/or aesthetic effect) of the proposed alternative or substitute will meet or exceed the quality, performance capability and functionality of the item or process specified; and (iii) the Contractor demonstrates to the Architect that the use of the substitution or alternative is appropriate and will not delay completion of the Work or result in an increase to the Contract Price. The Contractor shall submit engineering, , dimension, visual, aesthetic and performance data to the Architect to permit its proper evaluation of the proposed substitution or alternative. If requested by the Architect, Contractor shall promptly furnish any additional information or data regarding a proposed substitution or alternative, which the Architect deems reasonably necessary for the evaluation of the proposed substitution or alternative. The Contractor shall not provide, furnish or install any substitution or alternative without the Architect's review and final action on the proposed substitution or alternative; any alternative or substitution installed

or incorporated into the Work without first obtaining the Architect's review and final action of the same shall be subject to removal pursuant to Article 12 hereof. The Architect's decision evaluating the Contractor's proposed substitutions or alternatives shall be final. Neither the Contract Time nor the Contract Price shall be increased on account of any substitution or alternative proposed by the Contractor and which is accepted by the Architect; provided, however, that in the event a substitution or alternative accepted by the Architect and purchase, fabrication and/or installation or such accepted substitution or alternative shall be less expensive than the originally specified item, the Contract Price shall be reduced by the actual cost savings realized by the Contractor's furnishing and/or installation of such approved substitution or alternative. The Contractor shall be solely responsible for all costs and fees incurred by the District to review a proposed substitution or alternative, including without limitation fees of the Architect, of the Architect's consultant(s) and/or governmental agencies to review and/or approve any proposed substitution or alternative. The Contractor shall be solely responsible for any increase in the cost of any accepted substitution or alternative or any Work affected by such alternative or substitution. The foregoing notwithstanding, all requests for the Architect's review and approval of any proposed substitution or alternative and all engineering, dimension and performance data substantiating the equivalency of the proposed substitution or alternative shall be submitted by Contractor not later than thirty-five (35) days following the date of the District's award of the Contract to Contractor by action of the District's Board of Education; any request for approval of proposed alternatives or substitutions submitted thereafter may be rejected summarily. The foregoing process and time limits shall apply to any proposed substitution or alternative regardless of whether the substitute or alternate item is to be provided, furnished or installed by Contractor, any Subcontractor, any Sub-Subcontractor, Material Supplier or Manufacturer.

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

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

4.8.5. District's Right to Place Orders for Materials and/or Equipment. Notwithstanding any other provision of the Contract Documents, in the event that the Contractor shall, upon request of

the District or the Architect, fail or refuse, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or should the District determine, in its sole and reasonable discretion, that any orders for materials and/or equipment have not been placed in a manner so that such materials and/or equipment will be delivered to the Site so the Work can be completed without delay or interruption, the District shall have the right, but not the obligation, to place such orders on behalf of the Contractor. If the District exercises the right to place orders for materials and/or equipment pursuant to the foregoing, the District's conduct shall not be deemed to be an exercise, by the District, of any control over the means, methods, techniques, sequences or procedures for completion of the Work, all of which remain the responsibility and obligation of the Contractor. Notwithstanding the right of the District to place orders for materials and/or equipment pursuant to the foregoing, the election of the District to exercise, or not to exercise, such right shall not relieve the Contractor from any of Contractor's obligations under the Contract Documents, including without limitation, completion of the Work within the Contract Time and for the Contract Price. If the District exercises the right hereunder to place orders for materials and/or equipment on behalf of Contractor pursuant to the foregoing, Contractor shall reimburse the District for all costs and fees incurred by the District in placing such orders; such costs and fees may be deducted by the District from the Contract Price then or thereafter due the Contractor.

4.9. Safety.

4.9.1. Safety Programs. Notwithstanding any action by the District, Project Manager, Project Inspector or Architect, the Contractor shall be solely responsible for initiating, maintaining, supervising and enforcing all safety programs required by the Laws in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. The Contractor's safety program shall include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to commencement of Work at the Site, the Contractor shall provide the Project Manager and the District with the Contractor's proposed safety program for the Work for review. Such review by the Project Manager and/or the District shall not operate to relieve, impair or otherwise limit the Contractor's responsibility for initiating, maintaining, supervising and enforcing safety programs. Without adjustment of the Contract Price or the Contract Time, the Contractor shall modify and re-submit its proposed safety plan to incorporate modifications thereto requested by the Project Manager. The Project Manager is authorized to monitor the Contractor's obligation to implement the Contractor's safety program.

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

otherwise modify the Contractor's obligations relating to safety at or about the Site in accordance with the Contract Documents and the Laws.

4.9.3. Safety Precautions. The Contractor shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or Subcontractors; and (iii) other property or items in, on, about or adjacent to the Site, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of . The Contractor shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, utility easements, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. When use or storage of explosives or other hazardous materials or equipment or other hazardous methods are necessary, the Contractor shall give the District, Project Inspector and Project Manager reasonable advance written notice. At all times the Contractor shall provide an adequate number of fire extinguishers or other approved fire/life-safety devices during Work at the Site. Each fire extinguisher shall be conspicuously displayed and clearly marked with instructions for use. Without adjustment of the Contract Price or the Contract Time, the Contractor shall repair, replace or restore any damage or destruction of the foregoing items as a result of performance or installation of the Work.

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

4.9.5. Safety Notices. The Contractor shall post all notices required by applicable law and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

4.9.6. Safety Coordinator. The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents and the implementation and maintenance safety precautions and programs. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Project Inspector, Project Manager and the Architect.

4.9.7. Emergencies; First Aid. In an emergency affecting safety of persons or property, the Contractor shall act, to prevent threatened damage, injury or loss. The Contractor shall maintain stocked emergency first aid kits at the Site which comply with the Laws.

4.9.8. Hazardous Materials.

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

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

4.9.8.3. Disposal of Hazardous Materials. Contractor shall be solely and exclusively responsible for the disposal of any Hazardous Materials on or about Site resulting from the Contractor's performance of Work and other activities. The Contractor's obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with the Laws.

4.10. Maintenance of Documents.

4.10.1. Documents at Site. The Contractor shall maintain at the Site: (i) one record copy of the Drawings, Specifications and all addenda thereto; (ii) Change Orders approved by the District and all other modifications to the Contract Documents; (iii) Submittals reviewed by the Architect; (iv) Record Drawings; (v) Material Safety Data Sheets ("MSDS") accompanying any materials, equipment or products delivered or stored at the Site or incorporated into the Work; and (vi) all and other codes or regulations applicable to the Work, including without limitation, Title 24, Parts 2, 3, 4, 5, 7 and 9 of the California Code of Regulations. During performance of the Work, all documents maintained by Contractor at the Site shall be available upon request to the District, the Project Manager, the Architect, the Project Inspector and DSA for review, inspection or reproduction. Upon completion of the Work, all documents

maintained at the Site by the Contractor pursuant to the foregoing shall be assembled and transmitted to the Project Manager and the Architect for delivery to the District.

4.10.2. Maintenance of Record Drawings. During its performance of the Work, the Contractor shall maintain Record Drawings consisting of a set of the Drawings which are marked to indicate all field changes made to adapt the Work depicted in the Drawings to field conditions, changes resulting from Change Orders and all concealed or buried installations, including without limitation, piping, conduit and utility services. All buried or concealed items of Work shall be completely and accurately marked and located on the Record Drawings. The Record Drawings shall be clean and all changes, corrections and dimensions shall be marked in a neat and legible manner in a contrasting color. Record Drawings relating to the Structural, Mechanical, Electrical and Plumbing portions of the Work shall indicate without limitation, circuiting, wiring sizes, equipment/member sizing and shall depict the entirety of the as built conditions of such portions of the Work. The Record Drawings shall be continuously maintained by the Contractor during the performance of the Work. At any time during the Contractor's performance of the Work, upon the request of the District, the Project Inspector, the Project Manager and/or the Architect, the Contractor shall make the Record Drawings maintained hereunder available for the District's review and inspection. The District's review and inspection of the Record Drawings during the Contractor's performance of the Work shall be only for the purpose of generally verifying that Contractor is continuously maintaining the Record Drawings in a complete and accurate manner; any such inspection or review shall not be deemed to be the District's approval or verification of the completeness or accuracy thereof. The failure or refusal of the Contractor to continuously maintain complete and accurate Record Drawings or to make available the Record Drawings for inspection and review by the District may be deemed by the District to be Contractor's default of a material obligation hereunder. Without waiving, restricting or limiting any other right or remedy of the District for the Contractor's failure or refusal to continuously maintain the Record Drawings, the District may, upon reasonably determining that the Contractor has not, or is not, continuously maintaining the Record Drawings in a complete and accurate manner, take appropriate action to cause the continuous maintenance of complete and accurate Record Drawings, in which event all fees and costs incurred or associated with such action shall be charged to the Contractor and the District may deduct the amount of such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In accordance with Article 8.5.2 of these General Conditions, prior to receipt of the Final Payment, Contractor shall deliver the Record Drawings to the Project Manager for transmittal to the District.

4.10.3. Daily Reports by Contractor. At the end of each work day, the Contractor shall submit a daily report to the Project Manager and the Project Inspector which include at least the following: (i) subcontractors; (ii) number of laborers and classifications of work of laborers for the contractor/subcontractors, (iii) material/equipment deliveries, (iv) special tests or inspections conducted; (v) weather conditions; and (vi) encountered conditions with potential costs or time impacts.

4.11. Site.

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

4.11.2. Limitations Upon Site Activities. Except in the circumstances of an emergency, no activities shall be permitted at or about the Site except during the District's hours and days unless authorized by the District. Additional or premium costs incurred by the District for Work performed outside the hours and days of Work permitted at the Site shall be borne solely and exclusively by the Contractor. The District may deduct such additional or premium costs from the Contract Price then or thereafter due the Contractor.

4.12. Clean-Up. The Contractor shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by performance of the Work. Without limiting the generality of the foregoing, Contractor shall maintain the Site in a "broom-clean" standard on a daily basis. If the Work of the Contract Documents includes and/or the installation of floor covering, prior to commencement of any operations or the installation of any flooring covering, the area and adjoining areas of the Site where is to be applied or floor covering is to be installed shall be in a "broom-clean" condition. Prior to completion of the Work, the Contractor shall remove from the Site all rubbish, waste material, excess excavated material, tools, Equipment, machinery, surplus material and any other items which are not the property of the District under the Contract Documents. At completion of the Work, the Contractor shall clean the interior and exterior, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal surfaces, areas where debris, dust and similar items have collected, clean and polish all glass, plumbing fixtures, finish hardware, metal/wood/stone finishes. As directed by the Manager, District or Architect, the Contractor shall remove temporary fencing, barricades, planking, temporary sanitary facilities, temporary utility distributions and other temporary facilities. Upon completion of the Work, the Site and all adjoining areas shall be left in a neat and broom clean condition satisfactory to the District. The Project Inspector or Manager are authorized to direct the Contractor's clean-up obligations hereunder. If the Contractor fails to clean up as provided for in the Contract Documents, the District may do so, and all costs incurred in connection therewith shall be charged to the Contractor; the District may deduct such costs from any portion of the Contract Price then or thereafter due the Contractor.

4.13. Access to the Work. The Contractor shall provide the DSA, the District, the Manager, the Project Inspector, the Architect and the Architect's consultant(s) with access to the Work, whether in place, preparation or in progress and wherever located.

4.14. Information and Facilities for the Project Inspector.

4.14.1. Information to Project Inspector. The Contractor shall provide the Project Inspector with access to the Work for obtaining such information as may be necessary to keep the Project Inspector fully informed respecting the progress, quality and character of the Work and materials, equipment or other items incorporated therein. The Contractor shall furnish such other information requested by the Project Inspector as necessary for the Project Inspector's discharge of its duties and responsibilities relating to the Work.

4.14.2. Facilities and Services for Project Inspector. The Contractor shall provide, without adjustment of the Contract Price, for use by the Project Inspector, the District and Project Manager the following: (i) lockable temporary office space consisting of sufficient space to accommodate Project Inspectors assigned to the Project; (ii) furniture and furnishings consisting of desks and chairs for use by Project Inspectors assigned to the Project, file storage, one (1) conference

table and seating sufficient to accommodate seating for at least four (4) people; (iii) landline phone; (iv) plain paper fax machine; (v) landline telephone and fax service; (vi) internet service; and (vii) plain paper copier with copy speed of no greater than thirty-five (35) pages per minute. If the Contractor does not provide the foregoing described facilities, furnishings, equipment, or fails to pay timely any charges or fees arising out of the use of the same, the District may, as applicable, procure facilities, furnishings, equipment and services required by the Contract Documents or pay outstanding charges. Contractor shall reimburse the District for all costs, including the District's administrative costs, incurred by the District pursuant to the preceding sentence; in lieu of the Contractor's reimbursement and at the sole and exclusive discretion of the District, such costs may be deducted by the District from any portion of the Contract Price or thereafter due the Contractor.

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

4.16. Cutting and Patching. The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. The Contractor shall not damage or endanger any portion of the Work, or the fully or partially completed of the District or separate contractors by cutting, patching, excavation or other alteration. When modifying new Work or when installing Work adjacent to an existing structure/facility, the Contractor shall match, as closely as conditions of the Site and materials will allow, the finishes, textures and colors of the existing structure/facility and refinish elements of the existing structure/facility. The Contractor shall not cut, patch or otherwise alter the by the District or separate contractor without the prior written consent of the District or separate contractor thereto, which consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold consent to the request of the District or separate contractor to cut, patch or otherwise alter the Work.

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

4.18. Wage Rates; Employment of Labor.

4.18.1. Prevailing Wage Rates.

4.18.1.1. Prevailing Wage Rate Schedules. Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2 of the California Labor Code at §§1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the prevailing rate for holiday and overtime work in the locality in which the Work is to be performed. Holidays shall be as defined in the

collective bargaining agreement applicable to each particular craft, classification or type of worker employed under the Contract. Per diem wages include employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided in California Labor Code §1773.8, apprenticeship or other training programs authorized by California Labor Code §3093, and similar purposes when the term "per diem wages" is used herein. Holiday and overtime work, when permitted by law, shall be paid for at the rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. The Contractor shall post, at appropriate and conspicuous locations on the Site, a schedule showing all determined general prevailing wage rates.

4.18.1.2. Payment of Prevailing Rates. There shall be paid each worker of the Contractor and Subcontractors, of any tier, engaged in the Work, not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor, of any tier, and such worker.

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

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

4.18.2. Payroll Records.

4.18.2.1. Certified Payroll Records. Pursuant to California Labor Code §1776, the Contractor and each Subcontractor, of any tier, shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each person employed for the Work.

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

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

until strict compliance is effectuated. Upon the request of the Apprenticeship Council or DLSE, such penalties shall be withheld from any portion of the Contract Price then or thereafter due the Contractor. The Contractor is solely responsible for compliance with the foregoing provisions.

4.18.3. Hours of Work.

4.18.3.1. Limits on Hours of Work. Pursuant to California Labor Code §1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code §1811, the time of service of any worker employed at any time by the Contractor or by a Subcontractor, of any tier, upon the Work or upon any part of the Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the foregoing provisions, Work performed by employees of Contractor or any Subcontractor, of any tier, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

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

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

4.18.4. Apprentices.

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

4.18.4.2. Apprenticeship Certificate. When the Contractor or any Subcontractor, of any tier, in performing any of the Work employs workers in any Apprenticeable Craft or Trade, the Contractor and such Subcontractor shall apply to the Joint Apprenticeship Committee

administering the apprenticeship standards of the craft or trade in the area of the site of the Work for a certificate approving the Contractor or such Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected, provided, however, that the approval as established by the Joint Apprenticeship Committee or Committees shall be subject to the approval of the Administrator of Apprenticeship. The Joint Apprenticeship Committee or Committees, subsequent to approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or such Subcontractor in order to comply with California Labor Code §1777.5. Prior to the commencement of the Work, the Contractor and Subcontractors shall submit contract award information (on Form DAS-140) to the applicable Joint Apprenticeship Committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. Concurrently with submission of contract information on Form DAS-140 to the Apprenticeship Council, the Contractor shall deliver a copy of its completed DAS-140 to the District and the Project Manager. There shall be an affirmative duty upon the Joint Apprenticeship Committee or Committees, administering the apprenticeship standards of the crafts or trades in the area of the site of the Work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Contractors or Subcontractors shall not be required to submit individual applications for approval to local Joint Apprenticeship Committees provided they are already covered by the local apprenticeship standards.

4.18.4.3. Ratio of Apprentices to Journeymen. The ratio of Work performed by apprentices to journeymen, who shall be employed in the Work, may be the ratio stipulated in the apprenticeship standards under which the Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in California Labor Code §1777.5. The minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the Joint Apprenticeship Committee, is employed at the site of the Work and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the completion of the Work. The Contractor shall, however, endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the site of the Work. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a Joint Apprenticeship Committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. The Contractor or any Subcontractor covered by this Article and California Labor Code §1777.5, upon the issuance of the approval certificate, or if it has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that it employs apprentices in such craft or trade in the State of California on all of its contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 ratio as set

forth in this Article and California Labor Code §1777.5. This Article shall not apply to contracts of general contractors, or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than Thirty Thousand Dollars ($30,000.00) or twenty (20) working days. The term "Apprenticeable Craft or Trade," as used herein shall mean a craft or trade determined as an Apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

4.18.4.4. Exemption from Ratios. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions are met: (i) unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%) or; (ii) the number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen, or; (iii) the Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis, or; (iv) if assignment of an apprentice to any Work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

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

4.18.4.6. Contractor's Compliance. The responsibility of compliance with this Article for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Article are subject to the provisions of California Labor Code §3081. If the Contractor willfully fails to comply with the provisions of this Article and California Labor Code §1777.5, pursuant to California Labor Code §1777.7, the Contractor shall: (i) be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of non-compliance is made by the Administrator of Apprenticeship; and (ii) forfeit, as a civil penalty, Fifty Dollars ($50.00) for each calendar day of noncompliance.

Notwithstanding the provisions of California Labor Code §1727, upon receipt of such determination, the District shall withhold such amount from the Contract Price then due or to become due. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council. Any funds withheld by the District pursuant to this Article shall be deposited in the General Fund or other similar fund of the District. The interpretation and enforcement of California Labor Code §§1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

4.18.5. Employment of Independent Contractors. Pursuant to California Labor Code §1021.5, Contractor shall not willingly and knowingly enter into any agreement with any person, as an independent contractor, to provide any services in connection with the Work where the services provided or to be provided requires that such person hold a valid contractors' license issued pursuant to California Business and Professions Code §§7000 et seq. and such person does not meet the burden of proof of his/her independent contractor status pursuant to California Labor Code §2750.5. If the Contractor employs any person in violation of the foregoing, Contractor shall be subject to the civil penalties under California Labor Code §1021.5 and any other penalty provided by law. In addition to the penalties provided under California Labor Code §1021.5, Contractor's violation of this Article 4.18.5 or the provisions of California Labor Code §1021.5 shall be deemed an event of Contractor's default under Article 15.1 of these General Conditions. The Contractor shall require any Subcontractor or Sub-Subcontractor performing or providing any portion of the Work to adhere to and comply with the foregoing provisions.

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

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

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

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

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

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

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

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

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

4.21. DSA Verified Reports.

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

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

4.22. Disabled Veteran Business Enterprises (DVBE) Participation Goal.

4.22.1. Continuing Responsibilities. The Contractor shall secure the participation of DVBEs in accordance with the Contractor's DVBE Good Faith Efforts Worksheets submitted with the Contractor's Bid Proposal.

4.22.2. DVBE Participation Reports and Data. During performance of the Work, the Contractor shall maintain complete and accurate records of DVBE participation in executing the Work. From time-to-time, upon the request of the District, the Contractor shall submit reports, in form and content satisfactory to the District, regarding DVBE Participation in the Work of the Contract, including the participation of DVBEs in the performance of approved Changes to the Work (DVBE Reports). The failure or refusal of the Contractor to submit DVBE Reports during performance of the Work within ten (10) days of the District's request for DVBE Reports may be deemed by the District to be the Contractor's default of a material obligation of the Contract Documents and thereupon, the District may exercise any right or remedy provided for under the Contract Documents or at law, including without limitation termination for Contractor default or the withholding of payments otherwise due under the Contract Documents until such DVBE Report(s) is/are received. If requested by the District, upon completion of the Work, the Contractor shall submit a final DVBE Report identifying all DVBEs utilized in the performance of the Work, the type or classification of the Work performed by each such DVBE and the dollar value of the Work performed by each such DVBE. In the event that the District shall request a report of DVBE utilization upon completion of the Work of the Contract, the submission of such report in form and content satisfactory to the District shall be deemed a condition precedent to the District's obligation to make payment of the Final Payment under the Contract Documents. The submission of such final DVBE Report shall be in addition to, and not in lieu of any other conditions precedent set forth in the Contract Documents for the District's obligation to make payment of the Final Payment. The Contractor shall maintain books and records of DVBE Participation in the Work for at least three (3) years following Final Completion; during such time, the District shall have access, upon reasonable advance notice, to such books and records for inspection or reproduction.

4.22.3. Contract Audit. The Contractor agrees that the District, or its designee, shall have the right to review, obtain and/or copy any and all writings, materials, documents and other records pertaining to utilization of DVBEs in performance of the Contract. The shall provide the District, or its designee, access to the Contractor's premises upon reasonable notice, during usual business hours for the purpose of interviewing employees and inspecting and/or copying such writings, materials, documents and other documents which may be relevant to a matter under investigation for the purpose of determining compliance with the DVBE Participation Goal Program Policy.

4.23. Employee Fingerprinting; Contractor's Compliance with Education Code §§ 45125.1 and 45125.2.

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

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

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

5. SUBCONTRACTORS

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

by reference the Contract Documents and which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents, including without limitation, the policies of insurance required under Article 6 of these General Conditions and the termination provisions of Article 15, and obligates the Subcontractor to assume toward the Contractor all the obligations and responsibilities of the Contractor which by the Contract Documents the Contractor assumes toward the District, the Project Inspector, DSA, the Project Manager and the Architect. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and the District, unless the Contract is terminated and District, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to the District if the Contract is terminated by the District pursuant to Article 15.1 hereof, subject to the prior rights of the Surety obligated under a bond relating to the Contract. The Contractor shall provide to the District copies of all executed Subcontracts and Purchase Orders to which Contractor is a party within thirty (30) days after Contractor's execution of the Agreement. During performance of the Work, the Contractor shall, from time to time, as and when requested by the District, the Architect or the Project Manager provide the District with copies of any and all Subcontracts or Purchase Orders relating to the Work and all modifications thereto. The Contractor's failure or refusal, for any reason, to provide copies of such Subcontracts or Purchase Orders in accordance with the two preceding sentences is Contractor's default of a material term of the Contract Documents.

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

5.3. Subcontractor DIR Contractor Registration.

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

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

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

5.3.4. Contractor/Subcontractor Penalties Pursuant to Labor Code § 1771.1(g). If the Labor Commissioner or his or her designee determines that the Contractor or Subcontractor engaged in the performance of any public work contract without having been a DIR registered contractor, the Contractor or Subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars ($100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars ($8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

5.3.5. Subcontractor Penalties Pursuant to Labor Code § 1771.1 (h)(1). In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars ($100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars ($10,000).

5.4. Substitution of Listed Subcontractor.

5.4.1. Substitution Process. Any request of the Contractor to substitute a listed Subcontractor will be considered only if such request is in strict conformity with this Article 5.4 and California Public Contract Code §4107. All costs incurred by the District, including without limitation, costs of the Project Inspector, the Architect, the Project Manager or attorneys' fees in the review and evaluation of a request to substitute a listed Subcontractor shall be borne by the Contractor; such costs may be deducted by the District from the Contract Price then or thereafter due the Contractor.

5.4.2. Responsibilities of Contractor Upon Substitution of Subcontractor. The District's consent to the Contractor's substitution of a listed Subcontractor shall not relieve Contractor from its obligation to complete the Work within the Contract Time and for the Contract Price. The substitution of a listed Subcontractor shall not, under any circumstance, result in, or give rise to any to any increase of the Contract Price or the Contract Time on account of such substitution. In the event of the District's consent to the substitution of a listed Subcontractor, the Architect shall determine the extent to which, if any, revised or additional Submittals will be required of the newly substituted Subcontractor. If the Architect determines that revised or additional Submittals are required of the newly substituted Subcontractor, the Architect shall promptly notify the Contractor, in writing, of such requirement. In such event, revised or additional Submittals shall be submitted to Architect not later than thirty (30) days following the date of the Architect's written notice to the Contractor pursuant to the foregoing sentence; provided that if in the reasonable and good faith judgment of the Architect, the progress of the Work or completion of the Work requires submission of additional or revised Submittals by the newly substituted Subcontractor in less than thirty (30) days, the Architect shall so state in its written notice to the Contractor. In the event that the revised or additional Submittals are not submitted by Contractor within thirty (30) days, or such earlier time as determined by the Architect pursuant to the preceding sentence, following the Architect's written notice of the requirement for revised or additional Submittals, Contractor shall be subject to the per diem assessments for late Submittals as set forth in Article 4.7.2.1 of these General Conditions. Any revised or additional Submittals required pursuant to this Article 5.4.2 shall conform with the requirements of Article 4.7 of these General Conditions. The Contractor shall reimburse the District for all fees and costs, including without limitation fees of the Project Manager, Architect

and/or any design consultant to the Architect or the District and DSA fees, incurred or associated with the processing, review and evaluation of any revised or additional Submittals required pursuant to this Article 5.4.2; the District may deduct such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In the event that additional or revised Submittals are required pursuant to this Article 5.4.2, such requirement shall not result in an increase to the Contract Time or the Contract Price.

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

6. INSURANCE, BONDS AND INDEMNITY

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

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

6.3. Risk "All-Risk" Insurance. The Contractor, during the progress of the Work and until Final Acceptance of all Work by the District, shall maintain Risk "All-Risk" Completed Value Insurance Coverage on all insurable Work included under the Contract Documents which coverage is to

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

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

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

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

6.7. Certificates of Insurance. Prior to commencing the Work, Contractor shall deliver to the District Certificates of Insurance evidencing the insurance coverages required by the Contract Documents. Failure or refusal of the Contractor to deliver Certificates of Insurance may be deemed by the District to be a default of a material obligation of the Contractor under the Contract Documents,

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

6.8. Subcontractors' Insurance. Contractor shall require that every Subcontractor, to obtain and maintain the policies of insurance set forth in Articles 6.1 and 6.2 of these General Conditions; the coverages and limits of liability of such policies of insurance to be obtained and maintained by Subcontractors shall be as set forth in the Special Conditions. The policies of insurance to be obtained and maintained by Subcontractors hereunder are in addition to, and not in lieu of, Contractor obtaining and maintaining such policies of insurance. Each of the policies of insurance obtained and maintained by a Subcontractor hereunder shall conform to the requirements of this Article 6. Upon request of the District, Contractor shall promptly deliver to the District Certificates of Insurance evidencing that the Subcontractors have obtained and maintained policies of insurance in conformity with the requirements of this Article 6. Failure or refusal of the Contractor to provide the District with Subcontractors' Certificates of Insurance evidencing the insurance coverages required hereunder is a material default of Contractor hereunder.

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

6.10. Contractor's Insurance Primary. All insurance and the coverages thereunder required to be obtained and maintained by Contractor hereunder, if overlapping with any policy of insurance maintained by the District, shall be deemed to be primary and non-contributing with any policy maintained by the District and any policy or coverage thereunder maintained by District shall be deemed excess insurance. To the extent that the District maintains a policy of insurance covering

property damage arising out of the perils of fire or other casualty covered by the Contractor's Risk Insurance or the Comprehensive General Liability Insurance of the Contractor or any Subcontractor, the District, Contractor and all Subcontractors waive rights of subrogation against the others. The costs for obtaining and maintaining the insurance coverages required herein shall be included in the Contract Price.

6.11. Payment Bond; Performance Bond. Prior to commencement of the Work, the Contractor shall furnish a Performance Bond as security for Contractor's faithful performance of the Contract and a Labor and Material Payment Bond as security for payment of persons or entities performing work, labor or furnishing materials in connection with Contractor's performance of the Work under the Contract Documents. Unless otherwise stated in the Special Conditions, the amounts of the Performance Bond and the Payment Bond required hereunder shall be one hundred percent (100%) of the Contract Price. Said Labor and Material Payment Bond and Performance Bond shall be in the form and content set forth in the Contract Documents. The Surety on any bond required under the Contract Documents shall be: (i) an Admitted Surety Insurer as that term is defined in California Code of Civil Procedure §995.120; and (ii) A.M. Best rated A-/VII or better. The failure or refusal of the Contractor to furnish either the Performance Bond or the Labor and Material Payment Bond in strict conformity with foregoing may be deemed by the District as a default by the Contractor of a material obligation hereunder.

6.12. Contractor Indemnity. The Contractor shall indemnify, defend and hold harmless the Indemnified Parties who are: (i) the District and its Board of Education, officers, employees, agents and representatives (including the Project Inspector); (ii) the Architect and its Design Consultants and their respective agents and employees; (iii) if one is designated by the District for the Work, the Manager and its agents and employees; and (iv) the Project Inspector. The Contractor's obligations hereunder includes indemnity, defense and hold harmless of the Indemnified Parties from and against any and all damages, losses, claims, demands, liabilities, actions or causes of action which arise, in whole or in part, from the Work, the Contract Documents or the negligent, grossly negligent, reckless or willful acts, omissions or other conduct of the Contractor, any Subcontractor or any person or entity engaged by them for the Work. The Contractor's obligations pursuant to the foregoing include without limitation: (i) injuries to or death of persons; (ii) damage to property; (iii) theft, destruction or loss of property; (iv) Stop Payment Notice claims asserted by any person or entity in connection with the Work; and (v) other losses, liabilities, damages or costs resulting from, in whole or part, negligent, grossly negligent or willful conduct of the Contractor or Subcontractors, of any tier. If any action or proceeding, whether judicial, administrative, arbitration or otherwise, shall be commenced on account of any claim, demand or liability subject to Contractor's obligations hereunder, and such action or proceeding names any of the Indemnified Parties as a party thereto, the Contractor shall, at its sole cost and expense, defend the named Indemnified Parties in such action or proceeding with counsel reasonably satisfactory to the named Indemnified Parties. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding to which any of the Indemnified Parties are bound by, Contractor shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief; Contractor shall indemnify and hold harmless the Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, settlement or relief. The Contractor's obligations hereunder are binding upon Contractor's Performance Bond Surety and these obligations shall survive notwithstanding Contractor's completion of the Work or the termination of the Contract until barred by the applicable Statute of Limitations.

7. CONTRACT TIME

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

7.2. Progress and Completion of the Work.

7.2.1. Time of Essence. Time limits stated in the Contract Documents are of the essence. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing and achieving Substantial Completion of the Work. The Contractor shall employ and supply a sufficient force of workers, material and equipment, and prosecute the Work with diligence so as to maintain progress, to prevent Work stoppage and to achieve Substantial Completion of the Work within the Contract Time.

7.2.2. Substantial Completion. Substantial Completion is that stage in the progress of the Work when the Work is complete and approved by DSA and other governmental agencies with jurisdiction over the Work or any portion thereof in accordance with the Contract Documents so the District can occupy or use the Work for its intended purpose. Substantial Completion shall be determined by the Architect, the Project Manager and the Project Inspector upon request by the Contractor in accordance with the Contract Documents. The good faith and reasonable determination of Substantial Completion by the Project Inspector, the Project Manager and the Architect shall be controlling and final.

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

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

7.2.3.2. Time for Completing Punch List Items. In addition to setting forth items for correction or completion pursuant to Article 7.2.3.1 Contractor shall promptly and diligently proceed to complete all Punch List items within the time established by the Architect, Project Manager and District. If the Contractor fails or refuses, for any reason, to complete all Punch List items within the time established, the Contractor shall be subject to assessment of Liquidated Damages in accordance with Article 7.4 hereof. The foregoing notwithstanding, if the Contractor fails or refuses to complete all Punch List items, the District may in its sole and exclusive discretion and without further notice to Contractor, elect to cause the completion of all remaining Punch List items provided, however that such election by the District is in addition to and not in lieu of any other right or remedy of the District under the Contract Documents or the Laws. If the District elects to complete Punch List items of the Work, pursuant to the foregoing, Contractor shall be responsible for all costs incurred by the District in connection herewith and the District may deduct such costs from the Contract Price then or thereafter due the Contractor. If these costs exceed the remaining balance of the

Contract Price due to the Contractor, the Contractor and the Performance Bond Surety are liable to the District for any such excess costs.

7.2.4. Final Completion. Final Completion is that stage of the Work when all Work has been completed in accordance with the Contract Documents, including without limitation, the performance of all correction or completion items noted upon Substantial Completion, and obligations of the Contractor under the Contract Documents are fully performed by the Contractor. Final Completion shall be determined by the Architect, Project Manager and the Project Inspector upon request of the Contractor. The good faith and reasonable determination of Final Completion by the Project Inspector, Project Manager and the Architect shall be controlling and final.

7.2.5. Contractor Responsibility for Multiple Inspections. If the Contractor requests determination of Substantial Completion or Final Completion and it is determined by the Project Inspector, Project Manager or the Architect that the Work does not then justify certification of Substantial Completion or Final Completion and re-inspection is required at a subsequent time to make such determination, the Contractor shall be responsible for all costs of such re-inspection, including without limitation, the fees of the Project Manager, Architect and the Project Inspector for such re-inspections. The District may deduct such costs from the Contract Price then due or thereafter due to the Contractor.

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

7.3. Schedule.

7.3.1. Preliminary Schedule.

7.3.1.1. Organization and Contents. The purpose of the Preliminary Schedule is to assure adequate planning and execution of the Work so that it is completed within the Contract Time and to permit evaluation of the progress of the Work. The Preliminary Schedule shall be organized into groupings by location, responsibility, specifications, sections, etc. The Preliminary Schedule shall take into consideration and incorporate requirements set forth in the Contract Documents, including without limitation requirements relating to: (i) Phases; (ii) protection of facilities; (iii) temporary facilities and services; (iv) rebate opportunities; (v) utility relocations/renovations; (vii) access to Site; (viii) other concurrent projects adjacent to the Site; (ix) temporary storage; and (x) notifications. Contents of the Preliminary Schedule must include at a minimum the following: (i) indicate the date(s) for commencement and completion of various portions of the Work including without limitation, procurement, fabrication and delivery of major items, materials or equipment, completion of: foundation, building framing/structural elements, mechanical/electrical/ plumbing rough-in, , exterior doors and windows, interior finishes, etc.; (ii) indicate manpower and other resources required for completion of each Schedule activity; (iii) indicate costs for completion of each Schedule activity; (iv) identify each Submittal required by the Contract Documents, the date for the Contractor's submission of each Submittal and the date

for the return of the reviewed Submittal to the Contractor; and (v) indicate sequencing and interdependencies of activities.

7.3.1.2. Incorporation of Rain Days. The Preliminary Schedule must incorporate the number of "Rain Days" as stipulated in the Special Conditions for each month to be anticipated during the Contract Time. If Rain Days noted in the Special Conditions do not actually occur during the Work, the unused "Rain Days" shall revert to "float time" in the Schedule. The number of Rain Days noted in the Special Conditions must be shown within the critical path of the Preliminary Schedule and the Rain Days shall not extend the Contract Time for achieving Substantial Completion of the Work.

7.3.1.3. Schedule Software. Unless otherwise provided in Special Conditions, the Schedules required under this Article 7 shall be prepared in a critical path format utilizing the then most recent version of P3e/c™ for Primavera Project Planner Scheduling Software.

7.3.1.4. Contract Time and Preliminary Schedule. The Contractor may submit a Preliminary Schedule depicting completion of the Work in a duration shorter than the Contract Time; provided that such Preliminary Schedule shall not be a basis for adjustment to the Contract Price if completion of the Work occurs after the time depicted therein, nor shall such Preliminary Schedule be the basis for any extension of the Contract Time, the Contractor's entitlement to any extension of the Contract Time shall be based upon the Contract Time and not on any shorter duration which may be depicted in the Contractor's Preliminary Schedule.

7.3.1.5. "Float" Time. If the Schedules required under this Article 7.3 incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the District and the Contractor. As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Schedule. The Schedule prepared by the Contractor shall not sequester float through float suppression techniques such as extending activity durations, using preferential logic, etc.

7.3.1.6. DSA Oversight Process. The Contractor's schedule shall take into account the effect of the DSA oversight process on the progression of the Work, including without limitation the prohibition under DSA PR 13-01 from proceeding with subsequent Work prior to the Project Inspector's sign-off of preceding Work. No adjustment of the Contract Time will be considered or allowed for the time necessary to implement and complete the DSA oversight process.

7.3.2. Submittal of Preliminary Schedule. Within fifteen (15) calendar days following execution of the Agreement, the Contractor shall prepare and submit to the District, the Project Manager and the Architect a Preliminary Schedule indicating, in graphic form, the estimated rate of progress and sequence of all Work required under the Contract Documents.

7.3.3. Review of Preliminary Schedule. The District, the Project Manager and the Architect shall review the Preliminary Schedule submitted by the Contractor pursuant to Article 7.3.1 above for conformity with the requirements of the Contract Documents. Within fifteen (15) days of the date of receipt of the Preliminary Schedule, the Preliminary Schedule will be returned to the Contractor with comments to the form or content thereof. Review of the Preliminary Progress Schedule and any comments thereto by the District, the

Project Manager and/or the Architect shall not be deemed to be the assumption of means, methods or sequences by the District, the Project Manager or the Architect, all of which remain the Contractor's obligations under the Contract Documents.

7.3.4. Preparation and Submittal of Contract Schedule. Within ten (10) days of the District's return of the Preliminary Schedule to the Contractor pursuant to Article 7.3.2 above, the Contractor shall prepare and submit to the Architect and the Project Manager the Schedule, fully cost and resource loaded, which incorporates therein the comments to the Preliminary Schedule. Upon the Contractor's submittal of such Schedule, the District, the Project Manager and the Architect shall review the same for purposes of determining conformity with the requirements of the Contract Documents. Within fifteen (15) days of the receipt of the Schedule, the District will approve such Schedule or will return the same to the Contractor with comments to the form or content. In the event there are comments to the form or content thereof, the Contractor, shall within seven (7) days of receipt of such comments, revise and resubmit the Schedule incorporating therein such comments. Upon the District's approval of the form and content of a Schedule, the same shall be deemed the "Approved Schedule." The District's approval of a Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By the Approved Schedule, the District shall not be deemed to have exercised control over, or approval of, means, methods or sequences, all of which remain the responsibility and obligation of the Contractor in accordance with the terms of the Contract Documents. Further, the Approved Schedule shall not operate to limit or restrict any of Contractor's obligations under the Contract Documents nor relieve the Contractor from the full, faithful and timely performance of such obligations in accordance with the terms of the Contract Documents. The activities, commencement and completion dates of activities, and the sequencing of activities depicted on the Approved Schedule shall not be modified or revised by the Contractor without the prior consent, or direction, of the District and the Architect. Updates to the Approved Schedule pursuant to Article 7.3.6 below shall not be deemed revisions to the Approved Schedule. In the event that the Approved Schedule shall depict completion of the Work in a duration shorter than the Contract Time, the same shall not be a basis for an adjustment of the Contract Time or the Contract Price in the event that actual completion of the Work shall occur after such the time depicted in such Approved Schedule. In such event, the Contract Price shall not be subject to adjustment on account of any additional costs incurred by the Contractor to complete the Work prior to the Contract Time, as adjusted in accordance with the terms of the Contract Documents. Any adjustment of the Contract Time or the Contract Price shall be based upon the Contract Time set forth in the Contract Documents and not any shorter duration which may be depicted in the Approved Schedule.

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

and the reason(s) therefore. The District may consent to, or deny, any such request of the Contractor to revise the Approved Schedule in its reasonable discretion.

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

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

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

7.4.1. Excusable Delays. If Substantial Completion of the Work is delayed by Excusable Delays, the Contract Time shall be subject to adjustment for such a reasonable period of time as determined by the Architect; Excusable Delays shall not result in any increase in the Contract Price. Excusable Delays refer to unforeseeable and unavoidable casualties or other unforeseen causes beyond the control, and without fault or neglect, of the Contractor, any Subcontractor, Material Supplier or other person directly or indirectly engaged by the Contractor in performance of any portion of the Work. Excusable Delays include unanticipated and unavoidable labor disputes, unusual and unanticipated delays in transportation of equipment, materials or Equipment reasonably necessary for completion and proper execution of the Work, unanticipated unusually severe weather conditions or applicable orders of public health authorities which prohibit, limit or restrict Work at the Site. Excusable Delay events do

not include potential time or costs impacts for procurement, fabrication or delivery of materials/equipment for incorporation into the Work which were known or should have been known by the Contractor at the time of the Contractor's submittal of the Bid Proposal for the Work. Neither the financial resources of the Contractor or any person or entity directly or indirectly engaged by the Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of the Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Contractor establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Contractor's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time directly and adversely impacted the critical path of the Work as indicated in the Approved Schedule or the most recent updated Approved Schedule relative to the date(s) of the claimed event(s) of Excusable Delay. The foregoing provisions notwithstanding, if the Special Conditions set forth a number of "Rain Days" to be anticipated during performance of the Work, the Contract Time shall not be adjusted for rain related unusually severe weather conditions until and unless the actual number of Rain Days during performance of the Work shall exceed those noted in the Special Conditions and such additional Rain Days shall have directly and adversely impacted the critical path of the Work as depicted in the Approved Schedule or the most recent updated Approved Schedule relative to the date(s) of such additional Rain Days.

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

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

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

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

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

7.6. District Right to Take-Over Work. Unless caused by the District, Architect, Project Manager or the Project Inspector, if the Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment or services to maintain progress of the Work in accordance with the then current Approved Schedule after twenty-four (24) hour advance written

Notice from the Project Manager to the Contractor of its failure or refusal, the District may thereafter furnish or cause to furnish such materials, labor, equipment or services necessary to maintain progress of the Work in accordance with the then current Schedule. All costs, expenses or other charges (whether direct, indirect and administrative) incurred by the District in furnishing such materials, labor, equipment or services shall be at the sole cost of the Contractor and the District may deduct the same from the Contract Price then or thereafter due the Contractor. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents or the Laws.

8. CONTRACT PRICE

8.1. Contract Price. The Contract Price is the amount stated in the Agreement as such, and subject to any authorized adjustments thereto in accordance with the Contract Documents, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents. The District's payment of the Contract Price to the Contractor shall be in accordance with the Contract Documents. The Contract Price is inclusive of all expenses, fees, costs or other charges incurred by the Contractor to complete all of the Contractor's obligations under the Contract Documents. The Contract Price shall not be subject to adjustment for costs incurred by the Contractor, including without limitation, extended work-hours or premium labor costs to complete utility tie-ins and/or to avoid disruption of utility services or the District's on-going operations and activities. Rebates obtained by the Contractor or any Subcontractor for materials, equipment or services utilized to complete the Work or incorporated into the Work shall be deemed the property of the District. The Contractor shall completely and accurately account for all rebates arising out of the Work and shall deliver proceeds to the District reflecting the full value of all such rebates.

8.2. Cost Breakdown. Within fifteen (15) days of the execution of the Agreement by Contractor, Contractor shall furnish, on forms provided by the District, a detailed estimate and complete Cost Breakdown of the Contract Price. The Cost Breakdown shall be subject to review and approval by the Project Manager and District of the form and content thereof. In the event that the District shall reasonably object to any portion of the Cost Breakdown, within ten (10) days of the District's receipt of the Cost Breakdown, the District shall notify the Contractor, in writing of the District's objection(s) to the Cost Breakdown. Within five (5) days of the date of the District's and the Project Manager's written objection(s), Contractor shall submit a revised Cost Breakdown to the District and the Project Manager for review and approval. The foregoing procedure for the preparation, review and approval of the Cost Breakdown shall continue until the District and the Project Manager has approved of the entirety of the Cost Breakdown. Once the Cost Breakdown is approved by the District and the Manager, the Cost Breakdown shall not be thereafter modified or amended by the Contractor without the prior consent and approval of the District and the Project Manager, which may be granted or withheld in their sole reasonable discretion.

8.3. Progress Payments.

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

Price, or for determining the extent of Work actually completed. In addition to submitting the Application for Progress Payment, the Contractor shall submit with each Application for Progress Payment a detailed summary of (i) the break-down of the Progress Payment requested reflecting the amount of the requested Progress Payment to be retained by the Contractor; (ii) the Subcontractors/Material Suppliers to whom the remaining balance of the requested Progress Payment will be disbursed to along with the amount to be disbursed to each identified Subcontractor/Material Supplier; and (iii) the amounts disbursed by the Contractor to the Subcontractors/Material Suppliers from the immediately preceding Progress Payment.

8.3.2. District's Review of Applications for Progress Payments. In accordance with Public Contract Code §20104.50, upon receipt of an Application for Progress Payment, the District shall cause the same to be reviewed by the Project Inspector, the Project Manager, if one is designated by the District, and the Architect, as soon as is practicable after receipt of such Application for Progress Payment. Such review shall be for the purpose of determining that the Application for Progress Payment is a proper Progress Payment request. For purposes of this Article 8.3.2, an Application for Progress Payment shall be deemed "proper" only if it is submitted on the form approved by the District, with all of the requested information of such form of Application for Progress Payment completely and accurately provided by the Contractor and such completed Application for Progress Payment is accompanied by: (i) the form of Verification of Certified Payroll Records Submittal to Labor Commissioner, executed under penalty of perjury by the Contractor's Superintendent and/or the Contractor PM; which verifies that all Certified Payroll Records for the Contractor and all Subcontractors for the period of time covered by the Application for Progress Payment have been completed and submitted in strict conformity with Labor Code §1771.4; (ii) duly completed and executed forms of Conditional Waiver and Release of Rights Upon Progress Payment in accordance with California Civil Code §8132 of the Contractor, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment requested; (iii) duly completed and executed forms of Unconditional Waiver and Release of Rights upon Progress Payment in accordance with California Civil Code §8134 of the Contractor, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment received by the Contractor under the prior Application for Progress Payment; (iv) if applicable, a current union statement reflecting that the Contractor and any Subcontractor of any tier, are current in the payment of any supplemental fringe benefits required pursuant to any collective bargaining agreement to which the Contractor or any such Subcontractor is a party to or is otherwise bound by; (v) a certification by the Contractor that it has continuously maintained, or caused to maintained, the Record Drawings reflecting the actual as-built conditions of the Work performed be for which the Progress Payment is requested, it being understood that such certification is subject to verification by the District, Architect or the Project Manager prior to disbursement of the Progress Payment; and (vi) an updated Schedule, reflecting Work actually completed and in progress. In accordance with Public Contract Code §20104.50, an Application for Progress Payment determined by the District not to be a proper Application for Progress Payment shall be returned by the District to the Contractor as soon as is practicable after receipt of the same from the Contractor, but in no event not more than seven (7) days after the District's receipt thereof. The District's return of any Application for Progress Payment pursuant to the preceding sentence shall be accompanied by a written document setting forth the reason(s) why the Application for Progress Payment is not proper.

8.3.3. Review of Applications for Progress Payments. Upon receipt of an Application for Progress Payment, the Architect, Project Manager and the Project Inspector shall inspect and verify the Work to determine whether it has been performed in accordance with the terms of the

Contract Documents and to determine the portion of the Application for Progress Payment which is properly due to the Contractor under the terms of the Contract Documents.

8.3.4. District's Disbursement of Progress Payments.

8.3.4.1. Timely Disbursement of Progress Payments. In accordance with Public Contract Code §20104.50, within thirty (30) days after the District's receipt of a proper Application for Progress Payment, there shall be paid, by District, to Contractor a sum equal to ninety five percent (95%) of the value of the Work indicated in the Application for Progress Payment which is actually in place as of the date of the Application for Progress Payment and as verified and approved by the Project Inspector, Project Manager and the Architect and the pro rata portion of the Contractor's overhead, supervision and general conditions costs and profit for that month; provided, however, that the District's obligation to disburse any Progress Payment shall be subject to the District's receipt of all documents set forth in Article 8.3.2 above, each and all of which are conditions precedent to the District's obligation to disburse Progress Payments. If an Application for Progress Payment is determined not to be proper due to the failure or refusal of the Contractor to submit documents with the Application for Progress Payment, as required by Article 8.3.2, or incompleteness or inaccuracies in any such documents submitted or if it is reasonably determined that the Record Drawings have not been continuously maintained to reflect the actual as built conditions of the Work completed or scheduled to be completed in the period for which the Progress Payment is requested, the thirty (30) day period hereunder for the District's timely disbursement of a Progress Payment shall be deemed to commence on the date that the District is actually in receipt of documents not submitted with the Application for Progress Payment, or corrections to documents with the Application for Progress Payment so as to render them complete and accurate, or the date upon which the Contractor accurately and fully completes preparation of the Record Drawings relating to the Work for which the Progress Payment is requested.

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

8.3.4.3. District's Right to Disburse Progress Payments by Joint Checks. Provided that the District is in receipt of the applicable Subcontract or Purchase Order, the District, may in its sole discretion, issue joint checks to the Contractor and such Subcontractor or Material Supplier in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.

8.3.4.4. No Waiver of Defective or Non-Conforming Work. The approval of any Application for Progress Payment or the disbursement of any Progress Payment to the Contractor shall not be deemed nor constitute acceptance of defective Work or Work not in conformity with the Contract Documents.

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

8.3.5. Materials or Equipment Not Incorporated into the Work.

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

8.3.5.2. Materials or Equipment Delivered and Stored at the Site. The District may, in its sole and exclusive discretion, make payment for materials or equipment not yet incorporated into the Work if, at or prior to the time of the Contractor's submittal of a an Application for Progress Payment incorporating therein a request for payment of such materials or equipment if all of the following are complied with: (i) the materials or equipment have been delivered to the Site; (ii) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if such coverage is not afforded under the policy of Risk insurance obtained by the District pursuant to the Contract Documents; and (iii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the Site pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment for materials or equipment delivered or stored at the Site, but not yet incorporated into the Work shall not be deemed the District's default hereunder. If the District elects to make payment for materials or equipment delivered and stored at the Site, the costs and expenses incurred to comply with the requirements of (ii) and (iii) of this Article 8.3.5.2 shall be borne solely and exclusively by the Contractor and no payment shall be made by the District on account of such costs and expenses.

8.3.5.3. Materials or Equipment Not Delivered or Stored at the Site. No payments shall be made by the District for materials or equipment to be incorporated into the Work where such materials or equipment have not been delivered or stored at the Site. The foregoing notwithstanding, the District may, in its sole and exclusive discretion, elect to make payment for materials or equipment not incorporated into the Work and which are not delivered or stored at the Site at or prior to the time of the Contractor's

submittal of an Application for Progress Payment incorporating therein a request for payment of such materials or equipment provided that each and all of the following have been complied with: (i) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment which include without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if coverage for the same is not afforded under the policy of Risk insurance obtained by the District pursuant to the Contract Documents; and (ii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for such materials or equipment pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment for such materials or equipment shall not be deemed the District's default hereunder. If the District elects to make payment for materials or equipment not at the Site, the costs and expenses incurred to comply with the requirements of (i) and (ii) of this Article 8.3.5.3 shall be borne solely and exclusively by the Contractor and no payment shall be made by the District on account of such costs and expenses.

8.3.5.4. Materials or Equipment in Fabrication or Transit. The provisions of this Article 8.3.5 notwithstanding, the District shall not make any payment on account of any materials or equipment which are in the process of being fabricated or which are in transit to the Site of or other storage location.

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

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

8.4. Substitute Security for Retention. In accordance with the provisions of California Public Contract Code §22300, eligible and equivalent securities may be substituted for any monies withheld by the District to ensure the Contractor's performance under the Contract Documents at the request and expense of the Contractor and in conformity with the provisions of California Public Contract Code §22300. The foregoing and the provisions of California Public Contract Code §22300 notwithstanding, failure of the Contractor to request the substitution of eligible and equivalent securities for monies to be withheld by the District prior to submission of the first Application for Progress Payment shall be deemed the Contractor's waiver of rights under Section 22300.

8.5. Final Payment.

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

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

8.5.3. Disbursement of Final Payment. Provided that the District is then in receipt of all documents and other items in Article 8.5.2 above as conditions precedent to the District's obligation to

disburse Final Payment, not later than sixty (60) days following Final Acceptance the District shall disburse the Final Payment to the Contractor. Pursuant to California Public Contract Code §7107, if there is any dispute between the District and the Contractor at the time that disbursement of the Final Payment is due, the District may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute. If the Contractor complies with all of the condition's precedent to the District's disbursement of the Final Payment, except for providing reasonably satisfactory written evidence of the Contractor's preparation and filing with DSA of the DSA Final Verified Report, the District may withhold and retain ten percent (10%) of the Final Payment in accordance with Article 4.21.2 of these General Conditions. In such event, provided that the Contractor has fully complied with and satisfied all other conditions precedent set forth in Article 8.5.2, the District will disburse the remaining balance of the Final Payment (after deduction for failure to file the DSA Final Verified Report) to the Contractor; such disbursement shall constitute the District's full and complete performance of payment obligations to the Contractor hereunder.

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

8.5.5. Claims Asserted After Final Payment. Any lien, stop notice or other claim filed or asserted after the Contractor's acceptance of the Final Payment by any Subcontractor, of any tier, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of the Contractor who further agrees to indemnify, defend and hold harmless the District and its officers, agents, representatives and employees from and against any claims, demands or judgments arising or associated therewith, including without limitation attorneys' fees incurred by the District in connection therewith. If any lien, stop notice or other claim of any Subcontractor, Laborer, Material Supplier or others performing Work under the Contract Documents remains unsatisfied after Final Payment is made, Contractor shall refund to District all monies that the District may pay or be compelled to pay in discharging any lien, stop notice or other claim, including, without limitation all costs and reasonable attorneys' fees incurred by District in connection therewith.

8.6. Withholding of Payments. The District may withhold any Progress Payment or the Final Payment, in whole or in part, or back charge the Contractor to the extent it may deem advisable to protect the District on account of: (i) defective Work or Work not in conformity with the requirements of the Contract Documents which is not remedied; (ii) failure of the Contractor to make payments when due Subcontractors or Material Suppliers for materials or labor; (iii) claims filed or reasonable evidence of the probable filing of claims by Subcontractors, laborers, Material Suppliers, or others performing any portion of the Work under the Contract Documents for which the District may be liable or responsible including, without limitation, Stop Notice Claims filed with the District pursuant to California Civil Code §9350 et seq.; (iv) a reasonable doubt that the Contract can be completed for the then unpaid balance of the Contract Price; (v) tax demands filed in accordance with California Government Code §12419.4; (vi) other claims, penalties and/or forfeitures for which the District is required or authorized to retain funds otherwise due the Contractor; (vii) any amounts due from the Contractor to the District under the terms of the Contract Documents; (viii) violations of the obligations of the Contractor or any Subcontractor relating to the employment of labor in connection with the Work; or (ix) the Contractor's failure to perform any of its obligations under the Contract Documents, including without limitation, its default under the Contract Documents or its failure to maintain adequate progress of the Work. In addition to the foregoing, the District shall not be obligated to process any Application for Progress Payment or Final Payment, nor shall

Contractor be entitled to any Progress Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by the District, the Project Inspector, the Manager, the Architect or any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by the Contractor. When the District is reasonably satisfied that the Contractor has remedied any such deficiency, payment shall be made of the amount withheld. In lieu of making payment of withheld amounts to the Contractor, the District may, in its sole exclusive discretion, apply withheld amounts to the payment and satisfactions of debts and obligations of the Contractor relating to the Work. In doing, the District shall be an agent of the Contractor for the sole and limited purpose of making payment(s) to others for the Work on behalf of the Contractor; payments made by the District pursuant to the foregoing shall be deemed payments to the Contractor and the Contract Price shall be adjusted to reflect such payment(s). The foregoing notwithstanding, if the District withholds and retains ten percent (10%) of the Final Payment pursuant to Articles 4.21.2 and 8.5.3 of these General Conditions, the Contractor shall not be entitled to receipt or payment of any portion of such withholdings and the District is not obligated to disburse such withholdings to the Contractor. The District shall not be liable to the Contractor or others for its good faith decision to make or not make payment(s) of amounts withheld from the Contractor pursuant to the foregoing. If the District elects to make payments to others of amounts withheld from the Contractor, the District may do so without prior judicial determination; the District will render the Contractor a complete and accurate accounting of amounts withheld and paid to others on behalf of the Contractor.

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

9. CHANGES

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

Changes to the Work depicted or described in the Drawings or the Specifications shall be subject to approval by the DSA. The District may make Changes to bring the Work or the Project into compliance with environmental requirements or standards established by Laws enacted after award of the Contract.

9.1.1. Proposal Request. The District may, without directing or authorizing a Change to the Work, request that the Contractor provide a proposal for adjustment of the Contract Time and/or the Contract Price, in connection with a Change being considered by the District. Such a request will be through the District's form of Proposal Request. Unless otherwise expressly provided in a Proposal Request issued on behalf of the District to the Contractor, the Contractor shall respond to each Proposal Request within five (5) days of the issuance thereof. If the Contractor fails or refuses to respond to a Proposal Request within said five (5) days and the District elects to proceed with the potential Change noted in a Proposal Request, the reasonable determination of the District of the extent of adjustment of the Contract Price or the Contract Time on account of the potential Change shall be binding and enforceable against the Contractor.

9.1.2. Contractor Cost Proposal. Within five (5) days after the Contractor's receipt of a Proposal Request directing a Change in the Work or furnishing the written notice regarding any oral order directing a Change in the Work, the Contractor shall submit to the Architect, the Project Inspector, the Project Manager and the District a detailed written statement setting forth the general nature of the Change, the amount of any adjustment to the Contract Price and impact to the then current Schedule on account thereof, properly itemized and supported by a detail Schedule analysis and sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Change. No claim or adjustment to the Contract Price or the Contract Time shall be allowed if not asserted by the Contractor in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents. The District's form of Cost Proposal shall be used and completed by the Contractor to submit data pursuant to these provisions.

9.2. Change Directive. A Change Directive is a written instrument issued by or on behalf of the District directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. The Contractor shall promptly commence and diligently complete any Change to the Work subject to a Change Directive issued hereunder. The issuance of a Change Order pursuant to this Article 9 in connection with any Change Directive authorized by the District is not a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Change Directive. Upon completion of the Work subject to a Change Directive, if the Contractor and District have not agreed on the adjustment of Contract Time and/or Contract Price for such Change, District shall issue a Unilateral Change Order pursuant to this Article 9.

9.3. Oral Order of Change in the Work. Any oral order, direction, instruction, interpretation, or determination (collectively "Work Direction") from the District, Project Manager or the Architect which in the opinion of the Contractor causes any change to the scope of the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if the Contractor gives the District, Project Manager and Architect written notice within ten (10) days of the Work Direction and prior to acting in accordance therewith. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the District can promptly investigate and consider alternative measures to address the Work Direction giving rise to Contractor's notice. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice within ten (10) days of such Work Direction shall be deemed Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract

Price on account of such Work Direction. The written notice shall state the date, circumstances, extent of adjustment to the Contract Price or the Contract Time, if any, requested, and the source of the Work Direction that the Contractor regards as a Change. Unless the Contractor acts in strict accordance with this procedure, any such Work Direction shall not be treated as a Change and the Contractor hereby waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

9.4. Contractor Submittal of Data for Work Direction Adjustments. Within ten (10) days after furnishing the written notice required by Article 9.3 regarding any Work Direction, the Contractor shall submit to the Architect, the Project Inspector, the Project Manager and the District, on the District form of Cost Proposal, a detailed written statement setting forth the general nature of the Change the Contractor deems to be incorporated into a Work Direction, the extent of any adjustment to the Contract Price or the Contract Time on account thereof, properly itemized and supported by a detail Schedule analysis and sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Work Direction. No claim or adjustment to the Contract Price or the Contract Time shall be allowed on account of any Work Direction if not asserted by the Contractor in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents.

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

9.5.1. Adjustment to Contract Price. Adjustments to the Contract Price due to Changes in the Work shall be determined by application of one of the following methods, in the following order of priority:

9.5.1.1. Mutual Agreement. By negotiation and mutual agreement, on a lump sum basis, between the District and the Contractor on the basis of the estimate of the actual and direct increase or decrease in costs on account of the Change. Upon request of the District, Project Manager and/or the Architect, the Contractor shall provide a detailed estimate of increase or decrease in costs directly associated with performance of the Change along with cost breakdowns of the components of the Change and supporting data and documentation. The Contractor's estimate of increase or decrease in costs pursuant to the foregoing, if requested, shall be in sufficient detail and in such form as to allow the District, the Project Inspector, the Project Manager, and the Architect to review and assess the completeness and accuracy thereof. The Contractor shall be solely responsible for any additional costs or additional time arising out of, or related in any manner to, its failure to provide the estimate of costs within the time specified in the request of the District, the Project Manager and/or the Architect for such estimate.

9.5.1.2. Determination by the District. By the District, whether or not negotiations are initiated pursuant to Article 9.5.1.1 above, based upon actual and necessary costs incurred by the Contractor as determined by the District on the basis of the Contractor's records. If the procedure set forth in this Article 9.5.1.2 is utilized to determine the extent of adjustment to the Contract Price on account of Changes to the Work, promptly upon determining the extent of adjustment to the Contract Price, the District shall notify the Contractor in writing of the same; the Contractor shall be deemed to have accepted the District's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor shall notify the District, the Architect and the Project Inspector, in writing, not more than fifteen (15) days from the date of the District's written notice, of any objection to the District's determination. Failure of the Contractor to timely notify the District, the Architect and the Project Inspector of Contractor's objections to the District's determination of the extent of

adjustment to the Contract Price shall be deemed Contractor's acceptance of the District's determination and a waiver of any right or basis of the Contractor to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price pursuant to this Article 9.5.1.2, Contractor shall, pursuant to Article 9.6 below, diligently proceed to perform and complete any such Change.

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

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

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

9.5.2.1.2. Fringe Benefits, Payroll Taxes and Labor Burdens. The Contractor or Subcontractor may adjust the prevailing wage rate for allowable labor costs to reflect fringe benefits, payroll taxes and labor burdens actually incurred by Contractor and provided to such labor directly engaged in performing a Change. The allowable adjustment for fringe benefit payments, payroll taxes and labor burdens shall not, however, exceed fifteen percent (15%) of the applicable prevailing wage rate and shall not be subject to the additional mark-up set forth in Article 9.5.2.4 and the Special Conditions.

9.5.2.1.3. Excluded Labor Costs. The Contract Price adjustment for labor costs on account of a Change shall exclude costs: (i) for preparing estimate(s) of the costs of the Change; (ii) to maintain records relating to the costs of the Change; (iii) for coordination and assembly of materials and information relating to the Change or performance thereof; (iv) to supervise, coordinate or manage the Work of a Change; or (v) any other general administrative overhead or general conditions costs associated with the Change or performance thereof as such costs are incorporated into the overhead and general conditions mark-up costs set forth in Article 9.5.2.4.

9.5.2.2. Materials and Equipment. Contractor shall be compensated for the costs of materials and equipment necessarily and actually used or consumed in connection with the performance of Changes. Costs of materials and equipment may include reasonable costs of transportation from a source closest to the site of the Work and delivery to the Site. If discounts by Material Suppliers are available for materials necessarily used in the performance of Changes, they shall be credited to the District. If materials and/or

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

9.5.2.3. Equipment. Contractor shall be compensated for the actual cost of the necessary and direct use of Equipment in the performance of Changes to the Work. Use of such Equipment in the performance of Changes to the Work shall be compensated in increments of fifteen (15) minutes. Rental time for Equipment moved by its own power shall include time required to move such Equipment to the site of the Work from the nearest available rental source of the same. If equipment is not moved to the Site by its own power, the Contractor will be compensated for the loading and transportation costs in lieu of rental time. The foregoing notwithstanding, neither moving time or loading and transportation time shall be allowed if the Equipment is used for performance of any portion of the Work other than Changes to the Work. Unless prior approval in writing is obtained by the Contractor from the Architect, the Project Inspector and the District, no costs or compensation shall be allowed for time while Equipment is inoperative, idle or on standby, for any reason. The Contractor shall not be entitled to an allowance or any other compensation for Equipment or tools used in the performance of Changes to the Work where such Equipment or tools have a replacement value of one thousand dollars ($1,000.00) or less. Equipment costs claimed by the Contractor in connection with the performance of any Change to the Work shall not exceed rental rates established by distributors or equipment rental agencies in the locality of the Site; any costs asserted which exceed such rental rates shall not be allowed or paid. Unless otherwise specifically approved in writing by the Architect, the Project Inspector, Project Manager and the District, the allowable rate for the use of Equipment in connection with Changes to the Work shall constitute full compensation to the Contractor for the cost of rental, fuel, power, oil, lubrication, supplies, necessary attachments, repairs or maintenance of any kind, depreciation, storage, insurance, labor (exclusive of labor costs of the Equipment operator), and any all other costs incurred by the Contractor incidental to the use of such Equipment.

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

adjustment to the Contract Price shall be the actual cost reduction realized by the reduced or deleted Work multiplied by the percentage set forth in the Special Conditions for mark-ups on the cost of a Change adding to the scope of the Work.

9.5.4. Contractor Maintenance of Records. If the Contractor is directed to perform any Changes to the Work pursuant to Article 9.1 or 9.2, or should the Contractor encounter Work Conditions which the Contractor, pursuant to Article 9.8, believes would obligate the District to adjust the Contract Price and/or the Contract Time, Contractor shall maintain detailed records itemizing each element of costs along with substantiating evidence of costs incurred on a daily basis. Such records shall include without limitation hourly records for labor and Equipment and itemized records of materials and equipment used that day in connection with the performance of any Change to the Work. In the event that more than one Change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, Equipment, materials and equipment for each such Change. If any Subcontractor, of any tier, shall provide or perform any portion of any Change to the Work, Contractor shall require that each such Subcontractor maintain records in accordance with this Article. Each daily record maintained hereunder shall be signed by Contractor Superintendent or Contractor's authorized representative; such signature shall be deemed Contractor's representation and warranty that all information contained therein is true, accurate, complete and relate only to the Change referenced therein. All records maintained by a Subcontractor, of any tier, relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Subcontractor's Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the District, the Architect, the Project Manager or the Project Inspector upon request. If the Contractor fails or refuses, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work is determined pursuant to this Article, the District's reasonable good faith determination of the extent of adjustment to the Contract Price on account of such Change shall be final, conclusive, dispositive and binding upon Contractor. Contractor's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract Documents with respect to Changes to the Work.

9.6. Adjustment to Contract Time. If any Change to the Work authorized pursuant to this Article 9, the Contract Time affects the critical path of the Work, the Contract Time shall be extended or reduced by Change Order for a period of time commensurate with the time reasonably necessary to perform such Change. The Contractor is solely responsible for submitting scheduling data, analysis and other materials necessary or required by the District to substantiate the Contract Time adjustment requested by the Contractor for a Change. The District is not obligated to consider any adjustment to the Contract Time on account of a Change until the Contractor has submitted such scheduling data, analysis and other materials. In the event that any Change shall require an extension of the Contract Time, the Contractor shall not be subject to Liquidated Damages for such period of time. If completion of the Work is delayed by causes for which the District is responsible and the delay is unreasonable under the circumstances involved, and not within the contemplation of the Contractor and the District at the time of execution of the Agreement, the Contractor shall not be precluded from the recovery of damages arising therefrom.

9.7. Addition or Deletion of Alternate Bid Item(s). If the Bid for the Work includes proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect, pursuant to this Article to add any such Alternate Bid Item(s) if the same did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if the same formed a basis for award of the Contract. If the District elects to add or delete any such Alternate Bid Item(s) pursuant to the

foregoing, the cost or credit for such Alternate Bid Item(s) shall be as set forth in the Contractor's Bid Proposal. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted.

9.8. Change Orders. If the District approves of a Change, a written Change Order prepared by the Architect or the Project Manager on behalf of the District shall be forwarded to the Contractor describing the Change and setting forth the adjustment to the Contract Time and the Contract Price (broken down by costs for labor, materials, equipment, Subcontractor mark-ups and other costs incorporated into the Change Order), if any, on account of such Change. All Change Orders shall be in full payment and final settlement of all claims for direct, indirect and consequential costs, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, including without limitation: impacts of any kind; preparation and processing of any and all related RFIs, ASIs, Bulletins, FCDs, Quotes, and/or CCDs; inefficiencies; productivity losses; delay; acceleration; field and home office overhead; and any and all other incidental costs for all of the work described in the Change Order, as well as any and all adjustments to the Contract Time necessitated thereby. Any claim or item relating to any Change incorporated into a Change Order not presented by the Contractor for inclusion in the Change Order shall be deemed waived. The Contractor shall execute the Change Order prepared pursuant to the foregoing; once the Change Order has been prepared and forwarded to the Contractor for execution, without the prior approval of the District which may be granted or withheld in the sole and exclusive discretion of the District, the Contractor shall not modify or amend the form or content of such Change Order, or any portion thereof. The Contractor's attempted or purported modification or amendment of any such Change Order, without the prior approval of the District, shall not be binding upon the District; any such unapproved modification or amendment to such Change Order shall be null, void and unenforceable. Unless otherwise expressly provided for in the Contract Documents or in the Change Order, any Change Order issued hereunder shall be binding upon the District only upon action of the District's Board of Education approving and ratifying such Change Order. In the event of any amendment or modification made by the Contractor to a Change Order for which there is no prior approval by the District, in accordance with the provisions of this Article 9.8, unless otherwise expressly stated in its approval and ratification of such Change Order, any action of the Board of Education to approve and ratify such Change Order shall be deemed to be limited to the Change Order as prepared by the Manager or the Architect; such approval and ratification of such Change Order shall not be deemed the District's approval and ratification of any unapproved amendment or modification by the Contractor to such Change Order. The form and content of Change Orders shall be as set forth in the attachments to the Special Conditions.

9.9. Unilateral Change Order. A Unilateral Change Order is a Change Order issued by the District, in the sole and exclusive discretion of the District, before the Contractor and District have agreed on the extent of adjustment of the Contract Time or the Contract Price relating to a Change. The District may, in its sole discretion, issue a Unilateral Change Order for any Change to the Work authorized by the District when the Contractor and the District have been unable to reach mutual agreement as to the extent of any adjustment to the Contract Price or Contract Time on account of such Change. The Contractor shall proceed to perform the Change to the Work as set forth in Unilateral Change Orders; failure of the Contractor to strictly comply with and perform Changes in accordance with Unilateral Change Orders shall be deemed the Contractor's default of a material obligation hereunder. Any claim of the Contractor for adjustment of the Contract Time or Contract Price beyond the adjustments established by a Unilateral Change Order shall accrue as of the date of the Board of Education' action approving or ratifying a Unilateral Change Order; claims for adjustment

of the Contract Time or Contract Price and shall be subject to the claim provisions set forth in Article 16.11. Notwithstanding any provision of the Contract Documents to the contrary, an express condition precedent to the Contractor's exercise of rights and remedies under Article 16.11 relating to a Unilateral Change Order, is the Contractor notification to the District, Architect and Manager, if any, in writing of the Contractor's objections to all or any portion of a Unilateral Change Order or the basis for adjustment of the Contract Time or Contract Price within ten (10) days after the date of the Board of Education meeting ratifying or approving a Unilateral Change Order; failure of the Contractor to do so is deemed the Contractor's acceptance of the entirety of a Unilateral Change Order, as approved or ratified by the District's Board of Education and an express, unequivocal waiver by the Contractor of any right or remedy of the Contractor, under the Contract Documents or the Laws to: (i) object to the Unilateral Change Order or any portion thereof; or (ii) further adjustment of the Contract Time or the Contract Price on account of the Change(s) incorporated into a Unilateral Change Order.

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

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

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

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

9.14. Unauthorized Changes. Any Work beyond the extent of Work shown on the Contract Documents, or any extra Work performed or provided by the Contractor without notice to the Architect, the Manager and the Project Inspector in the manner and within the time set forth in Articles 9.2 or 9.8 shall be considered unauthorized and at the sole expense of the Contractor. Work so done will not be measured or paid for, no extension to the Contract Time will be granted on account thereof and any such Work may be ordered removed at the Contractor's sole cost and expense. The failure of the District to direct or order removal of such Work shall not constitute acceptance or approval of such Work nor relieve the Contractor from any liability on account thereof.

10. SEPARATE CONTRACTORS

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

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

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

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

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

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

contractor(s) to furnish or cause to be furnished such materials, labor, equipment, tools and/or services necessary to maintain progress of the Work in accordance with the then current Schedule.

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

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

11. TESTS AND INSPECTIONS

11.1. Tests; Inspections; Observations.

11.1.1. Contractor's Notice; Request for Inspection. If the Contract Documents, the Laws or any public authority with jurisdiction over the Work requires the Work, or any portion thereof, to be specially tested, inspected or approved, the Contractor shall give the Architect, the Project Manager and the Project Inspector written notice of the readiness of such Work for observation, testing or inspection at least two (2) working days prior to the time for the conducting of such test, inspection or observation. If inspection, testing or observation is by authority other than the District, the Contractor shall inform the Project Inspector and the Manager not less than two (2) working days prior to the date fixed for such inspection, test or observation. When requesting special tests, inspections or approvals, the Contractor shall complete and submit the District's form of Request for Inspection. The Contractor shall not cover up any portion of the Work subject to tests, inspections or observations prior to the completion and satisfaction of the requirements of such test, inspection or observation. In the event that any portion of the Work subject to tests, inspection or approval shall be covered up by Contractor prior to completion and satisfaction of the requirements of such tests, inspection or approval, Contractor shall be responsible for the uncovering of such portion of the Work as is necessary for performing such tests, inspection or approval without adjustment of the Contract Price or the Contract Time on account thereof.

11.1.2. Cost of Tests and Inspections. The District will pay for fees, costs and expenses for the initial tests/inspections of materials/equipment forming a part of the Work which are conducted at the Site or a location within a one hundred (100) mile radius of the Site. All fees, costs or expenses for subsequent tests/inspections or for tests/inspections conducted at a location situated more than a one hundred (100) mile radius from the Site (including without limitation, travel and travel-related expenses) shall be borne solely and exclusively by the Contractor. The foregoing notwithstanding, if the portion(s) of the Work subject to tests/inspections is/are not ready for such test/inspection at the time indicated in the Contractor's notice under Article 11.1.1 or if upon completion of such test/inspection, the portion(s) of the Work subject to such test/inspection do not meet or exceed the minimum requirements of such test/inspection, the

Contractor shall be solely responsible for the payment of all fees, costs or expenses arising out of or related in any manner to subsequent tests/inspections of such portion(s) of the Work, and resulting delays, disruptions or other impacts to completion of the Project. Further, notwithstanding the District's payment of fees, costs or expenses for conducting initial tests/inspections, if any actions or failures to act of the Contractor or person or entity providing or performing Work under the direction or control of the Contractor require tests/inspections to be conducted over a period of more than eight (8) hours per day by any single person or on weekends/holidays, the Contractor shall be solely responsible for the payment of fees, costs or expenses which result from test/inspection services which exceed eight (8) hours per day by any single person or on weekends/holidays.

11.1.3. Testing/Inspection Laboratory. The District shall select duly qualified person(s) or testing laboratory(ies) to conduct the tests and inspections to be paid for by the District and required by the Contract Documents. Tests and inspections required of the Work shall be as set forth in the Contract Documents and as required by the Laws, including without limitation, Title 24 of the California Code of Regulations. Test/inspection standards shall be as set forth in the Contract Documents or established by the Laws. Where inspection or testing is to be conducted by an independent laboratory or testing agency, materials or samples thereof shall be selected by the laboratory, testing agency, the Project Inspector, the Project Manager or the Architect and not by the Contractor.

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

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

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

12. UNCOVERING AND CORRECTION OF WORK

12.1. Inspection of the Work**.**

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

12.1.2. Limitations Upon Inspections. Inspections, tests, measurements, or other acts of the Architect,

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

12.2. Uncovering Work. If any portion of the Work is covered contrary to the request of the Architect, the Project Manager, the Project Inspector or the requirements of the Contract Documents, it must, if required by the Architect, Project Manager or the Project Inspector, be uncovered for observation by the Architect, Project Manager and the Project Inspector and be replaced at the Contractor's expense without adjustment of the Contract Time or the Contract Price.

12.3. Rejection of Work. Prior to the District's Final Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work which is Defective or Non-Conforming Work may be rejected by the District, the Project Manager, the Architect or the Project Inspector and the Contractor shall correct such rejected Work without any adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected by the Architect or the Project Inspector and the Defective or Non-Conforming Work was not observed.

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

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

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

12.7. Acceptance of Defective or Non-Conforming Work. The District may, in its sole and exclusive discretion, elect to accept Defective or Non-Conforming Work instead of requiring its removal and

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

13. WARRANTIES

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

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

13.3. Guarantee. Upon completion of the Work, Contractor shall execute and deliver to the District the form of Guarantee included within the Contract Documents at Section 00 65 36. The Contractor's execution and delivery of the form of Guarantee is an express condition precedent to any obligation

of the District to disburse the Final Payment to the Contractor and any right of the Contractor to Final Payment.

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

14. SUSPENSION OF WORK

14.1. District's Right to Suspend Work. The District may, without cause, and without invalidating or terminating the Contract, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as the District may determine. When all or a portion of the Work is to be suspended for any reason, the Contractor and each Subcontractor shall cover over, and securely fasten down all coverings, to protect the Work from damage, destruction or deterioration from any cause. The Contractor shall resume and complete the Work suspended by the District in accordance with the District's directive, whether issued at the time of the directive suspending the Work or subsequent thereto.

14.2. Adjustments to Contract Price and Contract Time. If the District orders suspension of the Work, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by the District; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible under the Contract Documents; (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents; or (iii) the suspension is determined to be reasonably necessary to comply with an order, instruction or similar directive of local, regional, state-wide or federal public health authorities. In the event of the District's suspension of the Work, the Contract Time shall be equitably adjusted.

15. TERMINATION

15.1. Termination for Cause.

15.1.1. District's Right to Terminate. The District may terminate the Contract by written notice to the Contractor upon the occurrence of any one or more of the following events of the Contractor's default: (i) if the Contractor refuses or fails to prosecute the Work with diligence as will insure Substantial Completion of the Work within the Contract Time, or if the Contractor fails to substantially Complete the Work within the Contract Time; (ii) if the Contractor becomes bankrupt or insolvent, or makes a general assignment for the benefit of creditors, or if the Contractor or a third party files a petition to reorganize or for protection under any bankruptcy or similar laws, or if a trustee or receiver is appointed for the Contractor or for any of the Contractor's property on account of the Contractor's insolvency, and the Contractor or its successor in interest does not provide adequate assurance of future performance in accordance with the Contract Documents within ten (10) days of receipt of a request for such assurance from the District; (iii) if the Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment; (iv) if the Contractor repeatedly fails to make prompt payments to any Subcontractor, of any tier, or Material Suppliers or others for labor, materials or equipment; (v) if the Contractor disregards the Laws or requirements of any public entity having jurisdiction over the Work; (vi) if the Contractor disregards proper directives of

the Architect, the Project Manager, the Project Inspector or District; (vii) Defective/Non-Conforming Work which the Contractor neglects or refuses to correct; or (viii) if the Contractor otherwise violates in any material way any provisions or requirements of the Contract Documents. Once the District determines that sufficient cause exists to justify the action, the District may terminate the Contract without prejudice to any other right or remedy the District may terminate the Contract for the Contractor's default by written notice to the Contractor. The Contract shall be deemed terminated for Contractor default as of the effective date set forth in the District's written notice of termination. The District shall have the sole discretion to permit the Contractor to remedy the cause(s) for the termination without waiving the District's right to terminate the Contract, or otherwise waiving, restricting or limiting any other right or remedy of the District under the Contract Documents or the Laws arising out of the Contractor's default(s).

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

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

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

15.1.5. Costs of Completion. In the event of termination under this Article 15.1, the Contractor shall not be entitled to receive any further payment of the Contract Price until the Work is completed. If the unpaid balance of the Contract Price as of the date of termination exceeds the District's direct and indirect costs and expenses for completing the Work, including without limitation, attorneys' fees, fees for additional professional and consultant services, and the District's administrative costs, such excess shall be used to pay the Contractor for the cost of the Work performed prior to the effective date of termination with a reasonable allowance for overhead and profit. If the District's costs and expenses to complete the Work exceed the unpaid Contract Price, the Contractor and the Surety are jointly and severally liable to the

District for the difference between costs and expenses to complete the Work and the unpaid Contract Price as of the date of termination.

15.1.6. Contractor Responsibility for Damages. The Contractor and the Surety shall be jointly and severally liable for all damage sustained by the District resulting from, in any manner, the termination of Contract under this Article 15.1, including without limitation, attorneys' fees, and for all costs necessary for repair and completion of the Work exceeding the Contract Price.

15.1.7. Conversion to Termination for Convenience. If the Contract is terminated under this Article 15.1, and it is determined, for any reason, that the Contractor was not in default under the provisions hereof, the termination shall be deemed a Termination for Convenience of the District and thereupon, the rights and obligations of the District and the Contractor shall be determined in accordance with Article 15.2 hereof.

15.1.8. District's Rights Cumulative. If the Contract is terminated pursuant to this Article 15.1, the termination shall not affect or limit any rights or remedies of the District against the Contractor or the Surety. The rights and remedies of the District under this Article 15.1 are in addition to, and not in lieu of, any other rights and remedies provided by the Laws or under the Contract Documents. Any retention or payment of monies to the Contractor by the District shall not be deemed to release the Contractor or the Surety from any liability hereunder.

15.2. Termination for Convenience of the District. The District may at any time, in its sole and exclusive discretion, by written notice to the Contractor, terminate the Contract in whole or in part when it is in the interest of, or for the convenience of, the District. In such case, the Contractor shall be entitled to payment for: (i) Work actually performed and in place as of the effective date of such termination for convenience of the District, with a reasonable allowance for profit and overhead on such Work, and (ii) reasonable expenses for reasonable protection of Work in place and suitable storage and protection of materials and equipment delivered to the Site (as directed or authorized by the District) but not yet incorporated into the Work, provided that such payments shall not exceed the total Contract Price as reduced by payments previously made to the Contractor and as further reduced by the value of the Work not yet completed. The Contractor shall not be entitled to profit and overhead on Work which was not performed as of the effective date of the termination for convenience of the District. The District may, in its sole discretion, elect to have subcontracts assigned pursuant to Article 15.1.4 above after exercising the right hereunder to terminate for the District's convenience.

16. MISCELLANEOUS

16.1. Governing Law. This Contract shall be governed by and interpreted in accordance with the laws of the State of California.

16.2. Marginal Headings; Capitalized Headings; Interpretation. The titles of the various Articles of these General Conditions and elsewhere in the Contract Documents are used for convenience of reference only and are not intended to, and shall in no way, enlarge or diminish the rights or obligations of the District or the Contractor and shall have no effect upon the or interpretation of the Contract Documents. Except as otherwise expressly provided, capitalized terms used in the Contract Documents shall have the meaning and definition for such terms as set forth in the Contract Documents. The Contract Documents shall be construed as a whole in accordance with their fair meaning and not strictly for or against the District or the Contractor.

16.3. Successors and Assigns. Except as otherwise expressly provided in the Contract Documents, all terms, conditions and covenants of the Contract Documents shall be binding upon, and shall insure

to the benefit of the District and the Contractor and their respective heirs, representatives, successors-in-interest and assigns.

16.4. Cumulative Rights and Remedies; No Waiver. Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not in lieu of or otherwise a limitation or restriction of duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the District shall constitute a waiver of a right or remedy afforded it under the Contract Documents or the Laws nor shall such an action or failure to act constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

16.5. Severability. In the event any provision of the Contract Documents shall be deemed illegal, invalid, unenforceable and/or void, by a court or any other governmental agency of competent jurisdiction, such provision shall be deemed to be severed and deleted from the Contract Documents, but all remaining provisions hereof, shall in all other respects, continue in full force and effect.

16.6. No Assignment by Contractor. The Contractor shall not sublet or assign the Contract, or any portion thereof, or any monies due thereunder, without the express prior written consent and approval of the District, which approval may be granted, conditioned or withheld in the sole and exclusive discretion of the District. The District's approval to such assignment shall be upon such terms and conditions as determined by the District in its sole and exclusive discretion.

16.7. Gender and Number. Whenever the context of the Contract Documents so required, the neuter gender shall include the feminine and masculine, the masculine gender shall include the feminine and neuter, the singular number shall include the plural and the plural number shall include the singular.

16.8. Independent Contractor Status. In performing its obligations under the Contract Documents, the Contractor is an independent contractor to the District and not an agent or employee of the District. Nothing contained herein shall be deemed or construed as creating a relationship of employer and employee between the District and the Contractor or any Subcontractors, employees of the Contractor or Subcontractors or their respective agents and representatives. Neither the Contractor, Subcontractors nor any employees of the Contractor or Subcontractors are entitled to any rights or privileges of District employees.

16.9. Notices. Notices under this Agreement shall be delivered by United States Mail, Certified, Return Receipt Requested with postage fully prepaid or by email. Notices delivered by United States Mail shall be deemed effective the third (3rd) working day after the postmark date. Notices delivered by email before 12:00 PM on District work days shall be deemed effective four (4) hours after delivery to the recipient's email server. Emails delivered to the recipient's email server after 12:00 PM on a District work day or on District holiday days shall be deemed effective as of 12:00 PM the ensuing workday. The recipients and addresses for notices may be modified by the Parties by notice to the other. Notices shall be addressed as set forth in the Agreement.

16.10. Disputes; Continuation of Work. Notwithstanding any claim, dispute or other disagreement between the District and the Contractor regarding performance under the Contract Documents, the scope of Work thereunder, or any other matter arising out of or related to, in any manner, the Contract Documents, the Contractor shall proceed diligently with performance of the Work in accordance with the District's written direction, pending any final determination or decision regarding any such claim, dispute or disagreement.

16.11. Dispute/Claims Resolution.

16.11.1. Contractor Continuation of Work. Notwithstanding any claim, dispute, disagreement or other matter in controversy between the District and the Contractor relating to the Contract Documents and/or the Work, the Contractor shall continue to diligently prosecute and perform the Work in accordance with requirements of the Contract Documents, pending any final determination or decision regarding any such claim, dispute, disagreement or matter in controversy.

16.11.2. Public Contract Code §9204 Claims Resolution Procedures. Claims of the Contractor are subject to the non-binding dispute resolution procedures set forth in Public Contract Code §9204 ("Section 9204") provided, however, that the Contractor's initiation of Section 9204 procedures is expressly subject to the Contractor's prior full and timely compliance with requirements and procedures of the Contract Documents relating to procedures for resolution of claims, change orders, disputes and other matters in controversy under the Contract Documents.

16.11.3. Claim Defined. The term "Claim" shall be as defined in Section 9204.

16.11.3.1. Claim Documentation. The Contractor shall furnish reasonable documentation to support each Claim. "Reasonable documentation" includes, without limitation: (i) contractual and legal basis establishing Claim entitlement or merit; (ii) factual basis establishing District liability for the Claim; (iii) detailed breakdown of labor, materials, equipment and other costs included in the Claim; and (iv) detailed basis, including Schedule analysis and fragnets supporting any Contract Time adjustment or Liquidated Damages relief included in the scope of a Claim.

16.11.3.2. District Claim Review Statement. Within forty five(45) days (or such other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the District will conduct a reasonable review of the Claim and provide the Contractor with a written statement identifying the disputed and undisputed portions of the Claim ("Claim Review Statement"). If the District does not provide the Contractor with the Claim Review Statement for any Claim within forty five (45) days (or other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the Claim is deemed rejected in its entirety and thereupon, the Contractor may initiate the Meet and Confer process described below. A Claim deemed rejected pursuant to the foregoing does not constitute an adverse finding of Claim merit or the Contractor's responsibility or qualifications. If the Claim Review Statement identifies any undisputed portion of a Claim ("Undisputed Claim") and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after the issuance date of the Claim Review Statement.

16.11.4. Meet and Confer.

16.11.4.1. Meet and Confer Demand. If the Contractor disputes any portion of the Claim Review Statement, or if a Claim is deemed rejected by the District not providing the Contractor with the Claim Review Statement within the time permitted under Section 9204, the Contractor may demand an informal conference to meet and confer with the District for settlement of the issues in dispute ("Meet and Confer"). The Contractor's Meet and Confer request must be submitted to the District: (i) in writing; (ii) by registered

mail or certified mail, return receipt requested; and (iii) within ten (10) days after the Claim Review Statement is submitted to the Contractor or within ten (10) days after the date the Claim is deemed rejected, as applicable. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to request the Meet and Confer and the Non-Binding Mediation procedures under Section 9204. If the Contractor strictly complies with the foregoing, the District will schedule the Meet and Confer conference within thirty (30) days of the Contractor's Meet and Confer request for settlement of disputed portions of the Claim Review Statement.

16.11.4.2. Meet and Confer Statement. Within ten (10) business days after conclusion of the Meet and Confer conference, if any portion of a Claim remains disputed, the District shall provide the Contractor a written statement identifying the disputed and undisputed portions of the Claim ("Meet and Confer Statement"). If the Meet and Confer Statement identifies any Undisputed Claim and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after date the Meet and Confer Statement is issued

16.11.5. Non-Binding Mediation.

16.11.5.1. Contractor Initiation. The Contractor may request non-binding mediation ("Mediation") of disputed portions of a Claim identified in the Meet and Confer Statement. The Contractor's Mediation demand must be submitted to the District: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; (iii) within ten (10) days after the Meet and Confer Statement is submitted to the Contractor; and (iv) with specific identification of the disputed Claims issues subject to Mediation. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to demand Mediation procedures under Section 9204.

16.11.5.2. Mediator Selection. The District and Contractor shall mutually agree to a mediator within ten (10) business days after the date of the Contractor's demand for Mediation. If the District and Contractor do not mutually agree to a mediator, the District and Contractor shall each select a mediator and the District/Contractor selected mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim.

16.11.5.3. Mediation Procedures. Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the District and Contractor in dispute resolution through negotiation or by issuance of an evaluation.

16.11.5.4. Mediation Costs. All costs, fees and expenses of the mediator(s) and mediation administration shall be shared equally by the District and Contractor. The foregoing notwithstanding, the Contractor and District shall each bear the costs, fees and expenses of their own attorneys, experts and consultants.

16.11.5.5. Post-Mediation Disputed Claims. Any Claims issues in dispute after Mediation shall be resolved in accordance with the applicable provisions of the Contract Documents.

16.11.5.6. Waiver. The District and Contractor may mutually agree to waive, in writing, Mediation under Section 9204 and subject to the Contractor's compliance with Government Code Claim requirements, proceed directly to commencement of a civil action or binding arbitration.

16.11.6. Payments of Undisputed Claims. If a payment due from the District for Undisputed Claims identified in the Claim Review Statement or the Meet and Confer Statement issued for a Claim is not made within the time established under Section 9204 the overdue portion of such payment shall bear interest at the rate of seven percent (7%) per annum from the date due. The District's credit application of any amount due for an Undisputed Claim against amounts due from the Contractor under the Contract Documents shall be deemed payment of the Undisputed Claim.

16.11.7. Subcontractor Claims.

16.11.7.1. Subcontractor Claim Submittal. If a Subcontractor, of any tier (collectively "Subcontractor") lacks legal standing to assert a Claim against the District because privity of contract does not exist, the Contractor may present the District a Claim on behalf of the Subcontractor ("Subcontractor Claim"). Each Subcontractor requesting submittal of a Subcontractor Claim to the District shall furnish reasonable documentation to support the Subcontractor Claim. Within forty-five (45) days of receipt of a Subcontractor's written request to submit a Subcontractor Claim, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Subcontractor Claim to the District. If the Contractor did not present the Subcontractor Claim, the Contractor shall provide the Subcontractor with a statement of the reasons for not having done so.

16.11.7.2. Contractor Certification of Subcontractor Claim. The District's review of Subcontractor Claims is expressly subject to the Contractor's submittal of a duly completed and executed form of Contractor Certification of Subcontractor Claim certifying that the Contractor has thoroughly reviewed the Subcontractor Claim and based on the Contractor's review, certify that: (i) the Subcontractor Claim is made by the Subcontractor in good faith; (ii) the Subcontractor Claim is supported by reasonable documentation establishing entitlement to the relief requested and District liability therefor; and (iii) the Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code §12650 et seq). The form of Contractor Certification of Subcontractor Claim is included in the Contract Documents.

16.11.7.3. District Review of Subcontractor Claim. Subcontractor Claims presented by the Contractor to the District are subject to the Section 9204 non-binding dispute resolution procedures set forth above, as modified herein. Requests for the District to conduct Meet and Confer and/or non-binding mediation procedures must be submitted jointly by the Contractor and the Subcontractor submitting the Subcontractor Claim. If Mediation proceedings are initiated in connection with a Subcontractor Claim, mediator and mediation administration fees and costs shall be borne equally by the District, Contractor and Subcontractor.

16.11.7.4. Disputed Subcontractor Claims. Subcontractor Claims which are not fully resolved by the Section 9204 non-binding dispute resolution procedures shall be resolved by Section 20104.4 Dispute Resolution Procedures or binding arbitration, as applicable. Commencement of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings in connection with any Subcontractor Claim is subject to compliance with Government Code Claims requirements.

16.11.8. Government Code Claim Requirements. Pursuant to Government Code §930.6, any claim, demand, dispute, disagreement or other matter in controversy asserted by the Contractor,

whether on behalf of itself or a Subcontractor, against the District for money or damages, including without limitation Claims or portions thereof remaining in dispute after completion of the Section 9204 non-binding dispute resolution procedures described above are deemed a "suit for money or damages'' and shall be subject to the provisions of Government Code §§945.4, 945.6 and 946 ("Government Code Claims Process"). An express condition precedent to the Contractor's initiation of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings pursuant to the following is the Contractor's compliance with the Government Code Claims Process, including without limitation, presentation of the claim, demand, dispute, disagreement or other matter in controversy between the Contractor and the District seeking money or damages to the District and acted upon or deemed rejected by the District in accordance with Government Code §900, et seq.

16.11.9. Section 20104.4 Dispute Resolution Procedures; Claims Less Than $375,000. Any Claim, or portion thereof, in dispute after completion of the Section 9204 non-binding dispute resolution procedures and the Government Code Claims Process which is equal to or less $375,000 shall be resolved in accordance with the civil action procedures established in Public Contract Code §20104.4. Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to Section 9204 procedures shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

16.11.10. Binding Arbitration of Claims Exceeding $375,000.

16.11.10.1. AAA Arbitration. Any Claim, or portion thereof in dispute after completion of the Section 9204 procedures and the Government Code Claims Process which exceeds $375,000 and any other claims, disputes, disagreements or other matters in controversy between the District and the Contractor arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by binding arbitration conducted in accordance with the Industry Arbitration Rules of the American Arbitration Association ("AAA") in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for any arbitration commenced hereunder shall be the regional office of the AAA closest to the Site.

16.11.10.2. Demand for Arbitration. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. If more than one Demand for Arbitration is filed by either the District or the Contractor relating to the Work or the Contract Documents, all Demands for Arbitration shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the District and the Contractor. The Contractor's Surety, a Subcontractor or Material Supplier to the Contractor and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with the Contractor, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the District and the Contractor, in which case an appropriate severance order shall be issued by the Arbitrator(s).

16.11.10.3. Discovery. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference.

16.11.10.4. Arbitration Award. The award rendered by the Arbitrator ("Arbitration Award") shall be final and binding upon the District and the Contractor only if the Arbitration Award is: (i) supported by substantial evidence; (ii) based on applicable legal standards in effect that the time the Arbitration Award is issued; and (iii) supported by written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. Any Arbitration Award that does not conform to the foregoing is invalid and unenforceable. The District and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review, the Court determines either that the Arbitration Award does not fully conform to the foregoing. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be made by the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.

16.11.10.5. Arbitration Fees and Expenses. The expenses and fees of the Arbitrator shall be divided equally among all of the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys' fees, witness fees and other costs or expenses incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator may award arbitration costs, including Arbitrator's fees but excluding attorneys' fees, to the prevailing party. By this arbitration provision, the District and the Contractor acknowledge and agree that neither shall recover from the other any attorneys' fees associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder. The limited exceptions in the Contract Documents that provide attorneys' fees for specific issues shall neither be construed as applying to this arbitration provision under California Civil Code §1717(a) nor be deemed to be "authorized by the Laws."

16.11.10.6. Limitation on Arbitrator. The Superior Court for the State of California for the County in which the Project Site is situated has the sole and exclusive jurisdiction, and an arbitrator has no authority, to hear and/or determine a challenge to the commencement or maintenance of an arbitration proceeding on the grounds that: (i) the subject matter of the arbitration proceeding is barred by the applicable statute of limitations; (ii) the subject matter of the arbitration proceeding is barred by a provision of the California Government Claims Act; (iii) the subject matter of the arbitration proceeding is outside the scope of the arbitration clause; (iv) the Contractor has failed to satisfy all conditions precedent to commencement or maintenance of an arbitration proceeding; (v) waiver of the right to compel arbitration; (vi) grounds exist for the revocation of the arbitration agreement; and/or, (vii) there is the prospect that a ruling in arbitration would conflict or potentially with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

16.11.10.7. Inapplicability to Bid Bond. The arbitration proceedings described above are not applicable to disputes, disagreements or enforcement of rights or obligations under

the Bid Bond. All claims, disputes and actions to enforce rights or obligations under the Bid Bond shall be adjudicated only by judicial proceedings commenced in a court of competent jurisdiction.

16.12. Limitation on Special/Consequential Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by the breach or default of the District and shall exclude any and all special or consequential damages, if any. The Contractor expressly acknowledges the foregoing limitation to recovery of only general damages from the District if the District is in breach or default of its obligations under the Contract Documents; the Contractor expressly waives and relinquishes any recovery of special or consequential damages from the District.

16.13. Capitalized Terms. Except as otherwise expressly provided, capitalized terms used in the Contract Documents shall have the meaning and definition for such terms as set forth in the Contract Documents.

16.14. Attorneys' Fees. Except as expressly provided for in the Contract Documents, or authorized by law, neither the District nor the Contractor shall recover from the other any attorneys' fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder.

16.15. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in the Contract Documents is deemed to be inserted herein and the Contract Documents shall be read and enforced as though such provision or clause are included herein, and if through mistake, or otherwise, any such provision or clause is not inserted or if not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.

16.16. Days. Unless otherwise expressly stated, references to "days" in the Contract Documents shall be deemed to be calendar days.

16.17. Prohibited Interests. No employee of the District, who is authorized in such capacity on behalf of the District to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, or material supply contract or subcontract in connection with the Work shall become directly or indirectly financially interested in the Work or any part thereof.

16.18. Entire Agreement. The Contract Documents contain the entire agreement and understanding between the District and the Contractor concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements or amendments, whether written or oral. No amendment or modification to any provision of the Contract Documents shall be effective or enforceable except by an agreement in writing executed by the District and the Contractor.

[END OF DOCUMENT]