

PROPOSAL

CUPCCAA COMPLIANT PUBLIC WORK PROJECTS
LUMP SUM REQUEST FOR PROPOSAL
PROJECTS UP TO \$45,000.00

NAME OF BIDDER: _____

DATE: _____ 2018

TYPE OF BUSINESS: Corporation
 Individual Using Firm Name

Co-Partnership
 Individual Using Own Name

To: Berryessa Union School District
1376 Piedmont Road
San Jose, CA 95132

TITLE OF PROJECT: CUPCCAA Proposal B-10-2017-18 Cherrywood Elementary School MPR Interior Lighting and Controls.

SCOPE OF WORK: Replacement of interior linear fluorescent and high intensity discharge (HID) lighting in the Multi-Purpose Room (MPR) with new LED lighting and controls. Owner supplied materials and equipment.

LOCATION OF WORK: Cherrywood Elementary School, 2550 Greengate Dr., San Jose, CA 95132.

BASE BID

Total Cost for all Labor, Materials and Equipment including all applicable taxes, permits fees, licenses, etc., to complete the project as described above.

_____ DOLLARS (\$ _____)

ADD ALTERNATE #1 Special Activity Area 1 & 2

_____ DOLLARS (\$ _____)

ADD ALTERNATE #2 Lunch Serving Area

_____ DOLLARS (\$ _____)

The representations made herein are made under penalty of perjury.

ATTESTED ON THIS THE _____ DAY OF _____ 2018, STATE OF CALIFORNIA

Signature of Authorized Bidder

Name of Firm

Title of Bidder

Address

Area Code - Telephone Number

City State Zip

Area Code – Fax Number

Email Address

State of California Contractor's License Number

Expiration Date

DIR Public Works Contractor Registration Number

NOTICE INVITING BIDS BERRYESSA UNION SCHOOL DISTRICT PROP 39 CUPCAA PROJECT

Pursuant to the California Uniform Public Construction Cost Accounting Act (PCC 22000 et seq.) , notice is hereby given that sealed bids will be accepted by the Berryessa Union School District in the Purchasing Department, 1376 Piedmont Road, San Jose, California 95132, BEFORE the time and date indicated:

PROP 39 PROJECT PROPOSAL B-10-2017-18 INTERIOR LIGHTING AND CONTROLS IN THE MPR AT CHERRYWOOD ELEMENTARY SCHOOL DUE DATE: BEFORE 11:00 AM Wednesday March 21, 2018

The Berryessa Union School District is seeking qualified and experienced licensed Contractors to submit sealed bids for the project listed above. This is a Prop 39 CUPCAA project.

There will be one (1) Pre-Bid Conference and Job Walk for this project. The Conference and Job Walk will begin at 3:00pm on Tuesday March 13, 2018. Meet outside the Main Office at Cherrywood Elementary School, 2550 Greengate Dr. San Jose, CA 95132.

Project Start Date: Friday March 30, 2018.

Project End Date: Sunday April 8, 2018.

Scope of Work: Replacement of interior linear fluorescent and high intensity discharge (HID) lighting in the Multi-Purpose Room (MPR) with new LED lighting and controls.

This work requires **C-10** licensing.

The last day to submit questions is March 16, 2018. All questions shall be sent in writing and via email to the Attention of: Miguel Cruz, Director of MOT, macruz@busd.net.

SB854: No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The District shall award the Contract, if awards it at all, to the lowest responsive and responsible bidder based on: The Base Bid amount and alternates.

The Board of Trustees reserves the right to waive any irregularities, accept or reject any or all bids, and be the sole judge of merit and suitability of the workmanship and materials.

For the Governing Board,
Berryessa Union School District
Bonny S Gregorius
Purchasing and Contracts Manager
408-923-1871

Berryessa Union School District
Purchasing Department
1376 Piedmont Road
San Jose, CA 95132
Ph: 408-923-1871
Fx: 408-926-8329
Email: bgregorius@busd.net

**CUPCCA COMPLIANT PUBLIC WORKS PROJECTS
LUMP SUM REQUEST FOR PROPOSAL
FOR PROJECTS UP TO \$45,000.00**

CHECK OFF LIST OF REQUIREMENTS

\$100.00 TO \$24,999 PROJECT REQUIREMENTS:

- Contractor's License required: Attach photocopy of wallet I.D. to your proposal.
- Prevailing Wages must be paid. Compliance with SB-854 requires contractors to file Prevailing Wages online directly to the DIR.
- Insurance: liability, property damage and auto insurance. Certificate required naming Berryessa Union School District as additionally insured.
- Worker's Compensation insurance. Certificate required naming Berryessa Union School District. Minimum coverage required.
- Asbestos Declaration Document
- Drug-Free Workplace Certification
- Fingerprinting Policy
- Non Collusion Declaration Form
- Compliance with SB-854 – Public Works Contractor Registration Program – Contractor is required to provide their registration number in order to work on a Public Works Project.

\$25,000 TO \$45,000 PROJECT ADDITIONAL REQUIREMENTS:

If you are the successful bidder you will be required to provide the following Bonds:

- Payment Bond Required (Civil Code Section 3247)
- Performance Bond Required

INSTRUCTIONS TO BIDDERS OF LABOR AND CONSTRUCTION

IMPORTANT: No bid/quote proposals shall receive consideration by the Berryessa Union School District unless made in accordance with the following instructions:

1. BID/QUOTE PROPOSAL FORMS

Proposals must be made on a form obtained from the Berryessa Union School District. All items on the form should be filled out. Numbers should be stated in figures and signatures of all individuals must be in long hand. The completed form should be without interlineations, alterations, or erasures.

2. EXECUTION OF FORMS

Each proposal shall include the full business address of the bidder and must be signed by the bidder with his or her usual signature. Proposals by partnerships must furnish the full names of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters. Proposals by corporations must be signed with the legal name of the corporation, followed by the signature and designation of the President, Secretary, or other person authorized to bind the corporation in this matter. The name of each person signing shall also be typed or printed below the signature. When requested by the Berryessa Union School District, satisfactory evidence of the authority of the Officer signing on behalf of the corporation shall be furnished. Failure to properly sign required forms may result in rejection of the proposal.

3. AWARD OF CONTRACT

The Berryessa Union School District shall award the contract to the lowest responsible bidder. The District reserves the right to reject any and all bid proposals, to contract work with whomever and in whatever manner the District decides, to abandon the work entirely and to waive any informality or non-substantive irregularity as the interest of the District may require.

4. REJECTION OF BIDS/PROPOSALS

The Berryessa Union School District reserves the right to accept or reject any and all proposals or any portion or combination thereof, or award on the basis of total bid.

5. EXECUTION OF CONTRACT

Notice to proceed shall be issued by the District in the form of a Purchase Order. The purchase order and the proposal submitted are considered the Contract.

6. DRAWINGS AND SPECIFICATIONS

Each bidder shall be required to return to the Berryessa Union School District all drawings and specifications. All drawings, specifications and other documents used or prepared during the project shall be the exclusive property of the District. At the discretion of the District, a reasonable refundable deposit may be required for each set of drawings and specifications.

7. EVIDENCE OF RESPONSIBILITY

Upon the request of the Berryessa Union School District, a bidder shall submit promptly to the District satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work required by the District, the bidder's organization available for the performance of the contract and any other required evidence of the bidder's qualification to perform the proposed contract. The District may consider such evidence before making its decision awarding the proposed contract. Failure to submit evidence of a bidder's responsibility to perform the proposed contract may result in rejection of the proposal.

8. SAMPLES

On request, product samples of the products being bid shall be furnished to the Berryessa Union School District, prior to or at the time of bid submittal.

9. SPECIAL BRAND NAMES

In describing any item, the use of a manufacturer or special brand does not restrict bidding to that manufacturer or special brand, but is intended only to indicate quality and type of item desired. Bidders may furnish any material or product of comparable quality or utility. If a bidder is requesting substitution of "an equal" item, the make and grade of the article on which the bid is submitted must be stated in the proposal and illustrations and catalog information submitted. The Berryessa Union School District reserves the right to make all decisions on products and vendor selections. Any cost of testing or evaluation shall be borne by the bidder.

10. CONTAINER COSTS AND DELIVERY

All costs for containers shall be borne by the bidder. All products shall conform to the provisions set forth in the Federal, County, State, and City laws for their production, handling, processing, and labeling. Packages shall be constructed to insure safe transportation to point of delivery.

11. INDEMNITY

The bidder must hold harmless and fully indemnify the Berryessa Union School District, its Board of Trustees, Officers, Employees and Agents from all damages or claims for damages, costs or expenses that may at any time arise out of the bidder's performance of, or failure to perform acts, required by the contract documents, including but not limited to, infringement or use of any copyrighted composition secret process, patented or unpatented invention, article or appliance furnished or used in connection with this bid.

12. PREVAILING LAW

In the event of any conflict or ambiguity between these instructions and State or Federal regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of Local, State, and Federal law.

13. RIGHTS AND REMEDIES IN THE EVENT OF DEFAULT

If the bidder defaults in their obligation to complete a contract with the Berryessa Union School District, the District may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance claimed due by the bidder or by proceeding against a bidder's bonds, if any, or by suit against the bidder. The prices paid by the District shall be considered the prevailing market prices at the time such purchase is made.

14. GOVERNING LAW AND VENUE

In the event of litigation, the bid documents, specifications and related matters shall be governed by and construed in accordance with the law of the State of California. Venue shall be with the appropriate State or Federal court located in Santa Clara County.

15. SUBCONTRACTORS

Pursuant to the Subletting and Subcontracting Fair Practices Act, Government Code Section 4100-4114, inclusive, every bidder shall, on the enclosed form set forth:

- a. The name and location of the place of business of each subcontractor who will perform work or labor or render service to the bidder in or about the work in an amount in excess of one-half (1/2) of the one (1) percent of the bidder's total bid.
- b. The portion of the work that will be done by each subcontractor: If the bidder fails to specify a subcontractor for any portion of the work performed under the contract in excess of one-half (1/2) of one (1) percent of the bidders total bid, bidder agrees that bidder is fully qualified to and will perform that portion of the work. The successful bidder shall not, without the consent of the Berryessa Union School District, either:
 - 1.) Substitute any person as subcontractor in place of the subcontractor designated in the original bid;

- 2.) Permit any subcontract to be voluntarily assigned or transferred or allow the work to be performed by anyone other than the original subcontractor listed in the bid; or
- 3.) Sublet or subcontract any portion of the work in excess of one-half (1/2) of one (1) percent of the total bid as to which the bidder's original bid did not designate a subcontractor.

16. EXAMINATION OF CONTRACT DOCUMENTS AND WORK SITE

Before submitting a bid proposal, bidders shall examine the contract, drawings, specifications, and other contract documents. Bidders shall visit the site of the proposed work and shall fully inform themselves of all conditions in and about the work site, the building or buildings, if any, and any work that may have been done thereon. However, no bidder shall visit the site without prior authorization. All bidders are requested to contact Miguel Cruz, Facilities Director, at 408-923-1892 for coordination of site visits. Submission of a bid proposal constitutes acknowledgment of the terms of this provision. Site visits referred to herein shall be separate from any mandatory bidder's conference if required.

17. PERFORMANCE DURING WORKING HOURS

Work shall be performed during regular working hours except that in the event of an emergency or when required to complete the Work in accordance with job progress, work may be performed outside regular working hours with the advance written consent of the Owner

18. LICENSES

Each bidder and their subcontractors, if any, must possess all appropriate and required licenses or other permits to perform the work as identified in the contract documents. Upon request, each bidder shall furnish the Berryessa Union School District with evidence demonstrating possession of the required licenses or permits. Failure to submit such evidence to the District's satisfaction may result in the rejection of the bid.

19. ANTI-DISCRIMINATION

It is the policy of the Berryessa Union School District that in connection with all work performed under contracts, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. The contractor agrees to comply with applicable Federal and California State laws including, but not limited to, the California Fair Employment Practice Act, beginning with Labor Code Section 1410, and Labor Code Section 1735. In addition, the contractor agrees to require like compliance by any subcontractor employed on the work.

20. PREVAILING WAGE LAW

Contractors are required to pay prevailing wages to their employees on all projects \$1000.00 or more. The Department of Industrial Relations has determined the general prevailing rate of *per diem* wages in the locality in which this work is to be contracted, which will be awarded to the successful bidder. Said wage rates are available on the web at www.dir.ca.gov.

Per diem is based upon a working day of eight (8) hours. The rate for holiday and overtime work shall be at time and one-half (1-1/2).

It shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor thereunder, to pay not less than the said specified rates to all workers employed in execution of the contract.

21. TRANSFER OF INTEREST

No interest in the contract shall be transferred to any other party without the permission of the Board of Trustees of Berryessa Union School District.

22. BIDDERS INTERESTED IN MORE THAN ONE BID

No person, firm, or corporation shall be allowed to make, or file, or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a bidder, or that quoted prices of materials to a bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders or make a prime proposal.

23. WORKERS' COMPENSATION

In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees. Contractor hereby acknowledges the following statement:

"I am aware of the provisions of Section 3700 of the Labor Code that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of these contract documents."

24. INSURANCE REQUIREMENTS

Vendor shall furnish to District satisfactory proof that Vendor has taken out for the entire period covered by the Contract the following classes of insurance in the form and with limits and deductibles specified below:

Comprehensive General Liability Insurance

To cover claims for personal injury, bodily injury and property damage arising out of the Work and in a form providing coverage not less than that of a Standard Commercial General Liability Insurance policy ("Occurrence Form"). Such insurance shall provide for all operations and include independent contractors and product liability. The limits of such insurance shall not be coverage of less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate limit, and \$2,000,000.00 aggregate for products and completed operations. The policies shall be endorsed to provide Broad Form Property Damage Coverage.

Comprehensive Automobile Liability Insurance

To cover all owned, non-owned, and hired vehicles. Such insurance shall provide coverage not less than the standard Comprehensive Automobile Liability policy with limits not less than \$1,000,000.00 each person Bodily Injury, \$1,000,000.00 each occurrence Bodily Injury, and \$1,000,000.00 each occurrence Property Damage.

Workers' Compensation Insurance

Coverage for all persons whom the Contractor may employ in carrying out Work contemplated under this Contract, in accordance with the Act of Legislature of State of California, known as "Workers' Compensation Insurance and Safety Act," approved May 26, 1913, and all acts amendatory or supplemental thereto, in the statutory amount.

Indemnification

The Vendor agrees to pay on behalf of and hold harmless the Berryessa Union School District for all claims arising in whole or in part from its work on behalf of the District.

Evidence of Insurance

The Vendor shall submit evidence of insurance to the Owner at the time of execution of the Contract. Written notice shall be sent to the Berryessa Union School District at least thirty (30) days prior to cancellation or at least ten (10) days for non-renewal of such insurance coverage.

All policies of insurance shall be placed with insurers acceptable to District. The insurance underwriter(s) for all insurance policies except Workers' Compensation shall have an A. M. Best Company rating of A or better. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of District, warrant such increase. Contractor shall increase required insurance amounts upon direction by District.

Required Endorsements

Name District, its Board of Directors, and their employees, representatives, consultants, and agents, and Project Manager as additional insureds, but only with respect to liability arising out of the activities of the named insured.

Each such policy shall apply separately to each insured against whom claim is made or suit is brought.

Insurance shall be primary to District and no other insurance or self-insured retention carried or held by District shall be called upon to contribute to a loss covered by insurance for the named insured.

District Mailing Address

Certificates of Insurance, written notice of cancellation, non-renewal, or reduction in coverage of any policy shall be mailed to the Berryessa Union School District, (Attention: Purchasing Manager) at the address listed here:

Berryessa Union School District
Purchasing Department
1376 Piedmont Road
San Jose, CA 95132

26. FAILURE TO COMPLETE PROJECT AS PER CONTRACT:

Should any work not be completed within the time stipulated, the District shall deduct from the final payment the sum of One Hundred Dollars (\$100.00) per day as liquidated damages, not a penalty, for each calendar day's delay after the expiration date until the final physical completion of the work and its delivery to the District.

27. PAYMENT:

Contractor shall be paid in one lump sum. The Contractor is reminded to submit his certified payroll records online directly to the DIR. The District, at its discretion, may withhold a 5% retention on the project. Failure to provide the District with the proper documentation will delay your payment.

28. FINGERPRINTING AND CRIMINAL RECORDS CHECK OF CONTRACTOR'S EMPLOYEES

Contractor shall comply with the provisions of Education Code Section 45125.2. This new provision of the Education Code requires that K-12 school districts which contract with an entity for the construction, reconstruction, rehabilitation or repair of a school facility where the employees of the entity will have contact, other than limited contact, with students shall ensure student safety by one or more of the following methods:

1. Installation of a physical barrier at the worksite to limit contact with students.
2. Provide continual supervision and monitoring of all of the entity's employees by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (as defined by the Penal Code).
3. Provide surveillance of the entity's employees by school personnel.

If one or more of these methods is utilized, then the entity is not required to comply with Education Code Section 45125.1 (which requires fingerprinting of all entity employees).

Education Code Section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. Contractor shall not permit any employees to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the East Side Union High School District that such employee has not been convicted of a felony as defined in Education Code Section 45125.1. Contractor's responsibility shall extend to all employees, subcontractors, and employees of subcontractors regardless of whether such individuals are paid or unpaid, concurrently employed by the District, and/or acting as independent contractors of the Contractor. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or participation in the project and prior to permitting contact with pupils.

29. COMPLIANCE WITH SB-854

In Compliance with Department of Industrial Relations (DIR) and SB 854 regulations regarding prevailing wage requirements on public works projects; the district is now required to notify DIR of all public work projects, involving construction, alteration, demolition, installation, repair, and/or maintenance, over \$1,000.00 annually by your

company. These new requirements will apply to all public work projects that are subject to the prevailing wage requirements of the CA Labor code, without regard to funding source. As a contractor doing public works projects, as of July 1, 2014, you must register with DIR and meet requirements before bidding on public work contracts in California. Once the registration requirements becomes *Mandatory* (March 1, 2015 for bids, and April 1, 2015 for work), BUSD may not accept a bid, or enter into a contract for public works with an unregistered contractor. The registration number is required if you still wish to conduct business with; and be included in, the District's Bidders' Book.

Additionally, for projects or work beginning on, or after April 1, 2015, contractors and their subcontractors will be required to furnish electronic certified payroll records directly to DIR via their online "eCPR" system.

For more information visit:

<http://www.dir.ca.gov/public-works/SB854.html>

End of Document

Berryessa Union School District
Cherrywood Elementary School - MPR – Interior Lighting & Controls
Scope of Work

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PART 1- GENERAL

1.1 SUMMARY

- A. This document provides the standards and requirements for a design-build lighting project at Cherrywood Elementary School (2550 Greengate Dr., San Jose, CA 95132), part of the Berryessa Union School District. The scope of work includes replacing interior linear fluorescent and high-intensity discharge (HID) lighting in the multi-purpose room (MPR) with new LED lighting and installing timeclocks and manual wall switches.

The MPR is currently lit using 20, high-bay linear fluorescent fixtures (T5HO lamps) that are on rigid pendant mounts from the hard ceiling between truss beams. The contractor shall remove and demolish the existing fixtures and install new LED fixtures, provided by the District at the same location. In addition, the MPR also has four recessed HID fixtures in front of the stage. The contractor shall remove and demolish all four fixtures and install three LED fixtures in their place. The contractor shall not install any new fixture in the opening nearest to the stage. Please refer to Section 2.2B for more details on the recessed fixture replacement.

The lighting in the MPR is currently controlled using wall mounted switches with on/off controls. The high-bay linear fluorescent fixtures and the recessed HID fixtures are on different circuits.

In addition to the base scope the contractor shall also bid for the add-alternate scope that includes demolishing and replacing existing fixtures in:

- Special Activity Area 1 & 2
 - The special activity area is currently lit using 24, 1'x4' surface mount fixtures. The contractor shall replace the existing fixtures with 1'x4', surface mount LED fixtures in the same locations.

- Lunch Serving Area
 - The lunch serving area is lit using 6, 8' pendant-suspended, direct-indirect fixtures in three rows. The contractor shall replace the existing fixtures with pendant-suspended, direct-indirect, LED fixtures in the same locations.

1.2 SCOPE OF WORK

- A. The contractor shall demolish existing luminaires, as indicated, and install new LED interior lighting and controls in the MPR at Cherrywood Elementary School, as detailed in this section.
 - 1. MPR Lighting at the Cherrywood Elementary School
 - a. Type A1:
 - i. Demolish (20) existing luminaires. Remove and properly dispose of existing lamps and fixtures.
 - ii. Install (20) replacement LED luminaires in the same locations as existing fixture.
 - b. Type A2:
 - i. Demolish (4) existing luminaires. Remove and properly dispose-of existing lamps and fixtures.
 - ii. Install (3) replacement LED luminaires at the same location, eliminating the luminaire closest to the stage.
- B. Time-clock Controls
 - 1. The contractor shall install new timeclock lighting controls for the MPR, as detailed below. The contractor shall be responsible for installing two timeclocks to control the entire lighting in the MPR.
 - a. MPR - Cherrywood Elementary School
 - i. Install a timeclock to control 20, high-bay LED fixtures serving the MPR.
 - ii. Install a timeclock to control 3 new LED fixtures, recessed into the area directly over the center of the MPR.
- C. Manual Wall Switches
 - 1. The contractor shall install light switches to over-ride the timeclock controls for the 20, high-bay fixtures and the 3 recessed fixtures.
- D. Add Alternates:
 - 1. Special Activity Area 1 & 2:

Demolish existing surface mount linear fluorescent fixtures and install surface mount LED fixtures for Type A3. Install occupancy sensors and wall switches to control lighting under the add-alternate scope. The contractor shall install new fixtures in the same location as the existing.
 - 2. Lunch Serving Area

Demolish the existing pendant-suspended, direct indirect fixtures and install new pendant-suspended direct-indirect LED fixtures for Type A4. Install occupancy sensors and wall switches to control lighting under the add-alternate scope. The contractor shall install new fixtures at the same location as the existing.

 - a.

1.3 RELATED DOCUMENTS

- A. Attachment A: Proposed Interior Lighting Fixtures
- B. Attachment B: Electrical Circuits and Base Scope
- C. Attachment C: Installation Pricing Sheet

D. Attachment D: Existing Fixtures

1.4 BID TECHNICAL SUBMISSIONS

1. A bid narrative discussing the approach to the scope.
2. A shop drawing showing proposed occupancy sensors and switch locations.

1.5 QUALITY ASSURANCE

- A. The Contractor shall be regularly engaged in the installation and maintenance of lighting systems and shall have a minimum of five (5) years of demonstrated technical expertise and experience in the installation and maintenance of lighting systems, similar in size and complexity to the project and have a maintained service organization.
- B. Any equipment purchased by the Contractor and billed to the Owner shall become the property of the Owner, even if the purchased equipment is not installed.

1.6 SUBMITTALS

- A. Submit complete sets of documentation for approval before starting any work.
- B. The Contractor shall submit a construction schedule prior to the beginning of work. The contractor shall finish the installation work of the base scope starting 30th March through 8th April.
- C. As-Builts of the above submittals and detailed owner manuals for outside material shall constitute the O&M manuals.

1.7 QUALITY ASSURANCE

- A. Products shall be tested, approved and labelled by Underwriters Laboratories, Inc., or the label of an OSHA approved nationally recognized testing laboratory.
- B. Electrical equipment and materials shall be new and within one year of manufacture, complying with the latest codes and standards. No used, re-built, refurbished and/or re-manufactures electrical equipment and materials shall be acceptable.

1.8 CLOSE-OUT AND TURNOVER

- A. Upon completing installation, the Contractor shall submit a close-out document specifying the following information:
 1. List of all equipment furnished
 2. Completed commissioning checklists, as specified in Section 2.4.
- B. Upon final project completion, the Contractor shall submit the following information to the Owner's Representative to close out the project.
 1. Notice of Completion – Letter to state that the Contractor considers the work completed and to list all final deliverables that have been submitted. Final deliverables include:
 - a. One Physical Project Binder and one Digital Project Binder, containing the following:
 - i. Operating and Maintenance manuals for installed equipment.
 - ii. As-built Engineering Submittals, per Section 1.6.
 - iii. Training Materials, per Section 3.6.
 - b. Completed close-out documentation, as specified above in Section 1.8 A.
 - c. Final warranty letters. Warranty terms are specified in Section 2.7.
 - d. Delivery of any leftover equipment (spare luminaires or timeclocks) to the Owner.

PART 2- EXECUTION

2.1 CONTRACTOR RESPONSIBILITIES

A. Construction Management

1. Contractor shall attend on-site or phone-in construction meetings as requested by the Owner.
2. The Contractor shall provide a look ahead during construction with a list of construction impacts for occupants.
3. The construction work shall commence by 30th March and end by 8th of April.
4. The contractor shall secure all permits under the current scope of work, including DSA, if applicable.

2.2 HARDWARE INSTALLATION

A. General

1. All demolished luminaire shall be disposed of at the Contractor's expense according to the requirements listed on their material safety data sheet. The Contractor shall make every effort to recycle materials, where possible.

B. Demolished luminaire sealing and weatherproofing

1. Where luminaires are removed and no replacement luminaire is installed in its place, the Contractor shall pull the wires to the nearest junction box, label, and cap any electrical wires. The opening shall be sealed and painted to match the surrounding surface. All work shall be executed in a neat, professional manner.
 - a. The Contractor shall coordinate with the Owner to identify the specific shades and/or product names for the paint to ensure that the color reasonably matches the surrounding surface.

C. Painting and Patching

1. Areas surrounding replacement luminaires shall be painted and patched if the new luminaire has a smaller footprint than the demolished luminaire.
 - a. The Contractor shall coordinate with the Owner to identify the specific shades and/or product names for the paint to ensure that the color reasonably matches the surrounding surface.

2.3 ELECTRICAL AND WIRING MATERIALS

- A. The Contractor shall perform all wiring in accordance with all local and national codes.

2.4 COMMISSIONING, TESTING, AND ACCEPTANCE

A. General

1. Functional performance testing procedures will be provided by the owner's designated representative. Procedures shall be reviewed by the Contractor for issues pertaining to safety, equipment protection and warranty, and appropriateness of the procedure. The owner's designated representative has the option to witness all tests.
2. The contractor shall submit the results of functional and diagnostic tests in a three-ring binder for final system acceptance. System will not be considered complete until all tests are successfully completed and documented. Provide documentation of all On-Site Testing to the owner as part of the O&M package.
3. The contractor shall incorporate all commissioning and testing activities into the construction schedule.

B. Functional Performance Testing

Interior Lighting & Controls – Scope of Work

1. Provide a qualified technician to complete the functional testing per the functional performance test procedures provided by the Owner's Representative. The functional performance test form is to include areas to check and record each facet of the sequence of operations including but not limited to the following:
 - a. Interior Occupancy Sensors
2. The Contractor shall repair any deficiencies found during functional testing.
3. The Contractor shall be back charged for additional testing time required by the owner's representative as a result of equipment not passing the functional test the first time.
4. The Contractor shall repeat the functional performance testing until all functional tests are passed.

2.5 CLEANING

- A. Clean electrical parts to remove conductive and deleterious materials.
- B. Remove dirt and debris from luminaire enclosure.
- C. Clean optical control surfaces as recommended by manufacturer.
- D. Clean lighting control elements, lamps, fixture interiors and exposed exterior surfaces thoroughly before requesting final inspection.
- E. Clean finishes and touch up damage.

2.6 TRAINING

- A. The Contractor shall provide training to designated personnel (at owner discretion) in the operation and maintenance of the lighting system installed. An agenda must be submitted prior to training. Instructors shall be thoroughly familiar with all aspects of the subject matter they are to teach. All training shall be held during normal working hours.
 1. Training for Owner's designated operating personnel shall include the following on-site training:
 - a. Explanation of shop drawings and the operations and maintenance manuals.
 - b. Walk-through of the job to locate control components.
 - c. Explanation of adjustment, calibration and replacement procedures for all equipment provided on this project.
 - d. Training binder with training modules.

2.7 WARRANTY

- A. General Requirements: Provide all labor, materials and equipment necessary to warrant the entire lighting system for a period of one year after project acceptance by the Owner.
- B. Personnel: Provide qualified personnel to accomplish all work promptly and satisfactorily. The Owner shall be advised in writing of the name of the designated service representative, and of any changes in personnel.
- C. The Owner will initiate service calls when the system is not functioning properly. Qualified personnel shall be available to provide service to the complete system. Contractor shall furnish Owner with a telephone number and e-mail address where the service representative can be reached at all times. Service personnel shall be at the site within 24 hours after receiving a request for service.
- D. Systems Modifications: Provide any recommendations for system modification in writing to the Owner. Do not make any system modifications, including operating parameters and control settings, without prior written approval of the Owner. Any modifications made to the system shall be incorporated into the operations and maintenance manuals, and other documentation affected.

ATTACHMENT A

TECHNICAL SPECIFICATIONS PROPOSED INTERIOR LIGHTING FIXTURES

CHERRYWOOD ELEMENTARY SCHOOL MULTI-PURPOSE ROOM INTERIOR LIGHTING & CONTROLS PROJECT

Label	Description	Fixture Wattage	CCT	Initial Lumen Output	Controls
A1	High-bay suspended fixtures	95W	3,500K	13,100	Timeclock and manual light switch
A2	High-bay recessed fixtures	115W	3,500K	12,000	Timeclock and manual light switch
Add Alt: A3	High-bay surface mount	35W	3,500K	4,000	Occupancy sensors and manual light switch
Add Alt: A4	Suspended direct indirect fixture	114W	3,500K	7,000	Occupancy sensors and manual light switch

EXAMPLE FIXTURES TO MEET PERFORMANCE SPECIFICATIONS:

Label	Description	Example Luminaire
A1	High-bay suspended fixtures	Green Creative 95HBAY/832/ME
A2	High-bay recessed fixtures	Gotham Lighting EVO SQ 35/120 6AR FL LSS MVOLT EZ10
Add Alt: A3	High-bay surface mount	Lithonia STL4 40L MVOLT EZ1 LP835
Add Alt: A4	Suspended direct indirect fixture	Finelite Series 12-LED-ID-DCO-8'-3E-V-V-835-OPEN

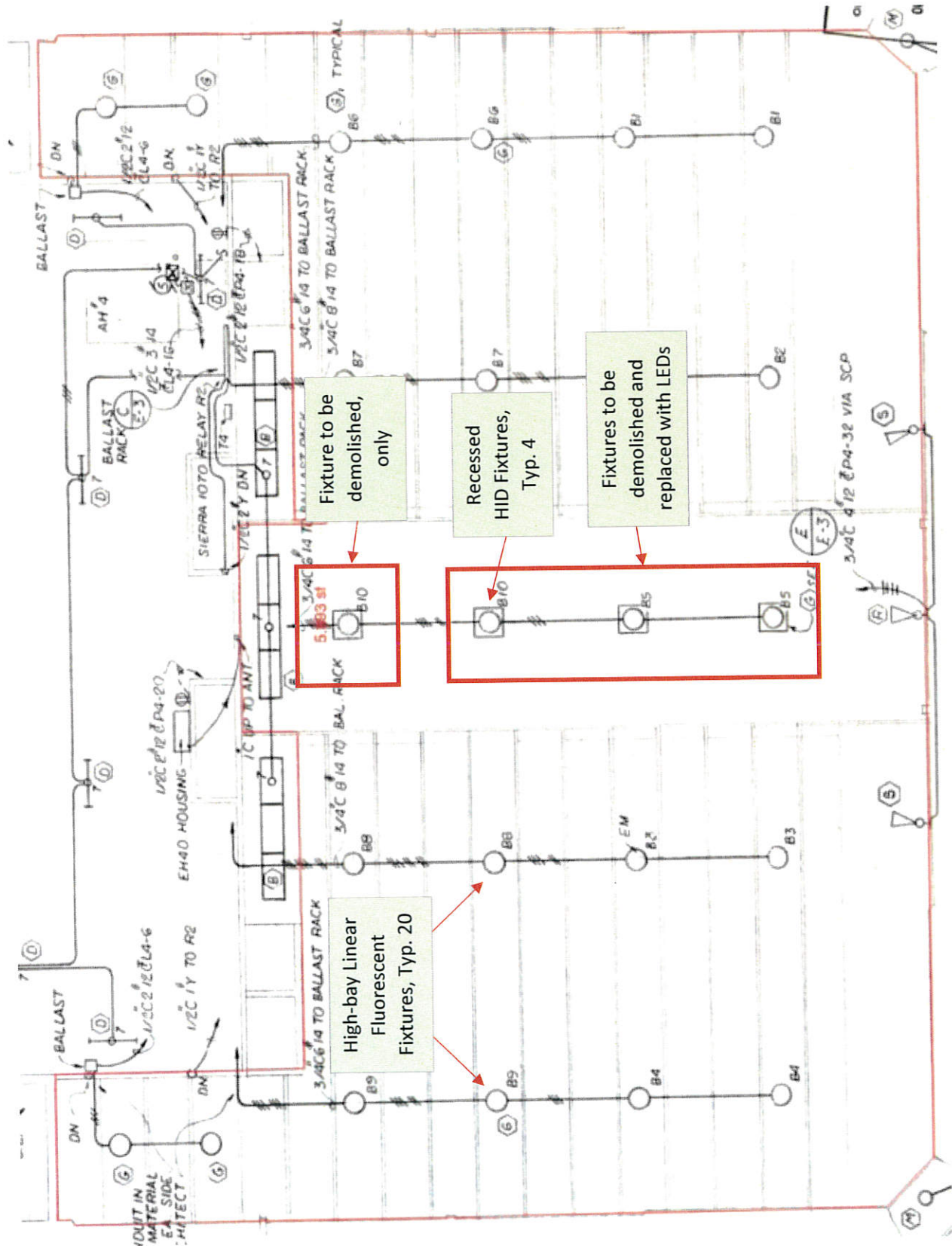
Attachment B

Electrical Circuits and Base Scope

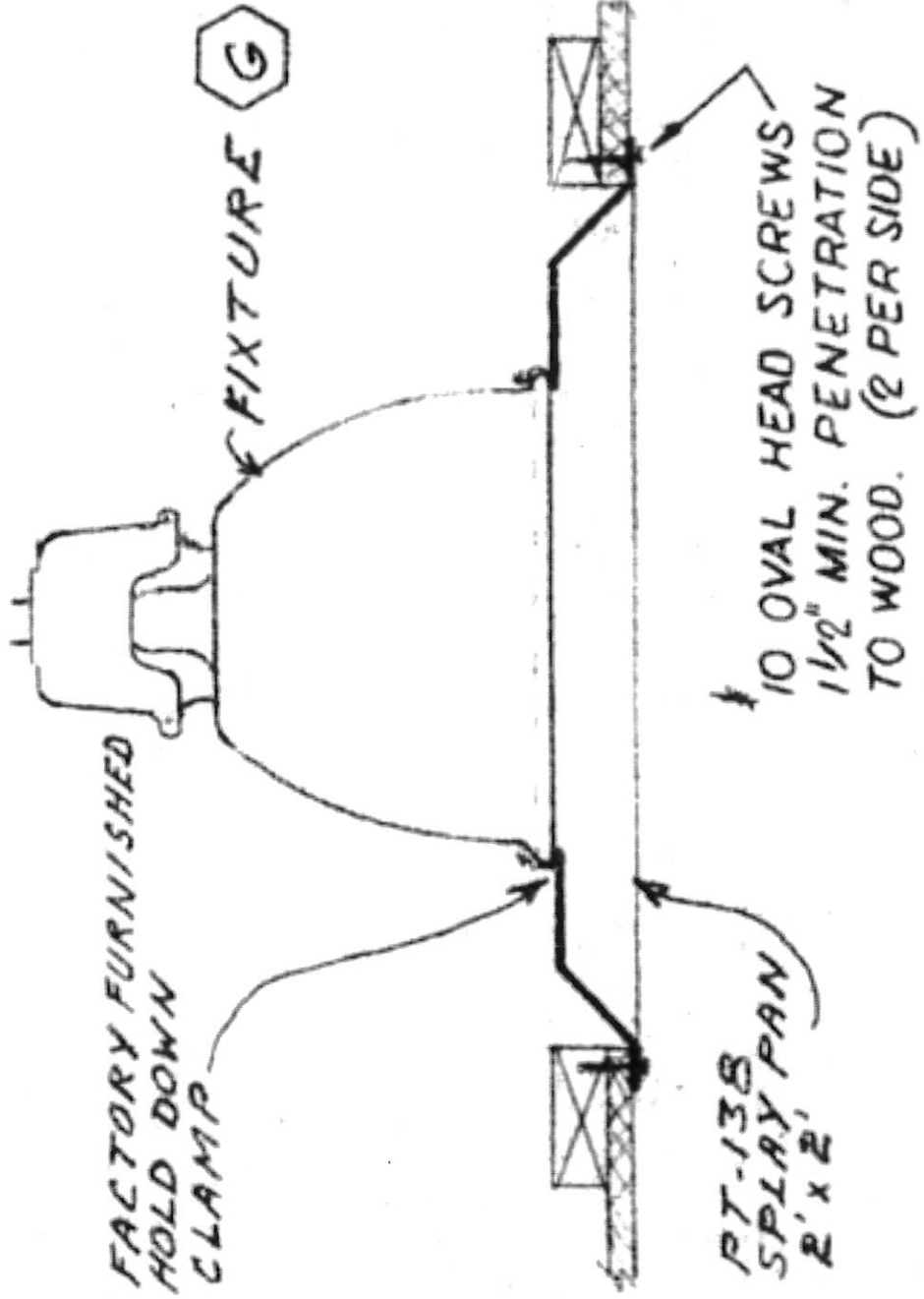
BERRYESSA UNION HIGH SCHOOL DISTRICT

CHERRYWOOD ELEMENTARY SCHOOL

INTERIOR LIGHTING & CONTROLS PROJECT



Recessed HID
Fixture
Mounting Detail



Attachment C

INSTALLATION PRICING SHEET

BERRYESSA UNION HIGH SCHOOL DISTRICT

CHERRYWOOD ELEMENTARY SCHOOL

INTERIOR LIGHTING & CONTROLS PROJECT

The Price Schedule shall include the quantities specified in the scope of work and shown in the attachments. Each line item shall include the generation costs for appropriate contract documents and obtaining appropriate permits.

PRICE SCHEDULE:

Description	Proposal Amount	Comment
Interior Lighting		
Instructional Material Resource Center – High-bay pendant		
Instructional Material Resource Center – Recessed square		
Control Devices		
Instructional Material Resource Center - 7-Day Astronomical Timeclock -		
Add Alternates		
Special Activity 1 and 2 – 1x4 Surface mount		
Lunch Serving Area – Suspended direct indirect, 8' section		
Passive Infrared High-Bay Ceiling Occupancy Sensor		
Power Pack		

Description	Labor Cost	Comment
Unit Costs for Additional Luminaires		
New Luminaire Type A1		
New Luminaire Type A2		
Add Alt: New Luminaire Type A3		
Add Alt: New Luminaire Type A4		

Description	Labor Cost	Comment
Unit Costs for Additional Control Devices		
7 Day Astronomic Time-clock		
Passive Infrared High-Bay Ceiling Occupancy Sensor		
Power Pack		

Attachment D

Existing Fixtures

BERRYESSA UNION HIGH SCHOOL DISTRICT

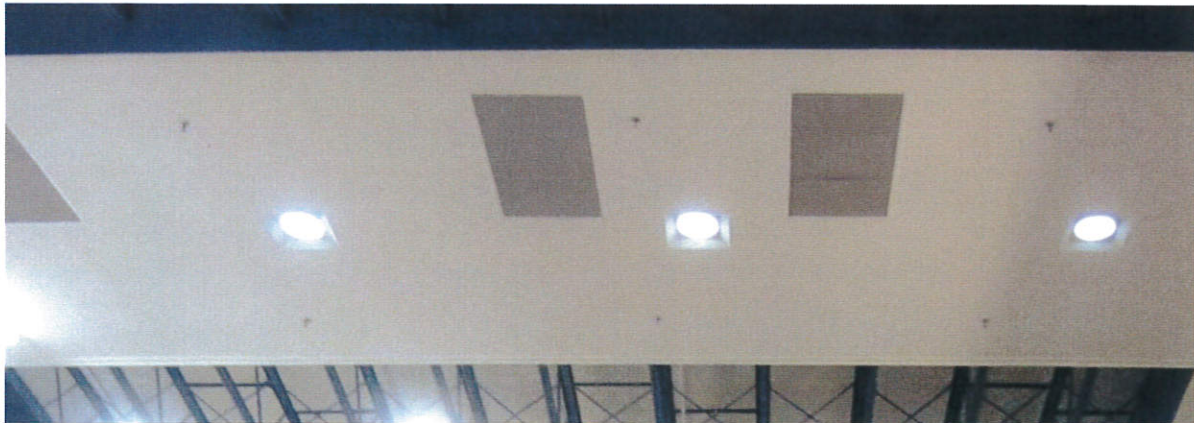
**CHERRYWOOD ELEMENTARY SCHOOL
INTERIOR LIGHTING & CONTROLS PROJECT**

Base Scope: High-bay linear fluorescent fixtures





Base Scope: Recessed HID Fixtures



Add Alternate Scope: Activity Room 1 & 2



Add Alternate Scope: Lunch Serving Area



ASBESTOS DECLARATION DOCUMENT

BERRYESSA UNION SCHOOL DISTRICT
FACILITIES DEPARTMENT
945 PIEDMONT ROAD
San Jose, CA 95132
1-408-923-1890

By signing this document, I am acknowledging that the District has informed me that the site where I am working may or may not contain asbestos-containing materials. Should asbestos need to be abated, this work shall be the responsibility of the District or its authorizing agent.

A copy of the Berryessa Union School District's asbestos plan is on file in the facilities department.

To the best of my knowledge, information and belief, in completing the Contractor's Work for the Project, no material furnished, installed or incorporated into the Project will contain, or in itself be composed of, any materials listed by the federal or state EPA or federal or state health agencies as a hazardous material.

The representations made herein are made under penalty of perjury:

Name of Company

Authorized Signature

Print

Title

Date

**BERRYESSA UNION SCHOOL DISTRICT
DRUG-FREE WORKPLACE CERTIFICATION**

State and certify to all of the following:

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:
 - A. 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 that will be taken against employees for violation of the prohibition;
 - B. 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;
 - C. 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.

Name of Company

Authorized Signature

_____ Title

Date

BERRYESSA UNION SCHOOL DISTRICT

FINGERPRINTING POLICY

FINGERPRINTING AND CRIMINAL RECORDS CHECK OF CONTRACTOR'S EMPLOYEES

Contractor shall comply with the provisions of Education Code Section 45125.2. This new provision of the Education Code requires that K-12 school districts which contract with an entity for the construction, reconstruction, rehabilitation or repair of a school facility where the employees of the entity will have contact, other than limited contact, with students shall ensure student safety by one or more of the following methods:

Choose one or more:

- 1. Installation of a physical barrier at the work site to limit contact with students.
- 2. Provide continual supervision and monitoring of all of the entity's employees by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (as defined by the Penal Code).
- 3. Provide surveillance of the entity's employees by school personnel.

If one or more of these methods is utilized, then the entity is not required to comply with Education Code Section 45125.1 (which requires fingerprinting of all entity employees).

Education Code Section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. Contractor shall not permit any employees to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the Berryessa Union School District that such employee has not been convicted of a felony as defined in Education Code Section 45125.1. Contractor's responsibility shall extend to all employees, subcontractors, and employees of subcontractors regardless of whether such individuals are paid or unpaid, concurrently employed by the District, and/or acting as independent contractors of the Contractor. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or participation in the project and prior to permitting contact with pupils.

As suppliers of goods and services to the Berryessa Union School District, the firm listed below certifies and agrees to comply with Education Code Sections 45125.1 and 45125.2.

Company Name

Authorized Signature

Title

Date

**BERRYESSA UNION SCHOOL DISTRICT
NON COLLUSION DECLARATION**

Owner: Berryessa Union School District

Project: _____

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2018, at _____ [city], _____ [state].

Signature

Print Name

Date

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement between Owner and Contractor (the "Agreement") effective _____, 2018, between the Berryessa Union School District (the "Owner") and _____ (the "Contractor"), each a "Party" and together, the "Parties" to this Agreement.

The Contractor and the Owner agree as follows:

1. SCOPE OF WORK. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the Work in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers required for:

**CUPCCAA BID B-10-2017-18
CHERRYWOOD ELEMENTARY SCHOOL MPR INTERIOR LIGHTING & CONTROLS
PROP 39 LIGHTING PROJECT**

all in strict compliance with the plans, drawings and specifications therefore prepared by:

KW Engineering, Inc.
287 17th Street, Suite 300
Oakland, CA 94612

and

Berryessa Union School District
Miguel Cruz, MOT Director
945 Piedmont Rd
San Jose, CA 95132

and other Contract Documents relating thereto.

2. CONTRACT DOCUMENTS. The Contractor and the Owner agree that all of the documents listed in Article 1.1.1 of the General Conditions form the Contract Documents which form the Contract.

3. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work (the "Contract Time") shall be ten (10) calendar days from (a) the date of commencement of the Work as established in the Owner's Notice to Proceed, or (b) if no date of commencement is established in a Notice to Proceed from Owner, the date of Contractor's actual commencement of the Work (including mobilization).

Failure to Complete the Work within the Contract Time and in the manner provided for by the Contract Documents, or failure to complete any specified portion of the Work by a milestone deadline, shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not completed within the Contract Time, or if any specified portion of the Work were not completed by a milestone deadline, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration and supervision, third party claims, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time or complete any specified portion of the Work by a milestone deadline: \$500 for each calendar day.

In addition, Contractor shall be subject to liquidated damages, or actual damages if liquidated damages are not recoverable under law, for causing another contractor on the Project to fail to timely complete its work under its contract or for causing delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if another contractor on the Project were to fail to timely complete its work under its contract or delay *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, loss of use of the other contractor's work, loss of use of the Project, disruption of activities, costs of administration and supervision, third party claims, the incalculable inconvenience and loss suffered by the public, and an Owner's inability to recover its delay damages from the contractors whose work was delayed by Contractor.

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon Contractor causing another contractor on the Project to fail to timely complete its work under its contract or causing delayed *completion* of the Project: \$500 for each calendar day.

For Contractor's obligations regarding claims against Owner from other contractors on the Project alleging that Contractor caused delays to their work, see General Conditions sections 3.7.4, 3.16 and 6.2.3.

If liquidated damages accrue as described above, the Owner, in addition to all other remedies provided by law, shall have the right to assess the liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Contractor. In addition, if it is reasonably apparent to the Owner before liquidated damages begin to accrue that they will accrue, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If Owner accepts any work or makes any payment under the Contract Documents after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any provision in the Contract Documents regarding time of Completion, milestone deadlines, or liquidated damages.

4. **PAYMENT.** The Owner agrees to pay the Contractor in current funds:

_____ dollars (\$_____)

for work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions. Retention shall be withheld from progress payments as described in the Instructions to Bidders.

5. **CHANGES.** Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions.

6. **TERMINATION.** The Owner and Contractor may terminate the Contract as provided in the General Conditions.

7. **PREVAILING WAGES.** The Project is a public work, the Work shall be performed as a public work and pursuant to the provisions of Section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Contractor and any subcontractor under the Contractor as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

The Contractor and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract and Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. Contractor and Subcontractor shall comply with Labor Code section 1776. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. A contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

8. WORKING HOURS. In accordance with the provisions of Sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Contractor or a Subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Law Enforcement. The Contractor shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day, and forty hours in any one calendar week, except as herein provided.

9. APPRENTICES. The Contractor agrees to comply with Chapter 1, Part 7, Division 2, Sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with Section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code Section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations.

10. DSA OVERSIGHT PROCESS. The Contractor must comply with the applicable requirements of the Division of State Architect ("DSA") Construction Oversight Process ("DSA Oversight Process"), including but not limited to (a) notifying the Owner's Inspector of Record/Project Inspector ("IOR") upon commencement and completion of each aspect of the Work as required under DSA Form 156; (b) coordinating the Work with the IOR's inspection duties and requirements; (c) submitting verified reports under DSA Form 6-C; and (d) coordinating with the Owner, Owner's Architect, any Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Work or Project.

Contractor shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent the proposed changes were caused by Contractor's wrongful act or omissions. If inspected Work is found to be in non-compliance with the DSA-approved construction documents

or the DSA-approved testing and inspection program, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Contractor's expense, in order to permit inspection and approval of the covered work in accordance with the DSA Oversight Process.

11. INDEMNIFICATION AND INSURANCE. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$1,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$2,000,000 per accident for bodily injury and property damage combined single limit.

12. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the parties relating to the Work, and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Contract to Contractor, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the parties' agreement pursuant to California Code of Civil Procedure section 1856.

13. EXECUTION OF OTHER DOCUMENTS. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

14. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

15. BINDING EFFECT. Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Contractor and the Owner and their respective successors and assigns.

16. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Santa Clara, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

17. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, which includes a change order signed by the parties and approved or ratified by the Governing Board.

18. ASSIGNMENT OF CONTRACT. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

19. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

BERRYESSA UNION SCHOOL DISTRICT

(CONTRACTOR)

X

Signature

X

Signature

Roxane Fuentes, Ed.D.
Superintendent

Print Name

Title

Board Approval: _____

CSLB License Number

License Expiration Date

NOTE: Contractor must give the full business address of the Contractor and sign with Contractor's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

END OF DOCUMENT

**BERRYESSA UNION SCHOOL DISTRICT
CUPCCAA COMPLIANT PROJECTS \$25,001 +**

**PAYMENT BOND
(Labor and Material)**

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, Berryessa Union School District (the "Owner" of the public works project described below) and _____,
hereinafter designated as the "Principal," have entered into a Contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct:

NAME OF PROJECT

LOCATION AND ADDRESS

Which said agreement dated _____, 2017, and all of the Contract Documents are hereby referred to and made a part hereof; and

WHEREAS, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded to secure the claims arising under said agreement.

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned _____
("Surety") are held and firmly bound unto all laborers, material men, and other persons, and bound for all amounts due, referred to in Civil Code section 9554, subdivision (b), in the sum of _____ Dollars (\$ _____)
which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 9100, or any of the amounts due, as specified in Civil Code section 9554, subdivision (b), that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay costs and reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said Surety, for value received, thereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of said contract or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this _____ day of _____, 2017.

(To be signed by)
(Principal and Surety,)
(and acknowledged and)
(Notarial Seal attached)

Principal

Surety

By: _____
Attorney-in-Fact

The above bond is accepted and approved this ____ day of _____.

END OF DOCUMENT

**BERRYESSA UNION SCHOOL DISTRICT
CUPCCAA COMPLIANT PROJECTS \$25,001 +**

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____
_____ as Principal and
_____ as Surety, are held and
firmly bound unto Berryessa Union School District, in the County of Santa Clara, State of
California ("Owner") in the sum of _____ Dollars
(\$ _____) for the payment of which sum well and truly made, we bind
ourselves, our heirs, executors, administrators, and successors, jointly and severally, to
the Owner for the full performance of a certain contract with the Owner, the terms of
which are incorporated herein by reference, dated _____, 2017, for
construction of:

PROJECT NAME

LOCATION NAME AND ADDRESS

The condition of this obligation is such that, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and for the period of time specified in the Contract after completion for correction of faulty or improper materials and workmanship and during the life of any guaranty or warranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said Contract that may hereafter be made, then this obligation is to be void, otherwise to remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the specifications.

No further agreement between Surety and Owner shall be required as a prerequisite to the Surety performing its obligations under this bond.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this _____ day of _____, 2017 hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(To be signed by _____)
(Principal and Surety, _____)
(and acknowledged and _____)
(Notarial Seal attached _____)

(Affix Corporate Seal)

(Individual Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Surety)

(Business Address)

By: _____

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged is _____.

The above must be filled in by Corporate Surety.

END OF DOCUMENT

GENERAL CONDITIONS FOR CONSTRUCTION

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ARTICLE 1 GENERAL CONDITIONS

1.1 BASIC DEFINITIONS

1.1.1 The Contract Documents. The "Contract Documents" consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to bid, Instructions to Bidders, Notice to Bidders, the Bid Form, Payment Bond, Performance Bond, required insurance certificates, additional insured endorsement and declarations page, Designation of Subcontractors, Noncollusion Declaration, Roof Project Certification (where applicable), Sufficient Funds Declaration (Labor Code section 2810) and the Fingerprinting Notice and Acknowledgment and Independent Contractor Student Contact Form, other documents referred to in the Agreement, and Modifications issued after execution of the Agreement. A Modification is a written amendment to the Contract signed by both parties, a Change Order, a Construction Change Directive, or a written order for a minor change in the Work issued by the Owner. The Contract Documents are complementary, and each obligation of the Contractor, Subcontractors, material or equipment suppliers in any one shall be binding as if specified in all.

1.1.2 The Contract. The Contract Documents form the Contract. The "Contract" represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between the Architect and Contractor, between any construction manager and the Contractor, between the Owner and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the Owner and the Contractor. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties and approved or ratified by the Governing Board.

1.1.3 The Work. The "Work" shall include all labor, materials, services, manuals, training, as-builts, and equipment necessary for the Contractor to fulfill all of its obligations pursuant to the Contract Documents, including, but not limited to, punch list items and submission of documents. The Work shall constitute a "work of improvement" under Civil Code section 8050 and Public Contract Code section 7107.

1.1.4 The Project. The "Project" is the total construction of the Work performed in accordance with the Contract Documents. However, where applicable, the Project may also include construction by the Owner or by separate contractors.

1.1.5 The Drawings. The "Drawings" are graphic and pictorial portions of the Contract Documents prepared for the Project and approved changes thereto, wherever located and whenever issued, showing the design, location, and scope of the Work, generally including plans, elevations, sections, details, schedules, and diagrams as drawn or approved by the Architect.

1.1.6 The Specifications. The "Specifications" are that portion of the Contract Documents consisting of the written requirements for material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.

1.1.7 The Project Manual. The "Project Manual" is the volume usually assembled for the Work which may include, without limitation, the bidding requirements, sample forms, Agreement, Conditions of the Contract, and Specifications.

1.1.8 OR. "Or" shall include "and/or."

1.1.9 COMPLETION. Statutory definitions of "Completion" and "Complete" shall apply for those statutory purposes. For all other purposes, including accrual of liquidated damages, Claims and warranties, "Completion" and "Complete" mean the point in the Work where (1) Contractor has fully and correctly performed all Work in all parts and requirements, including corrective and punch list work, and (2) Owner's representatives have conducted a final inspection that confirmed this performance. Substantial, or any other form of partial or non-compliant, performance shall not constitute "Completion" or "Complete".

1.2 EXECUTION, CORRELATION AND INTENT - The Contract Documents are complementary and are intended to include all items required for the proper execution and Completion of the Work. Any item of work mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be provided by Contractor as if shown or mentioned in both. Without limiting Contractor's obligation to identify conflicts for resolution by the Owner, it is intended that the more stringent, higher quality, and greater quantity of Work shall apply. Each and every provision of law required by law to be inserted in this Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party the Contract shall be amended in writing to make such insertion or correction. Where requirements of the Contract Documents exceed those of the applicable building codes and ordinances, the Contract Documents shall govern. Contractor shall comply with all applicable Federal, State and local laws.

1.3 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS - The Drawings, Specifications, and other documents prepared on behalf of the Owner are instruments of the services of the Architect and its consultants and are the property of the Owner. The Contractor may retain one contract record set.

ARTICLE 2 OWNER

2.1 DEFINITION - The term "Owner" means the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives, including, but not limited to, architects and construction managers. To the extent the Contract Documents indicate that Owner has assigned duties to particular representatives of the Owner (such as the Architect, or any construction manager), Owner reserves the right at all times to reassign such duties to different Owner representatives.

2.2 EXISTING UTILITY LINES; SITE SURVEY; CONTRACTOR RELIANCE – Pursuant to Government Code section 4215, the Owner assumes the responsibility for removal, relocation, and protection of utilities located on the Site at the time of commencement of construction under this Contract with respect to any such utility facilities which are not identified in the drawings and specifications made part of the invitation to bid. The Contractor shall not be assessed for liquidated damages for delay in Completion of the Work

caused by failure of the Owner to provide for removal or relocation of such utility facilities. Owner shall compensate the Contractor for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, removing or relocating such utility facilities, and for equipment necessarily idle during such work. When required by the scope of the Project, the Owner will furnish, at its expense, a legal description or a land survey of the Site, giving, as applicable, grades and lines of streets, alleys, pavements, adjoining property, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site. Surveys to determine locations of construction, grading, and site work shall be provided by the Contractor.

Any test borings and soils reports for the Project have been made for the Owner to indicate the subsurface materials that might be encountered at particular locations on the Project. The Owner has made these documents available to the Contractor and the Contractor has studied the results of such test borings and information that it has as to the subsurface conditions and Site geology as set forth in the test borings and soils reports. The Owner does not assume any responsibility whatsoever with respect to the sufficiency or accuracy of the borings made, or of the logs of the test borings, or of other investigations, or of the soils reports furnished pursuant hereto, or of the interpretations to be made beyond the location or depth of the borings. There is no warranty or guarantee, either express or implied that the conditions indicated by such investigations, borings, logs, soil reports or other information are representative of those existing throughout the site of the Project, or any part thereof, or that unforeseen developments may not occur. At the Owner's request, the Contractor shall make available to the Owner the results of any Site investigation, test borings, analyses, studies or other tests conducted by or in the possession of the Contractor or any of its agents. Nothing herein contained shall be deemed a waiver by the Contractor to pursue any available legal right or remedy it may have at any time against any third party who may have prepared any report and/or test relied upon by the Contractor.

The Contractor may rely upon the accuracy of any utility services or site survey information that the Owner may provide, except that the Contractor may not rely upon and must question in writing to the Owner and the Architect any information which appears incorrect based upon Contractor's Site inspection, knowledge of the Work, and prior experience with similar projects, unless specifically stated in writing that the Contractor may rely upon the designated information.

2.3 OWNER'S RIGHT TO STOP THE WORK - If the Contractor fails to correct Work, which is not in accordance with the requirements of the Contract Documents as required by paragraph 12.2, or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, after providing Notice pursuant to paragraph 2.4, may order the Contractor to stop the Work or any portion thereof, until the Contractor corrects the deficiencies.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK - If the Contractor fails or refuses to carry out the Work in accordance with the Contract Documents, the Owner may correct such deficiencies by whatever reasonable method the Owner may deem expedient without prejudice to other remedies the Owner may have, including but not limited to having another contractor perform some or all of the Work without terminating the Contract. Owner shall first provide written notice to Contractor of Contractor's failure or refusal to perform. The notice will provide the time period within which Contractor must begin correction of the failure or refusal to perform. If the Contractor fails to begin correction within the stated time, or fails to

continue correction, the Owner may proceed to correct the deficiencies. In the event the Owner bids the work, Contractor shall not be eligible for the award of the contract. The Contractor may be invoiced the cost to Owner of the work, including compensation for additional professional and internally generated services and expenses made necessary by Contractor's failure or refusal to perform. Owner may withhold that amount from the retention, or progress payments due the Contractor, pursuant to Section 9.5. If retention and payments withheld then or thereafter due the Contractor are not sufficient to cover that amount, the Contractor shall pay the difference to the Owner.

ARTICLE 3 THE CONTRACTOR

3.1 DEFINITION - The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representatives. To the extent that any portion of the Work is provided with the Contractor's own forces, any reference to Subcontractors shall be equally applicable to the Contractor. The Contractor shall post at appropriate conspicuous points on the Site, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned and all other required job site notices as prescribed by regulation.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 Contractor. The Contractor shall supervise and direct the Work using the Contractor's best skill and attention, which shall meet or exceed the standards in the industry. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

If part of the Project is performed by other contractors Owner directly retains, and the Owner does not retain a construction manager for the Project, Contractor shall be responsible for the coordination and sequencing of its Work with those other contractors so as to avoid any impact on the Contract schedule. If Contractor fails to fulfill these obligations, Owner may exercise its rights under section 2.4. The right of Owner to carry out the Work under section 2.4 shall not give rise to a duty on the part of Owner to exercise this right for the benefit of Contractor or any other person or entity, except to the extent required by section 6.1.3.

If part of the Project is performed by other contractors Owner directly retains, and Owner retains a construction manager, the Owner and construction manager shall schedule and coordinate the activities of Contractor with the other contractors and Owner. Contractor agrees to accept the Owner's, and any construction manager's, construction schedules, schedule updates, overall sequence and coordination of construction for the Project.

Contractor realizes that work by other contractors or Owner may occur simultaneously with Contractor's Work in any given area. Contractor is responsible for its own sequences within a given activity or set of activities. Contractor shall not commit, or permit, any act which will adversely affect the work of any other contractor or Owner. Contractor shall provide layout of its Work at the request of any other contractor or Owner.

3.2.2 Contractor Responsibility. The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the Work under direct or indirect contract with the Contractor or any of its Subcontractors.

3.2.3 Obligations not Changed by Others' Actions. The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by the activities or duties of the Owner's representatives, including but not limited to, any construction manager, the Architect or Inspector of Record, or by tests, inspections, or approvals required or performed by persons other than the Contractor.

3.2.4 Contractor Responsibility for Readiness for Work. The Contractor shall be responsible for inspection of Work already performed under the Contract Documents to determine that such portions are in proper condition to receive subsequent work.

3.3 SUPERINTENDENT - The Contractor shall provide a competent superintendent and assistants as necessary, all of whom shall be reasonably proficient in speaking, reading and writing English and, who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor and each Subcontractor shall: furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and keep an adequate force of skilled workers on the job to Complete the Work in accordance with all requirements of the Contract Documents. Owner shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Contractor, Subcontractor, material or equipment supplier, etc., for cause.

3.4 LABOR AND MATERIALS - Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. The Contractor shall be responsible for cutting, fitting, or patching required to Complete the Work or to make its parts fit together properly.

3.5 WARRANTY - For the period of one (1) year after Completion of the Work, the Contractor warrants to the Owner that material and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents, per Section 12.2.

3.6 TAXES - Contractor will pay all applicable Federal, State, and local taxes on all materials, labor, or services furnished by it, and all taxes arising out of its operations under the Contract Documents. Owner is exempt from Federal Excise Tax, and a Certificate of Exemption shall be provided upon request.

3.7 PERMITS, FEES AND NOTICES - The Contractor shall secure and pay for all permits and governmental fees, licenses, and inspections necessary for proper execution and Completion of the Work which are customarily secured after execution of the Contract and are legally required by any authority having jurisdiction over the Project, except those required by the Division of the State Architect (DSA). Owner shall be responsible for all testing and inspection as required by the DSA on-Site or within the distance limitations set forth in paragraph 13.4.1, unless a different mileage range is specified in the Contract Documents.

3.8 ALLOWANCES - The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against whom the Contractor makes reasonable and timely objection.

3.9 CONTRACTOR'S CONSTRUCTION SCHEDULES - The Contractor, promptly after executing the Contract, shall prepare and submit for the Owner's and any construction manager's information the baseline construction schedule for the Work, which shall conform to the Contract Documents requirements. The schedule shall not exceed time limits current under the Contract Documents and shall comply with all of the scheduling as required by the Contract Documents (including these General Conditions and Division 1 of the Specifications) and the standards of the industry. The construction schedule shall be in the form of a tabulation, chart, or graph and shall be in sufficient detail to show the chronological relationship of all activities of the project including, but not limited to, estimated starting and completion dates of various activities, (including early and late dates and reasonable float for each activity), procurement of materials, the critical path, and scheduling of equipment. In connection with the DSA Construction Oversight Process, which includes inspection cards and review of changes to the DSA-approved construction documents, the Contractor must (a) include specific tasks in its baseline schedule to take into account these procedures since they are critical path issues; and (b) include a reasonable amount of float in the baseline schedule to accommodate the additional time required by these DSA procedures. Failure of the Contractor to provide proper schedules as required by this paragraph may, at the sole discretion of Owner, constitute either grounds to withhold, in whole or in part, progress payments to the Contractor, or a breach of contract allowing Owner to terminate the Contract.

3.10 DOCUMENTS AND SAMPLES AT THE SITE - The Contractor shall maintain at the Site for the Owner one applicable copy of Titles 19 and 24 and record copy of the Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good order and marked currently to record changes and selections made during construction. In addition, the Contractor shall maintain at the Site approved Shop Drawings, Product Data, Samples, and similar required submittals.

3.11 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

3.11.1 Shop Drawings. The term "shop drawings" as used herein means drawings, diagrams, schedules, and other data, which are prepared by Contractor, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work. The Contractor shall obtain and submit with the shop drawings all seismic and other calculations and all product data from equipment manufacturers. Shop drawings shall: establish the actual detail of all manufactured or fabricated items, indicate proper relation to adjoining work, amplify design details of mechanical and electrical systems and equipment in proper

relation to physical spaces in the structure, and incorporate minor changes of design or construction to suit actual conditions.

3.11.2 Samples. The term “samples” as used herein are physical examples furnished by Contractor to illustrate materials, equipment, or quality. All Work shall be in accordance with the approved samples.

3.11.3 Contractor’s Responsibility. Contractor shall obtain and shall submit to Architect all required shop drawings and samples in accordance with Contractor’s “Schedule for Submission of Shop Drawings and Samples” as required in Division 1 of the Specifications with such promptness as to cause no delay in its own Work or in that of any other contractor, Owner or subcontractor but in no event later than ninety (90) days after the execution of the Agreement. Review by Owner and Architect shall not relieve the Contractor or any Subcontractor from its responsibility in preparing and submitting proper shop drawings, product data and samples in accordance with the Contract Documents. Any submission, which in Architect’s opinion is incomplete, contains numerous errors, or has been checked only superficially by Contractor will be returned unreviewed by the Architect for resubmission by the Contractor. Contractor shall not commence any portion of the Work requiring a shop drawing or sample submission until the Architect has approved the submission.

3.11.4 Extent of Review. In reviewing shop drawings, the Owner will not verify dimensions and field conditions. The Architect will review and approve shop drawings, product data, and samples for aesthetics and for conformance with the design concept of the Work and the information given in the Contract Documents. The Architect’s review shall not relieve the Contractor from responsibility for any deviations from the requirements of the Contract Documents unless the Architect has given specific written approval. Contractor and Subcontractors shall be solely responsible for determining any quantities, whether or not shown on the shop drawings.

3.11.5 Substitution. Unless the Specifications state that no substitution is permitted, whenever in the Contract Documents any specific brand or trade name is specified such specification shall be deemed to be followed by the words “or equal.” The Owner may consider an untimely substitution request if the product specified is no longer commercially available.

3.12 CLEANING UP - The Contractor shall keep the Site and surrounding area free from accumulation of waste material or rubbish caused by operations under the Contract. The Site shall be maintained in a safe, neat and orderly condition. If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so, without prior notice to the Contractor and the cost thereof shall be invoiced to the Contractor and withheld from progress payments and/or retention. When directed by the Owner or the Architect, Contractor and Subcontractor shall dismantle temporary structures, if any, and remove from the Site all construction and installation equipment, fences, scaffolding, surplus materials, rubbish, and supplies belonging to Contractor or Subcontractor.

3.13 ACCESS TO WORK - The Contractor shall provide the Owner, the Architect, and the Inspector of Record, access to the Work in preparation and progress wherever located.

3.14 ROYALTIES AND PATENTS - The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims of infringement of patent rights and shall hold the Owner and the

Architect harmless and indemnify them from loss on account thereof, to the extent not caused by the Owner's active negligence, sole negligence or willful misconduct, and shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer is required by the Contract Documents, unless Contractor has reason to believe it is an infringement of a patent and does not inform Architect.

3.15 INDEMNIFICATION

3.15.1 Scope: Contractor. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Owner, any construction manager, Architect, Architect's consultants, the Inspector of Record, the State of California, and their respective agents, employees, officers, volunteers, Boards of Trustees, members of the Boards of Trustees, and directors ("Indemnitees"), from and against claims, actions, damages, liabilities, losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties), and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnitees arising out of or resulting from the following: Contractor's, its Subcontractors', or its suppliers' performance of the Work, including but not limited to the Contractor's or its Subcontractors' use of the Site; the Contractor's or its Subcontractors' construction of the Project, or failure to construct the Project, or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports, whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnitees; or any act, omission, negligence, or willful misconduct of the Contractor or its Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Contractor, its Subcontractors, its suppliers, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The obligation to defend, indemnify and hold harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Contractor shall have no obligation to defend or indemnify the Indemnitees against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnitees. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Contractor.

3.15.2 Scope: Subcontractors.

3.15.2.1 Indemnity. The Subcontractors shall defend, indemnify, and hold harmless the Indemnitees from and against claims, actions, damages, liabilities, and losses (including but not limited to injury or death of persons, property damage, and compensation owed to other parties), and expenses (including but not limited to attorneys' fees and costs including fees of consultants) alleged by third parties against Indemnitees arising out of or resulting from the following: Subcontractors' performance of the Work, including but not limited to the Subcontractors' use of the Site; the Subcontractors' construction of the Project or failure to construct the Project or any portion thereof; the use, misuse, erection, maintenance, operation, or failure of any machinery or equipment, including, but not limited to, scaffolds, derricks, ladders, hoists, and rigging supports,

whether or not such machinery or equipment was furnished, rented, or loaned by any of the Indemnitees; or any act, omission, negligence, or willful misconduct of the Subcontractors or their respective agents, employees, material or equipment suppliers, invitees, or licensees but only to the extent caused in whole or in part by the acts or omissions of the Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. This obligation to defend, indemnify and hold harmless includes any claims or actions by third parties arising out of or resulting from Labor Code section 2810. Subcontractors shall have no obligation to defend or indemnify the Indemnitees against claims, actions, damages, liabilities, losses, and expenses caused by the active negligence, sole negligence or willful misconduct of Indemnitees. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Subcontractors.

3.15.2.2 Joint and Several Liability. In the event more than one Subcontractor is connected with an accident or occurrence covered by this indemnification, then all such Subcontractors shall be jointly and severally responsible to each of the Indemnitees for indemnification, and the ultimate responsibility among such indemnifying Subcontractors for the loss and expense of any such indemnification shall be resolved without jeopardy to any Indemnitee. The provisions of the indemnity provided for herein shall not be construed to indemnify any Indemnitee for its own negligence if not permitted by law or to eliminate or reduce any other indemnification or right which any Indemnitee has by law or equity.

3.15.3 No Limitation. The Contractor's and the Subcontractor's obligation to indemnify and defend the Indemnitees hereunder shall include, without limitation, any and all claims, damages, and costs: for injury to persons and property (including loss of use), and sickness, disease or death of any person; for breach of any warranty, express or implied; for failure of the Contractor or the Subcontractor to comply with any applicable governmental law, rule, regulation, or other requirement; and for products installed in or used in connection with the Work.

3.16 NOTICE OF EXCUSE FOR NONPERFORMANCE - If Contractor believes that acts or omissions of Owner (including, but not limited to, Owner-caused delay) have prevented Contractor from performing the Work as required by the Contract Documents and Contractor intends to rely on Owner's acts or omissions and Civil Code section 1511(1) as reasons to excuse Contractor's nonperformance or to support, among other things, Contractor's requests for time extensions under these General Conditions, Contractor shall provide written notice of the excuse within five (5) days of the Owner's acts or omissions. If Contractor fails to timely submit the written notice, Contractor shall have waived any right to later rely on the acts or omissions as a defense to Contractor's nonperformance or as the basis for a time extension, regardless of the merits of the defense or time extension. Contractor will not have satisfied a condition precedent or exhausted administrative remedies. Contractor acknowledges that these written notices are of critical importance to the Owner's management of the Work and Project and the mitigation of costs and delays to the Work and Project.

**ARTICLE 4
ADMINISTRATION OF THE CONTRACT**

4.1 ARCHITECT - The term "Architect" means the Architect or the Architect's authorized representative, shall also refer to all consultants under the Architect's direction and control, and is referred to as if singular in number. The Architect will have authority to act on behalf of the Owner only to the extent set forth in the Owner/Architect agreement.

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 Status. The Architect may provide administration of the Contract as described in the Contract Documents and may be one of several Owners' representatives during construction.

4.2.2 Limitations of Construction Responsibility. The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect, or by tests, inspections, or approvals required or performed by persons other than the Contractor.

4.2.3 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications are warranted by special circumstances, the Owner and the Contractor shall communicate through the Architect, unless there is a construction manager for the Project or the Owner directs otherwise.

4.2.4 Rejection of Work. In addition to the rights, duties, and obligations of the Inspector of Record under this Article, the Architect may recommend to the Owner that the Owner reject Work which does not conform to the Contract Documents.

4.3 INSPECTOR OF RECORD - One or more Project inspectors ("Inspector of Record") employed by the Owner and approved by the Division of the State Architect will be assigned to the Work in accordance with the requirements of Title 24 of the California Code of Regulations. The Inspector of Record's duties will be as specifically defined in Title 24. All Work shall be under the observation of or with the knowledge of the Inspector of Record. The Inspector of Record shall have free access to any or all parts of the Work at any time. The Contractor shall furnish the Inspector of Record such information as may be necessary to keep the Inspector of Record fully informed regarding progress and manner of work and character of materials. Such observations shall not, in any way, relieve the Contractor from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Contractor's responsibility for providing efficient and capable superintendence. The Inspector of Record is not authorized to make changes in the drawings or specifications. The Inspector of Record shall have the authority to reject work that does not comply with the provisions of the Contract Documents. In addition, the Inspector of Record may stop any work which poses a probable risk of harm to persons or property.

4.4 RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY THE OWNER FOR PROFESSIONAL SERVICES - If at any time prior to the Completion of the requirements under the Contract Documents, through no fault of its own, the Owner is required to provide or secure additional professional services for any reason by any act or omission of the Contractor, the Contractor shall be

invoiced by the Owner for any actual costs incurred for any such additional services, which costs may, among other remedies, be withheld from the progress payments and/or retention.

4.5 CLAIMS

4.5.1 General. A "Claim" is a separate demand by the Contractor sent by registered mail or certified mail, return receipt requested, for (a) a time extension, including without limitation, a request for relief from damages or penalties for delay assessed by the Owner under the Contract Documents; (b) payment by Owner of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract Documents, and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or (c) an amount the payment of which is disputed by the local agency. A Claim includes any dispute Contractor may have with the Owner, including one regarding an alleged breach of contract by the Owner. The responsibility to substantiate Claims shall rest with the Contractor, including any pass through claims for which Contractor will comply with Public Contract Code section 9204(d)(5).

Claims, including those alleging an error or omission by the Architect, shall be submitted to the Architect and Owner. If Contractor intends to rely on Owner's acts or omissions in support of a request for a time extension, then Contractor must also provide the notice set forth in section 3.16, above. A timely decision by the Owner shall be provided. Claims must be made in writing within fifteen (15) days of the earliest of the following events: (a) Completion of the Work; (b) the thirtieth (30th) continuous day without labor by Contractor; or (c) Contractor's submission of a final progress payment application. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered. The failure of the Contractor to make a Claim within the specified time shall constitute an express waiver of any right to assert such Claim, whether affirmatively or defensively. Despite submission or rejection of a Claim, the Contractor shall proceed diligently with performance of the Contract, and the Owner shall continue to make any undisputed payments in accordance with the Contract. When any excavation or trenching extends greater than four feet below the surface, Public Contract Code section 7104 shall control.

The Contractor shall furnish reasonable documentation to support each Claim and shall certify, at the time of submission of a Claim, as follows:

I, _____, being the _____ (Must be an officer) of _____ (Contractor), declare under penalty of perjury under the laws of the State of California, and do personally certify and attest that: I have thoroughly reviewed the attached Claim for additional cost and/or extension of time, and know its contents, and said Claim is made in good faith; the supporting data is truthful, accurate and complete; that the amount requested accurately reflects the adjustment for which the Contractor believes the Owner is liable; and further, that I am familiar with California Penal Code section 72 pertaining to false claims, and further know and understand that submission or certification of a false claim may lead to fines, imprisonment and/or other severe legal consequences.

By: _____

Contractor understands and agrees that any Claim submitted without this certification does not meet the terms of the Contract Documents, that Owner, or Owner's representatives, may reject the Claim on that

basis and that unless Contractor properly and timely files the Claim with the certification, Contractor cannot further pursue the Claim in any forum. A condition precedent will not have been satisfied.

4.5.2 Claims for Concealed or Unknown Conditions

4.5.2.1 Trenches or Excavations Less Than Four Feet below the Surface. If Contractor encounters conditions at the Site which are subsurface or otherwise concealed physical conditions, which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the Contractor shall be given to the Owner promptly before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. If Contractor believes that such conditions differ materially and will cause an increase in the Contractor's cost of, time required for, or performance of any part of the Work, Contractor must comply with the provisions above for Claims.

4.5.2.2 Trenches or Excavations Greater Than Four Feet below the Surface. Pursuant to Public Contract Code section 7104, when any excavation or trenching extends greater than four feet below the surface:

4.5.2.2.1 The Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

(1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

4.5.2.2.2 The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required or, performance of any part of the Work shall issue a change order under the procedures described in the Contract.

4.5.2.2.3 In the event that a dispute arises between the public entity and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from the

Contract Completion deadline, but shall proceed with all Work to be performed under the Contract. The Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

4.6 PROCEDURES FOR CLAIMS Notwithstanding any other provision herein, Claims shall be handled pursuant to the procedures set forth in Public Contract Code section 9204, including claim, written response, payments, meet and confer conference, statement of disputed and undisputed portions after the meet and confer conference and non-binding mediation, and Government Code claim provisions. In addition, for claims that are \$375,000 or less, the provisions of Public Contract Code section 20104 et. seq. also apply, to the extent they do not conflict with Public Contract Code section 9204. Owner may request additional documentation from Contractor within applicable time periods. As a precedent to initiation of any litigation against the Owner, Contractor must observe and comply with the Government Code claim procedures in Government Code sections 901 et seq. after completion of the contractual claim procedures above, including but not limited to timely presentation of a Government Code claim. The claim procedures described herein do not supersede or replace the requirement of a Government Code claim, and the two claim procedures shall be sequential.

The requirement for mediation shall not toll or supersede the requirement for submission of a Government Code claim, as specifically required in Section 4.6 above. If Contractor fails to timely notify the Owner in writing that it wishes to mediate pursuant to this paragraph, then Contractor will have waived all rights to further pursue the Claim. The parties shall reasonably cooperate to schedule and attend mediation as soon as reasonably possible.

ARTICLE 5 SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 Subcontractor. A Subcontractor is a person or entity, who has a contract with the Contractor to perform a portion of the Work at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor. To the extent that the term Trade Contractor is utilized in the Contract Documents, it shall have the same meaning as the term "Subcontractor."

5.1.2 Sub-Subcontractor. A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK - Subcontractors shall be listed by Contractor pursuant to Public Contract Code section 4104. Subcontractor substitution shall be handled in accordance with Public Contract Code sections 4107 and 4107.5. Any substitutions of Subcontractors shall not result in any increase in the Contract Sum or the granting of any extension of time for the Completion of the Work.

5.3 SUBCONTRACTUAL RELATIONS - By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all obligations and responsibilities, which the Contractor, by the Contract Documents, assumes toward the Owner.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS - Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

A. Assignment is effective only after termination of the Contract with the Contractor by the Owner for cause pursuant to Article 14 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and

B. Assignment is subject to the prior rights of the surety, if any, obligated under any bond relating to the Contract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 Owner's Rights. The Owner reserves the right to perform Project work with the Owner's own forces, or to award separate contracts in connection with such other work or other construction or operations on the Site under contract conditions identical or substantially similar to these, including those portions related to insurance. Upon the election to perform work with its own forces or by separate contracts, the Owner shall notify the Contractor. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall proceed pursuant to the Contract Documents.

6.1.2 Contractor's Duties. The Contractor shall have overall responsibility for coordination and scheduling of the activities of the Owner'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 Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors, and the Owner until subsequently revised. If Contractor fails to fulfill these obligations, Owner may exercise its rights under section 2.4. The right of Owner to carry out the Work under section 2.4 shall not give rise to a duty on the part of Owner to exercise this right for the benefit of Contractor or any other person or entity, except to the extent required by section 6.1.3.

6.1.3 Owner Obligations. Unless otherwise provided in the Contract Documents, when the Owner performs work related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, which apply to the Contractor under the General Conditions.

6.2 MUTUAL RESPONSIBILITY

6.2.1 Delivery and Storage. The Contractor shall afford the Owner and separate contractors reasonable opportunity for delivery and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the separate contractors' construction and operations with theirs as required by the Contract Documents.

6.2.2 Notice by Contractor. If part of the Contractor's Work depends upon proper execution or results from work by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner patent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

ARTICLE 7 CHANGES IN THE WORK

7.1 CHANGES

7.1.1 No Changes without Authorization. The Owner reserves the right to change the Work by making such alterations, deviations, additions to, or deletions from the plans and specifications, as may be deemed by the Owner to be necessary or advisable for the proper Completion or construction of the Work contemplated, and the Owner reserves the right to require Contractor to perform such work. There shall be no change whatsoever in the drawings, specifications, or in the Work without an executed Change Order, Construction Change Directive, or order by the Owner for a minor change in the Work as herein provided. Owner shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the same shall have been authorized by and the cost thereof approved in writing by Change Order or Construction Change Directive. No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order.

7.1.2 Architect Authority. The Owner will have authority to order minor changes in the Work not involving any adjustment in the Contract Sum, an extension of the Contract Time, or a change which is inconsistent with the intent of the Contract Documents. Such changes shall be effected by written Change Order and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

7.2 CHANGE ORDERS ("CO") - A CO is a written instrument prepared by the Architect and signed by the Owner, the Contractor, the Architect, and the DSA, stating their agreement upon all of the following: (A) A change in the Work; (B) the amount of the adjustment in the Contract Sum, if any; and (C) the extent of the adjustment in the Contract Time, if any.

7.3 CONSTRUCTION CHANGE DIRECTIVES ("CCD") - A CCD is a written unilateral order prepared by the Architect and signed by the Owner, and if necessary by the Architect, directing a change in the Work

and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by CCD, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions the Contract Sum and Contract Time being adjusted accordingly. A CCD shall be used in the absence of agreement on the terms of a CO. If Contractor disagrees with the terms of a CCD, it shall nevertheless perform the work directed by the CCD, but it may pursue the notice, COR and claim procedures if Contractor believes it is entitled to changes in the Contract Sum or Contract Time.

7.4 REQUEST FOR INFORMATION (“RFI”) - An RFI is a written request prepared by the Contractor asking the Owner to provide additional information necessary to clarify an item which the Contractor feels is not clearly shown or called for in the drawings or specifications, or to address problems which have arisen under field conditions. The RFI shall reference all the applicable Contract Documents including specification section, detail, page numbers, drawing numbers, and sheet numbers, etc. The Contractor shall make suggestions and/or interpretations of the issue raised by the RFI. An RFI cannot modify the Contract Sum, Contract Time, or the Contract Documents. The Owner and Contractor agree that an adequate time period for the Architect to respond to an RFI is generally fourteen (14) calendar days after the Architect’s receipt of an RFI, unless the Owner and Contractor agree otherwise in writing. However, in all cases, the Architect shall take such time, whether more or less than 14 days, as is necessary in the Architect’s professional judgment to permit adequate review and evaluation of the RFI. If Contractor informs the Architect that it needs a response to an RFI expedited to avoid delay to the critical path, the Architect shall provide a response as quickly as reasonably possible. The Contractor shall be invoiced by the Owner for any costs incurred for professional services, which shall be withheld from progress payments or retention, if an RFI requests an interpretation or decision of a matter where the information sought is equally available to the party making such request.

7.5 REQUEST FOR PROPOSAL (“RFP”) - An RFP is a written request prepared by the Architect asking the Contractor to submit to the Owner and the Architect an estimate of the effect of a proposed change on the Contract Sum and the Contract Time. An RFP shall contain adequate information, including any necessary drawings and specifications, to enable Contractor to provide the cost breakdowns required by section 7.7. The Contractor shall not be entitled to any Additional Compensation for preparing a response to an RFP, whether ultimately accepted or not.

7.6 CHANGE ORDER REQUEST (“COR”) - A COR is a written request prepared by the Contractor asking the Owner and the Architect to incorporate a proposed change called for in an RFP or a notice of claim into a CO. A COR shall include breakdowns to validate any change in Contract Sum due to proposed change or claim. A COR shall also include any additional time required to Complete the Project. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Project Schedule as defined in section 3.9 and Division 1 of the Specifications.

7.7 COST OF CHANGE ORDERS

7.7.1 Scope. Within ten (10) days or such lesser period of time as may be required by Owner after a request is made for a change that impacts the Contract Sum or the Contract Time, the Contractor shall provide to the Owner and the Architect in writing an estimate of the effect of the proposed CO upon the Contract Sum and the actual cost of construction, which shall include a complete itemized cost breakdown of all labor and material showing actual quantities, hours, unit prices, wage rates, required for

the change, and the effect upon the Contract Time of such CO. Changes may be made by Owner by an appropriate written CO, or, at the Owner's option, such changes shall be implemented immediately upon the Contractor's receipt of an appropriate written CCD.

7.7.2 Determination of Cost. The amount of the increase or decrease in the Contract Sum resulting from a CO, if any, shall be determined in one or more of the following ways as applicable to a specific situation: (A) Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; (B) unit prices stated in the Contractor's original bid, the Contract Documents, or subsequently agreed upon between the Owner and the Contractor; (C) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or (D) by cost of material and labor and percentage of overhead and profit. Contractor and Subcontractors may mark up their own work by 15% for overhead, bond and insurance premiums, and profit. Contractor may mark up a Subcontractor's total costs by 5%.

7.7.3 Accounting Records. With respect to portions of the Work performed by COs and CCDs on a time-and-materials, unit-cost, or similar basis, the Contractor shall keep and maintain cost-accounting records satisfactory to the Owner, which shall be available to the Owner on the same terms as any other books and records the Contractor is required to maintain under the Contract Documents.

7.7.4 Notice Required. If the Contractor desires an increase in the Contract Sum, or any extension in the Contract Time for Completion, it shall give the Owner and the Architect written notice of the potential change within five (5) days after the occurrence of the event giving rise to the claim, together with detailed estimates of the impact on the Contract Sum and/or the Contract Time. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with paragraph 10.4 hereof. No notice shall be considered unless made in accordance with this Subparagraph; however, the mere presentation of such claim shall not establish the validity of the cause giving rise to such claim, or of the extension of the Contract Time, and/or the increase in the Contract Sum. Contractor shall proceed to execute the Work even though the adjustment has not been agreed upon. Any change in the Contract Sum or extension of the Contract Time resulting from such claim shall be authorized by a CO.

ARTICLE 8 TIME

8.1 DEFINITIONS

8.1.1 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Completion of the Work.

8.1.2 Notice to Proceed. The date of commencement of the Work is the date established in the Notice to Proceed. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for which the Contractor is responsible.

8.1.3 Days. The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 HOURS OF WORK

8.2.1 Sufficient Force. Contractors and Subcontractors shall furnish sufficient forces to ensure the prosecution of the Work in accordance with the Construction Schedule.

8.2.2 Performance during Working Hours. Work shall be performed during regular working hours except that in the event of an emergency or when required to complete the Work in accordance with job progress, work may be performed outside of regular working hours with the advance written consent of the Owner.

8.2.3 Labor Code Application. As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any Subcontractor on any subcontract under this Contract, upon the work or upon any part of the work contemplated by this Contract, 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 provision hereinabove set forth, work performed by employees of Contractors in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work with compensation provided for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

Contractor or subcontractor shall pay to the Owner a penalty of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor, or by any Subcontractor, 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 (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Contractor is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8.3 PROGRESS AND COMPLETION - Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work. The Contractor shall not knowingly, except by agreement or instruction of the Owner, in writing, commence operations on the Site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. The Contractor shall proceed expeditiously with adequate forces, labor, materials, equipment and management, and shall achieve Completion within the Contract Time.

8.4 EXTENSIONS OF TIME - LIQUIDATED DAMAGES

8.4.1 Excusable Delay. The Contractor shall not be charged for liquidated damages, as set forth in the Agreement, because of any delays in Completion of the Work due to acts of God, acts of public enemy, acts of Government, acts of the Owner or anyone employed by it, acts of another contractor in performance of a contract (other than this Contract) with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, or delays of subcontractors due to such causes.

8.4.2 Notice by Contractor Required. The Contractor shall within ten (10) calendar days of beginning of any such delay (unless Owner grants in writing a further period of time to file such notice prior to the date of final payment under the Contract) notify the Owner in writing of causes of delay. Owner will then ascertain the facts and extent of the delay and grant an extension of time for Completing the Work when, in its judgment, the findings of fact justify such an extension. The Owner's findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the Work affected by the delay and shall not apply to other portions of the Work not so affected. The sole remedy of Contractor for extensions of time under paragraph 8.4.1 shall be an extension of the Contract Time at no cost to the Owner.

8.4.3 COMPENSABLE DELAY (TIME AND MONEY)

Compensable delays are those excusable delays (see above) for which Contractor is also entitled to monetary compensation. To be compensable, an excusable delay must be one for which the Owner is responsible, where the delay was unreasonable under the circumstances involved, and where the delay was not within the contemplation of the parties; *however*, Contractor shall not be entitled to monetary compensation when (a) Contractor could have reasonably anticipated the delay and avoided or minimized the cost impacts of it, (b) there was a concurrent delay which does not qualify for monetary compensation under this paragraph, (c) the cause of the delay was reasonably unforeseen by the Owner or the delay was caused by factors beyond the control of the Owner; or (d) any other defense available to Owner under law or equity applies. Contractor has the burden of proving that any delay was excusable and compensable, including an analysis that establishes non-concurrency.

8.4.4 Early Completion. Regardless of the cause therefore, the Contractor may not maintain any Claim or cause of action against the Owner for damages incurred as a result of its failure or inability to complete its Work in a shorter period than established in the Contract Documents.

8.4.5 Liquidated Damages. Failure to Complete the Work within the time and in the manner provided for by the Contract Documents shall subject the Contractor to liquidated damages, as described in the Agreement. For purposes of liquidated damages, the concept of substantial completion shall not constitute Completion and is not part of this agreement.

8.5 GOVERNMENT APPROVALS - Owner shall not be liable for any delays or damages related to the time required to obtain government approvals.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 CONTRACT SUM - The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 COST BREAKDOWN - On forms approved by the Owner within ten (10) days of the execution of the Agreement, the Contractor shall furnish a schedule of values and a list of all subcontractors and suppliers. The Owner shall review all submissions received in a timely manner. All submissions must be accepted by the Owner before becoming the basis of any payment.

9.3 APPLICATIONS FOR PAYMENT - On or before the fifth (5th) day of each calendar month during the progress of the portion of the Work for which payment is being requested, the Contractor shall submit to the Owner an itemized Application for Payment for operations completed in accordance with the Schedule of Values through the end of the previous calendar month. As the Contractor is required to order, obtain, and store materials and equipment sufficiently in advance of its Work at no additional cost or advance payment from Owner, to assure that there will be no delays, payment by the Owner for stored material shall be made only in unusual circumstances where the Owner specifically approves the payment in writing. The Contractor warrants that title to all work covered by an Application for Payment will pass to the Owner no later than the time of payment.

9.4 REVIEW OF PROGRESS PAYMENT - The Owner will, within seven (7) days after receipt of the Contractor's Application for Payment, either accept such payment or notify the Contractor in writing of the Owner's reasons for withholding acceptance in whole or in part. The review of the Contractor's Application for Payment by the Owner is based on the Owner's observations at the Site and the data comprising the Application for Payment whether the Work has progressed to the point indicated and whether, to the best of the Owner's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents.

9.5 DECISIONS TO WITHHOLD PAYMENT - The Owner may decide to withhold a progress or retention payment in whole, or in part, to the extent reasonably necessary to protect the Owner. In addition, the Owner may withhold payment, in whole, or in part, to such extent as may be necessary to protect the Owner from loss because of any acts or omissions by Contractor, including any rights to withhold mentioned in the Contract Documents or based on stop payment notices.

9.6 PROGRESS PAYMENTS - Progress payments shall be made in accordance with Public Contract Code sections 7201, 9203, and 20104.50. Owner shall retain five percent (5%) of any approved progress payment, except it may retain more if it makes special findings pursuant to Public Contract Code section 7201.

9.7 COMPLETION OF THE WORK - Upon receipt of the Contractor's request for final inspection, the Owner will make an inspection to determine whether the Work, or designated portion thereof, is Complete. If the Owner's inspection discloses any item which is not completed in accordance with the requirements of the Contract Documents, the Contractor shall, before Owner's issuance of the Notice of Completion, diligently complete or correct such item.

9.8 PARTIAL OCCUPANCY OR USE - Owner may occupy or use any completed or partially completed portion of the Work at any stage without accepting that work and without waiving rights to claim damages as to that work. The Owner and the Contractor shall agree in writing to the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents.

9.9 ACCEPTANCE, NOTICE OF COMPLETION, AND FINAL PAYMENT - If the Owner's representatives find the Work fully performed under the Contract Documents, they shall so notify Contractor, who shall then submit to the Owner its final application for progress payment. After the Owner's representatives find the Work fully performed, the Owner's governing body should accept the Work as fully Complete. After Completion, the Owner may record a Notice of Completion with the County Recorder in accordance with Civil Code section 8182. Contractor shall, upon receipt of final progress payment from Owner, pay the amounts due Subcontractors. Owner shall pay the retainage pursuant to Public Contract Code section 7107. Any application for final progress payment shall be accompanied by the same details required for monthly progress payments. Acceptance of final progress payment shall constitute a waiver of Claims except for those previously identified in writing and identified by that payee as unsettled at the time of final payment. If required to do so under Labor Code section 1773.3, subd. (d), Owner shall withhold final payment.

9.10 SUBSTITUTION OF SECURITIES - In accordance with section 22300 of the Public Contract Code, the Owner will permit the substitution of securities for any retention monies withheld by the Owner to ensure performance under the Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the Owner, or with a state or federally chartered bank as the escrow agent, who shall then pay such retention monies to the Contractor. Upon Completion of the Contract, the securities shall be returned to the Contractor if Owner has no basis to withhold under the Contract Documents. Securities eligible for investment under this section shall include those listed in Government Code section 16430, bank or savings and loan certificates of deposit, interest-bearing, demand-deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the Owner. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. Any escrow agreement used shall be substantially similar to the form set forth in Public Contract Code section 22300.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS - The Contractor shall have responsibility for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Subcontractors have the responsibility for participating in, and enforcing, the safety and loss prevention programs established by the Contractor for the Work, which will cover all Work performed by the Contractor and its Subcontractors. Subcontractors shall promptly report in writing and by phone to the Contractor all accidents whatsoever arising out of, or in connection with, the performance of the Work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. The Contractor will provide and maintain at the Site first-aid supplies for minor injuries.

10.2 SAFETY OF PERSONS AND PROPERTY - The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to: (A) Employees on the Work and other persons who may be affected thereby; (B) the Work, material, and equipment to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and (C) other property at the Site or adjacent thereto such as trees, shrubs, lawns, walks, pavement, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction. The Contractor shall give

notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury, or loss.

The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent Sites and utilities.

When use or storage of explosives, other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. The Contractor shall notify the Owner any time that explosives or hazardous materials are expected to be stored on Site. Location of storage shall be coordinated with the Owner and local fire authorities.

At its own expense, Contractor shall comply with all fingerprinting requirements under law and Contract, including but not limited to the requirements of Education Code section 45125.2 and the Independent Contractor Student Contact Form which is part of the Contract. Contractor shall hold harmless, defend and indemnify the Owner under section 3.15 of these General Conditions, for any costs, including attorneys' fees, Owner incurs from Contractor's failure to comply.

10.3 PROTECTION OF WORK AND PROPERTY - The Contractor and Subcontractors shall continuously protect the Work, the Owner's property, and the property of others, from damage, injury, or loss until the earlier of formal acceptance of the Work or Completion of the Work. The Contractor and Subcontractors shall make good any such damage, injury, or loss, except such as may be solely due to, or caused by, agents or employees of the Owner.

The Contractor and the Subcontractors shall use only those ingress and egress routes designated by the Owner, observe the boundaries of the Site designated by the Owner, park only in those areas designated by the Owner, which areas may be on or off the Site, and comply with any parking control program established by the Owner such as furnishing license plate information and placing identifying stickers on vehicles.

10.4 EMERGENCIES - In an emergency affecting the safety of persons or property, the Contractor shall take any action necessary, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 7. The Contractor shall promptly report in writing to the Owner all accidents arising out of or in connection with the Work, which caused death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner.

10.5 HAZARDOUS MATERIALS - In the event the Contractor encounters or suspects the presence on the Site material reasonably believed to be asbestos, polychlorinated biphenyl (PCB), or any other material defined as being hazardous by section 25249.5 of the California Health and Safety Code, which (a) has not been rendered harmless, and (b) the handling or removal of which is not within the scope of the Work, the Contractor shall immediately stop work in the area affected and report the condition to the Owner and the

Architect in writing, whether such material was generated by the Contractor, another contractor or the Owner.

ARTICLE 11 INSURANCE AND BONDS

11.1. CONTRACTOR'S LIABILITY INSURANCE

11.1.1 Liability Insurance Requirements. By the earlier of the deadline set forth in the Instructions to Bidders or the commencement of the Work and within limits acceptable to the Owner, the Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A+, Class XII status as rated in the most recent edition of Best's Insurance Reports such commercial general liability insurance per occurrence for bodily injury, personal injury and property damage as set forth in the Agreement and automobile liability insurance per accident for bodily injury and property damage combined single limit as set forth in the Agreement, as will protect the Contractor from claims, which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations are by the Contractor, by a Subcontractor, by Sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. This insurance shall be subject to the approval of Owner, and Owner's approval shall not be unreasonably withheld. The Contractor shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance in like amounts.

Owner may partially or fully occupy and/or use the Project before acceptance of the entire Project by the Owner. All of contractor's required insurance must allow such occupancy and/or use without prior consent from insurer.

11.1.2 Additional Insured Endorsement Requirements. The Contractor shall name, on any policy of insurance, the Owner and the Architect as additional insureds.

11.1.3 Workers' Compensation Insurance. During the term of this Contract, the Contractor shall provide workers' compensation insurance for all of the Contractor's employees engaged in Work under this Contract on or at the Site and, in case any of the Contractor's Work is sublet, the Contractor shall require the Subcontractor to provide workers' compensation insurance for all the Subcontractor's employees engaged in Work under the subcontract.

11.1.4 Builder's Risk / "All Risk" Insurance. Unless provided by the Owner at Owner's sole discretion, Contractor, during the progress of the Work and until final acceptance of the Work by Owner upon Completion of the entire Contract, shall maintain Builder's Risk/Course-of-Construction insurance, issued on a completed value basis on all insurable Work included under the Contract Documents. This insurance shall be subject to the approval of Owner, and Owner's approval shall not be unreasonably withheld. This insurance shall insure against all risks, including but not limited to the following perils: vandalism, theft, malicious mischief, fire, sprinkler leakage, civil authority, sonic boom, explosion, collapse, flood, earthquake (for projects not solely funded through revenue bonds, limited to earthquakes equivalent to or under 3.5 on the Richter Scale in magnitude), wind, hail, lightning, smoke, riot or civil commotion, debris removal (including demolition) and reasonable compensation for the Architect's services and

expenses required as a result of such insured loss. This insurance shall provide coverage in an amount not less than the full cost to repair, replace or reconstruct the Work. Such insurance shall include the Owner, the Architect, and any other person or entity with an insurable interest in the Work as an additional named insured.

11.1.5 Fire Insurance. Before the commencement of the Work, the Contractor shall procure, maintain, and cause to be maintained at the Contractor's expense, fire insurance on all Work included under the Contract Documents, insuring the full replacement value of such Work as well as the cost of any removal and demolition necessary to replace or repair all Work damaged by fire. The amount of fire insurance shall be subject to approval by the Owner and shall be sufficient to protect the Work against loss or damage in full until the Work is accepted by the Owner. Should the Work being constructed be damaged by fire or other causes during construction, it shall be replaced in accordance with the requirements of the drawings and specifications without additional expense to the Owner.

11.1.6 Other Insurance. The Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations. Such insurance shall be subject to the approval of Owner, and Owner's approval shall not be unreasonably withheld.

11.1.7 Proof of Carriage of Insurance. The Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance, certificates, and an Additional Insured Endorsement and Declarations Page have been obtained and delivered in duplicate to the Owner for approval, and such approval shall not be unreasonably withheld.

11.1.8 Compliance. In the event of the failure of any contractor to furnish and maintain any insurance required by this Article, the Contractor shall be in default under the Contract.

11.2 PERFORMANCE AND PAYMENT BONDS - Unless otherwise specified in the Contract Documents, prior to commencing any portion of the Work, the Contractor shall apply for and furnish Owner separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. The surety insurers must, unless otherwise agreed to by Owner in writing, at the time of issuance of the bonds, have a rating not lower than "A-" as rated by A.M. Best Company, Inc. or other independent rating companies. Owner reserves the right to approve or reject the surety insurers selected by Contractor and to require Contractor to obtain bonds from surety insurers satisfactory to the Owner.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK - If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract Documents, Contractor must, if required in writing by the Owner, uncover it for the Owner's observation and replace the removed work at the Contractor's expense without change in the Contract Sum or Time.

12.2 CORRECTION OF WORK; WARRANTY - The Contractor shall promptly correct the Work rejected by the Owner for failing to conform to the requirements of the Contract Documents, until the statutes of limitation (or repose) and all warranties have run, as applicable, and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting the rejected Work, including additional testing, inspections, and compensation for the Owner's expenses and costs incurred.

If, within one (1) year after Completion of the Work or within a longer time period for an applicable special warranty or guarantee required by the Contract Documents, any of the Work does not comply with the Contract Documents, the Contractor shall correct it after receipt of Owner's written notice to do so, unless the Owner has previously waived in writing such right to demand correction. Contractor shall correct the Work promptly, and passage of the applicable warranty period shall not release Contractor from its obligation to correct the Work if Owner provided the written notice within the applicable warranty period. Contractor's obligation to correct the warranty item continues until the correction is made. After the correction is made to Owner's satisfaction, a new warranty period of the same length as the original warranty period shall run on the corrected work. The obligations under this paragraph 12.2 shall survive acceptance of the Work under the Contract and termination of the Contract.

The Contractor shall remove from the Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are not corrected by the Contractor or accepted by the Owner. If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with paragraph 2.4. The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Contractor's correction or removal of the nonconforming Work. Nothing in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW - The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS - Owner shall, at Contractor's cost, timely notify Contractor of Owner's receipt of any third party claims relating to the Contract.

13.3 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 a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the Inspector of Record, the Owner, or the Architect shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed to in a written amendment to the Contract.

13.4 TESTS AND INSPECTIONS - Tests, inspections, and approvals of portions of the Work required by the Contract Documents will comply with Title 24, and with all other laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction.

13.4.1 Independent Testing Laboratory. The Owner will select and pay an independent testing laboratory to conduct all tests and inspections, including shipping or transportation costs or expenses (mileage and hours). Selection of the materials required to be tested shall be made by the laboratory or the Owner's representative and not by the Contractor. However, if Contractor requests that the Owner use a different testing laboratory and Owner chooses to approve such request, Contractor shall pay any additional shipping or transportation costs or expenses (mileage and hours). If Owner pays such additional costs or expenses instead of Contractor, then Owner may invoice such costs or expenses to the Contractor or withhold such costs or expenses from progress payments and/or retention.

13.4.2 Advance Notice to Inspector of Record. The Contractor shall notify the Inspector of Record a sufficient time in advance of its readiness for required observation or inspection so that the Inspector of Record may arrange for same. The Contractor shall notify the Inspector of Record a sufficient time in advance of the manufacture of material to be supplied under the Contract Documents which must, by terms of the Contract Documents, be tested in order that the Inspector of Record may arrange for the testing of the material at the source of supply.

13.4.3 Testing Off-Site. Any material shipped by the Contractor from the source of supply, prior to having satisfactorily passed such testing and inspection or prior to the receipt of notice from said Inspector of Record that such testing and inspection will not be required, shall not be incorporated in the Work.

13.4.4 Additional Testing or Inspection. If the Inspector of Record, the Architect, the Owner, or public authority having jurisdiction determines that portions of the Work require additional testing, inspection, or approval not included under section 13.4, the Inspector of Record will, upon written authorization from the Owner, make arrangements for such additional testing, inspection, or approval. The Owner shall bear such costs except as provided in section 13.4.5.

13.4.5 Costs for Retesting. If such procedures for testing, inspection, or approval under sections 13.4, 13.4.1, 13.4.2 and 13.4.4 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs arising from such failure, including those of re-testing, re-inspection, or re-approval, including, but not limited to, compensation for the Architect's services and expenses. Any such costs shall be paid by the Owner, invoiced to the Contractor, and, among other remedies, can be withheld from progress payments and/or retention.

13.4.6 Costs for Premature Test. In the event the Contractor requests any test or inspection for the Project and is not completely ready for the inspection, the Contractor shall be invoiced by the Owner for all costs and expenses resulting from that testing or inspection, including, but not limited to, the Architect's fees and expenses, and the amount of the invoice can among other remedies, be withheld from progress payments and/or retention.

13.4.7 Tests or Inspections not to Delay Work. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.5 TRENCH EXCAVATION - Pursuant to Labor Code section 6705, if the Contract Sum exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall, in advance of excavation, submit to the Owner or a registered civil or structural engineer employed by

the Owner a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System Standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer, but in no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the Owner or by the person to whom authority to accept has been delegated by the Owner. Pursuant to Labor Code section 6705, nothing in this Article shall impose tort liability upon the Owner or any of its employees.

13.6 DEBARMENT - Pursuant to Public Contract Code section 6109, no contractor or subcontractor may perform work on a public works project if ineligible to perform work on the project pursuant to section 1777.1 of the Labor Code.

13.7 ASSIGNMENT OF ANTITRUST CLAIMS - Pursuant to Public Contract Code section 7103.5 and Government Code section 4552, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or Subcontractor offers and agrees to assign to the Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act, (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 [commencing with § 16700] of Part 2 of Division 7 of the Bus. & Prof. Code), arising from the purchase of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final progress payment to the Contractor, without further acknowledgment by the parties.

13.8 AUDIT - Contractor's Contract books, records and files shall be subject to audit and examination under Government Code section 8546.7 and any amendments thereto.

13.9 STORM WATER DISCHARGE PERMIT - If applicable, the Contractor shall file a Notice of Intent to comply with the terms of the general permit to discharge storm water associated with construction activity (WQ Order No. 920-08-DWQ) prior to the start of any construction activity.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR FOR CAUSE - Contractor may not terminate for convenience. Contractor may only terminate for cause if the Work is stopped by others for a period of one hundred eighty (180) consecutive days through no act or fault of the Contractor, a Subcontractor of any tier, their agents or employees, or any other persons performing portions of the Work for whom the Contractor is contractually responsible, **and** the Work was stopped by others for one of the following reasons: (A) Issuance of an order of a court or other public authority having jurisdiction which requires Owner to stop all Work; or (B) an act of government, such as a declaration of national emergency, making material unavailable which requires Owner to stop all Work. If such grounds exist, the Contractor may serve written notice of such grounds on Owner and demand a meet-and-confer conference to negotiate a resolution in good faith within twenty (20) days of Owner's receipt of such notice. If such conference does not lead to resolution and the grounds for termination still exist, Contractor may terminate the Contract and recover from the Owner payment for Work executed and for reasonable verified costs with respect to materials, equipment, tools, construction equipment, and machinery, including reasonable overhead, profit, and

damages for the Work executed, but excluding overhead (field and home office) and profit for (i) Work not performed and (ii) the period of time that the Work was stopped.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 Grounds for Termination. The Owner may terminate the Contract if the Contractor:

- A. Refuses or fails to supply enough properly skilled workers or proper materials, or refuses or fails to take steps to adequately prosecute the Work toward Completion within the Contract Time;
- B. Fails to make payment to Subcontractors for materials or labor in accordance with Public Contract Code section 10262 or Business and Professions Code section 7108.5, as applicable;
- C. Violates Labor Code section 1771.1(a), subject to the provisions of Labor Code section 1771.1(f);
- D. Disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction; or
- E. Otherwise is in breach of the Contract Documents.

14.2.2 Notification of Termination. When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner, give notice to Contractor of the grounds for termination and demand cure of the grounds within seven (7) days (a "Notice of Intent to Terminate"). If Contractor fails to either (a) completely cure the grounds for termination within seven (7) days or (b) reasonably commence cure of the grounds for termination within seven (7) days and reasonably continue to cure the grounds for termination until such cure is complete, then Owner may terminate the Contract effective immediately upon service of written Notice of Termination and may, subject to any prior rights of Contractor's surety on the performance bond ("Surety"):

- A. Take possession of the Site and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- B. Accept assignment of subcontracts pursuant to section 5.4; and
- C. Complete the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 Payments Withheld. If the Owner terminates the Contract for one of the reasons stated in section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is Complete.

14.2.4 Payments upon Completion. If the unpaid balance of the Contract Sum exceeds costs of Completing the Work, including compensation for professional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This payment obligation shall survive Completion of the Contract.

14.2.5 Inclusion of Termination for Convenience. Any purported termination by Owner for cause under this section 14.2, which is revoked or determined to not have been for cause, shall be deemed to have been a termination for convenience effective as of the same date as the purported termination for cause.

14.3 SUSPENSION OR TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.1 Suspension by Owner. The Owner may, without cause, order the Contractor in writing to suspend, delay, or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.1.1 Adjustments. An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance caused by suspension, delay, or interruption. No adjustment shall be made to the extent:

A. That performance is, was or would have been so suspended, delayed, or interrupted by another cause for which the Contractor is responsible; or

B. That an equitable adjustment is made or denied under another provision of this Contract.

14.3.1.2 Adjustments for Fixed Cost. Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

14.3.2 Termination by the Owner for Convenience.

14.3.2.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

14.3.2.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

1. Cease operations as directed by the Owner in the notice;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.3.2.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

14.4 NOT A WAIVER - Any suspension or termination by Owner for convenience or cause under this Article 14 shall not act as a waiver of any claims by Owner against Contractor or others for damages based on breach of contract, negligence or other grounds.

14.5 MUTUAL TERMINATION FOR CONVENIENCE - The Contractor and the Owner may mutually agree in writing to terminate this Contract for convenience. The Contractor shall receive payment for all Work performed to the date of termination in accordance with the provisions of Article 9.

14.6 EARLY TERMINATION - Notwithstanding any provision herein to the contrary, if for any fiscal year of this Contract the governing body of the Owner fails to appropriate or allocate funds for future periodic payments under the Contract after exercising reasonable efforts to do so, the Owner may upon thirty (30) days' notice, order work on the Project to cease. The Owner will remain obligated to pay for the work already performed but shall not be obligated to pay the balance remaining unpaid beyond the fiscal period for which funds have been appropriated or allocated and for which the work has not been done.

END OF DOCUMENT