

DOCUMENT 00 00 00

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**PROJECT MANUAL**

**BID #B-08-2022-23  
FLOORING at BUSD - NEW DISTRICT OFFICE  
981 RIDDER PARK DRIVE  
SAN JOSE 95131**

**BERRYESSA UNION SCHOOL DISTRICT**

**Measure U Bond Program**  
Berryessa Union School District  
1376 Piedmont Road  
San Jose, CA 95132

**Job Walk Date: 11/29/2022 @ 2:00 PM**

**Bids Due Date: 12/13/2022 @ 2:00 PM**

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**BID ANNOUNCEMENT  
CUPCAA INFORMAL PROJECT  
BERRYESSA UNION SCHOOL DISTRICT**

In accordance with the State of California Uniform Public Construction Cost Accounting Commission and Pursuant to Public Contract Code 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:

**Bid # - B-08-2022-23  
BUSD – NEW DISTRICT OFFICE – FLOORING  
DUE DATE: DECEMBER 13, 2022, BEFORE 2:00PM**

The Berryessa Union School District is seeking qualified and experienced licensed contractors to submit sealed bids for the project listed above. This is a Measure U Bond Program project.

There will be a Non-Mandatory Pre-Bid Conference and Job Walk for this project. The Pre-Bid Conference and Job Walk will begin at 2pm on November 29, 2022. Meet outside in the parking lot at 981 Ridder Park Drive, San Jose, CA 95131. COVID 19 Guidelines will be enforced. Contractors are not to visit the school site without an appointment.

The time of completion for this project shall be:  
Start Date: January 16, 2023, and Completion Date: February 24, 2023.

Plans/Specifications, Reference Documents, and Bid Documents will be available after 11/28/2022, at: [www.berryessa.k12.ca.us](http://www.berryessa.k12.ca.us). Go to Business > Purchasing > Current Bids. Contractors are reminded to frequently check the website under Current Bids for updates and addenda. Project plans and specification are also available from Strawn Construction - Jim Wilson - [Jwilson@scmdinc.com](mailto:Jwilson@scmdinc.com) – 408-605-7240

Licensing requirement: Class “B”. C-15.

Contact: Strawn Construction – Jim Wilson – [jwilson@scmdinc.com](mailto:jwilson@scmdinc.com) – 408-605-7240  
Covid 19 Guidelines: Social distancing is required at all times. Contractors cannot visit the site without an appointment.

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 it awards it at all, to the lowest responsive and responsible bidder based on: Lowest Base Bid.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

END OF DOCUMENT

**DOCUMENT 00 2113**

**INSTRUCTIONS TO BIDDERS**

**SECURING DOCUMENTS:**

Drawings and Specifications are available for review and downloading online on November 28, 2022, at:

<http://www.berryessa.k12.ca.us/OUR-DISTRICT/Business-Services/Purchasing/Current-Bids/index.html> or Strawn Construction

Strawn Construction contact: Jim Wilson: [jwilson@scmdinc.com](mailto:jwilson@scmdinc.com) 408-605-7240

Contact the Purchasing Department and/or Strawn Construction for any technical questions about bidding or bid documents.

**BID FORMAT:**

Bids should be submitted using the District provided Bid Documents. Please include the following documents with your bid(s):

**FLOORING PROJECT – BID #B-08-2022-23**

- 00 41 26 Bid Form
- 00 43 13 Bid Bond
- 00 43 36 Designation of Subcontractors
- 00 43 40 Sufficient Funds Declaration
- 00 45 19 Non-Collusion Affidavit
- 00 45 32 Fingerprinting Notice and Acknowledgement

**PREQUALIFICATION:**

This Project is not subject to prequalification.

**SB854 REGISTRATION:**

The Owner shall not accept any bid as of March 1, 2015, or enter into any contract as of April 1, 2015, without proof of the bidder's current registration to perform public work under Labor Code section 1725.5.

The bidder shall not accept any subbid as of March 1, 2015, or enter into any subcontract as of April 1, 2015, without proof of the subcontractor's current registration to perform public work under Labor Code section 1725.5.

**BIDS:**

Bids to receive consideration shall be made in accordance with the following instructions:

1. Bids shall be made on a form therefor, obtained from the Architect or Owner. Bids not made on the proper form shall be disregarded. Numbers must be stated in words and figures, and the signatures of all individuals must be in longhand.
2. No bid will be considered which makes exceptions, changes, or in any manner makes reservations to the terms of the drawings or specifications.
3. Questions regarding documents, discrepancies, omissions, or doubt as to meanings shall be referred immediately to the Architect who will send written instructions clarifying such questions to each bidder. Oral responses will not be binding on the Owner or Architect or any Construction Manager.
4. **NOTE: Please note the signature requirements for each company type.**

**Each bid must give the full business address of the bidder and be signed by bidder with bidder's usual signature.**

**Bids by partnerships** - must furnish the full name of all partners and 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.

**Bids by corporations** - must be signed 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.**

5. Pursuant to the provisions of Sections 4100 to 4114, inclusive, of the Public Contract Code of the State of California, which are hereby incorporated and made a part hereof and these Instructions to Bidders, every bidder shall set forth in its bid:
  - A. The name and location of the place of business and the California contractor's license number of each subcontractor who will perform work or labor or render service to the bidder in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the bidder, specially fabricates and installs a portion of the Work or improvement according to detailed

drawings contained in the plans and specifications, in an amount in excess of one-half (½) of one percent (1%) of the bidder's total bid. An inadvertent error in listing a California contractor's license number shall not be grounds for filing a bid protest or for considering the bid nonresponsive if the bidder submits the corrected contractor's license number to the Owner within 24 hours after the bid opening, or any continuation thereof, so long as the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

- B. The portion of the Work which will be done by each such subcontractor. If the bidder fails to specify a subcontractor for any portion of the Work to be performed under the Contract in excess of one-half (½) of one percent (1%) of the bidder's total bid, the bidder agrees to perform that portion itself. The successful bidder shall not, without the consent of the Owner:
- 1) Substitute any person as subcontractor in place of the subcontractor designated in the original bid.
  - 2) Permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the bid.
  - 3) Sublet or subcontract any portion of the Work in excess of one-half (½) of one percent (1%) of the total bid as to which the original bid did not designate a subcontractor.
6. The Director of Industrial Relations of the State of California, in the manner provided by law, has ascertained the general prevailing rate of per diem wages and the rate for legal holidays and overtime work. The Contractor must pay for any labor therein described or classified in an amount not less than the rates specified. Copies of the required rates are on file at the Owner's business office and are available to any interested party on request.
7. All bids must be accompanied by a completed Noncollusion Declaration and Sufficient Funds Declaration (Labor Code § 2810). All bids must be accompanied by an executed Fingerprinting Notice and Acknowledgment.
8. Bids must be accompanied by a certified check, cashier's check, or bidder's bond, for an amount not less than ten percent (10%) of the amount of the base bid, made payable to the order of the Owner. If a bidder's bond accompanies the bid, said bond shall be secured by an Admitted Surety (an insurance organization authorized by the Insurance Commissioner to transact business of insurance in the State of California during this calendar year). The surety insurer must, unless otherwise agreed to by Owner in writing, at the time of issuance of the bond, 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 insurer selected by Contractor and to require Contractor to obtain a bond from a surety insurer satisfactory to the Owner. Said check or bond shall be given as a guarantee that the bidder will enter into the Contract if awarded the Work, and in case of refusal or failure to enter into said Contract, the check or bond, as the case may be, shall be payable to the Owner and retained as liquidated damages.

9. Bids shall be sealed and filed as indicated in the Notice to Bidders. Irrespective of how a bidder chooses to deliver the bid and other documents to the Owner, the bidder is responsible for ensuring that the bid and other documents are actually received at the location designated in the Contract Documents for receipt of the bid and other documents prior to the time for the bid opening. Bids and other documents for any reason not actually received at the designated location prior to the time for the bid opening shall not be opened or considered.
10. **THIS CONTRACT IS NOT SUBJECT TO THE DVBE REQUIREMENTS OF EDUCATION CODE SECTION 17076.11.**

#### **WITHDRAWAL OF BIDS:**

Bids may be withdrawn by bidders prior to the time fixed for the submittal of bids or any authorized postponement thereof. A successful bidder shall not be relieved of the bid unless by consent of the Owner or bidder's recourse to Public Contract Code §5100 et seq.

#### **OPENING OF BIDS:**

Opening of bids shall be as soon after the hour set as will be possible; opening and declaration to be as set forth in the Notice to Bidders. Any and all bidders will be permitted to attend.

#### **EXAMINATION OF CONTRACT DOCUMENTS AND SITE:**

Before submitting a bid, bidders shall examine the drawings, read the specifications, the form of Agreement between Contractor and Owner, and the other Contract Documents. Bidders shall visit the site of the proposed Work; examine the building, or buildings, if any, and any work that may have been done thereon. Bidders shall fully inform themselves of all conditions, in, at, and about the site, the building or buildings, if any, and any work that may have been done thereon.

Pursuant to Public Contract Code section 1104: 1) bidders shall not be required to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications, except on clearly designated design build projects; 2) however, bidders shall be required to review architectural or engineering plans and specifications prior to submission of their bids and to report any errors and omissions to the Architect or Owner; and 3) the review shall be confined to the bidder's capacity as a bidder and not as a licensed design professional.

## **FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR:**

The form of Agreement between Owner and Contractor which the successful bidder will be required to execute, if awarded the Work, is a part of this Bid Package.

## **ADDENDA OR BULLETINS:**

Any addenda or bulletins, issued during the time of bidding, shall form a part of the drawings and specifications loaned to the bidder for the preparation of its bid, shall be covered in the bid, and shall be made a part of the Contract Documents. All addenda or bulletins shall be signed by the Architect and approved by the Division of State Architect.

## **EVIDENCE OF RESPONSIBILITY:**

Upon the request of Owner, a bidder shall submit promptly to the Owner or its designee satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work required by the Owner, the bidder's organization available for the performance of the Contract, and any other required evidence of the bidder's or its subcontractor's qualifications to perform the proposed Contract. The Owner may consider such evidence before making its decision awarding the proposed Contract. Failure to submit evidence of the bidder's or its subcontractors' responsibility to perform the proposed Contract may result in rejection of the bid.

## **AWARD OF CONTRACT:**

Rejection of any or all bids, to contract work with whomever and in whatever manner, to abandon work entirely, and/or to waive any informality in receiving of bids is reserved as the right of the Owner. Before the Contract(s) are awarded, the Owner may at its sole discretion, require from the proposed Contractor on the Project further evidence of the reasonable qualifications of such contractor to faithfully, capably, and reasonably perform such proposed Contract and may consider such evidence before making its decision on the award of such proposed Contract.

The Contract(s) shall be awarded to the lowest responsible and responsive bidder as interpreted by the Owner under California law and as specified herein and shall be entered into by the successful bidder within ten (10) days after mailing, faxing or delivery of the Notice of Award of Contract. Owner reserves the right, without any liability, to cancel the award of any bid for any reason at any time before the full execution of the Agreement between Owner and Contractor.

## **EXECUTION OF AGREEMENT BETWEEN OWNER AND CONTRACTOR:**

The Agreement between Owner and Contractor shall be signed by the successful bidder in as many originals as the Owner deems necessary and returned, together with the required Contract bonds, insurance certificates, additional insured endorsement,

declarations page, a Public Contract Code section 3006(a) Roof Project Certification, if required, and Independent Contractor Student Contact Form, within ten (10) days after the mailing, faxing or delivering of the Notice of Award of Contract. If the ten (10) day period would expire after the date for commencement of the Work, Contractor must submit the documents before the date of commencement of the Work. If the successful bidder does not comply with this paragraph, Owner may revoke and/or cancel the award to the successful bidder and award the Contract to the next lowest bidder, or may otherwise proceed as allowed by law. A Roof Project Certification is not required if (1) the Owner has ADA (average daily attendance) of 2,500 or less, or (2) the Project involves repair of 25% or less of the roof, or costs \$21,000 or less.

### **CONTRACT BONDS:**

As required by the Contract Documents, two bonds, as itemized below and in the forms presented in these Contract Documents, shall be furnished by the successful bidder on the Project at the time of entering into the Contract and filed with the Owner before the successful bidder commences any work on the Project. They shall be in the form of surety bonds issued by Admitted Surety insurers (an insurance organization authorized by the Insurance Commissioner to transact business of insurance in the State of California during this calendar year). The surety insurers must, unless otherwise agreed to by Owner in writing, at the time of issuance of the bond, 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.

**Performance Bond** in the amount of one hundred percent (100%) of the Contract Sum to insure Owner during construction, and for one year after completion and during any warranty or guaranty period, against faulty or improper materials or workmanship and to assure Owner of full and prompt performance of the Contract.

**Payment Bond** (Labor and Material) in the amount of one hundred percent (100%) of the Contract Sum in accordance with the laws of the State of California to secure payment of any and all claims for labor and materials used or consumed in performance of this Contract.

### **DRAWINGS, SPECIFICATIONS AND ADDENDA OR BULLETINS:**

Drawings, Project Manuals, Specifications, Addenda and Bulletins will be posted on the District website at [www.berryessa.k12.ca.us](http://www.berryessa.k12.ca.us) click on Business Services > Purchasing > Current Bids for updates. Staff recommends that all vendors periodically check the District current bid section on the website for updates and addenda during the bidding process.

## **SUBSTITUTION OF MATERIALS:**

The Contractor must ensure that the proposed substitutions by the Contractor or its subcontractors are submitted to the Architect's office a minimum of fourteen (14) calendar days prior to the Bid Opening for review and possible approval of any equipment or materials thought to be equal to or better than those specified in the drawings or specifications. An addendum will be issued seven (7) calendar days prior to Bid Opening, including all equipment and materials deemed equivalent to those specified and approved by the Architect. Submittals shall include comparative spec-data of the specified equipment or material and the proposed substitution as set forth in the Contract Documents. Submittals without this information will be automatically rejected.

## **PAYMENTS:**

Payments to the Contractor on account of the Contract shall be made in accordance with the terms of the Contract Documents.

## **TAXES:**

The Owner is generally exempt from payment of Federal Excise Tax on materials. The Owner will furnish exemption certificates to the Contractor to be used to obtain materials ordinarily subject to Federal Excise Tax without payment of the tax. Bidder shall deduct Federal Excise Taxes from their bid prices before submitting bids, so that such taxes will not be included in the Contract Sum.

## **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.

## **TIME OF COMPLETION AND LIQUIDATED DAMAGES:**

Time of Completion for the Project shall be as follows:

Start Date: January 16, 2023

Completion Date: February 24, 2023

Liquidated damages will accrue and may be assessed as provided in the Contract Documents. Should said Work not be Completed within the time limit as may be extended as herein provided (i.e., the Completion deadline), damages will be sustained by the Owner. It is understood and agreed that it is and will be impracticable or extremely

difficult to determine the actual amount of damages which the Owner will sustain in the event of and by reason of such delay, and it is therefore agreed that the Contractor will pay the Owner the sum of **One Thousand Dollars (\$1,000.00) per calendar day** for each and every day's delay beyond the Completion deadline as and for liquidated damages, during or as a result of each calendar day by which Completion of the Project is delayed beyond the Completion deadline; in case the Contractor fails to make such payment, the Owner may deduct the amount thereof from any money due or that may become due the Contractor under the Contract. Should such money not be sufficient, the Owner shall have the right to recover the balance from the Contractor or its Sureties.

## **BID PROTEST PROCEDURE**

Any bidder may file a bid protest. The protest shall be filed in writing with the Purchasing and Contracts Manager not more than ONE (1) business day after the date of the bid opening. An e-mail address shall be provided and by filing the protest, the protesting bidder consents to receipt of e-mail notices for purposes of the protest and protest related questions and protest appeal, if applicable. The protest shall specify the reasons and facts upon which the protest is based.

Resolution of Bid Controversy: Once the bid protest is received, the apparent lowest responsible bidder will be notified of the protest and the evidence presented. If appropriate, the apparent low bidder will be given an opportunity to rebut the evidence and present evidence that the apparent low bidder should be allowed to perform the work. If deemed appropriate by the District, an informal hearing will be held. District will issue a written decision within fifteen (15) calendar days of receipt of the protest, unless factors beyond the District's reasonable control prevent such resolution. The decision on the bid protest will be copied to all parties involved in the protest.

Appeal: If the protesting bidder or the apparent low bidder is not satisfied with the decision, the matter may be appealed to the Assistant Superintendent of Business Services, or their designee, within three (3) business days after receipt of the District's written decision on the bid protest. The appeal must be in writing and sent via overnight registered mail with all accompanying information relied upon for the appeal and an e-mail address from which questions and responses may be provided to:

Berryessa Union School District  
Attn: Assistant Superintendent of Business Services  
1376 Piedmont Rd  
San Jose, CA 95132

Appeal Review: The Assistant Superintendent of Business Services or their designee shall review the decision on the bid protest from the Purchasing and Contracts Manager and issue a written response to the appeal, or if appropriate, appoint a Hearing Office to conduct a hearing and issue a written decision. The written decision of the Purchasing and Contracts Manager shall be rendered within fifteen (15) calendar days and shall state

the basis for the decision. The decision concerning the appeal will be final and not subject to any further Appeals.

Reservation of Rights to Proceed with Project Pending Appeal. The District reserves the right to proceed to award the Contract for the Project and commence construction pending an Appeal. If there is State Funding or a critical completion deadline, the District may choose to shorten the time limits set forth in this Section due to the urgency of proceeding with work if written notice is provided to the protesting party. E-mailed notice with a written confirmation sent by First Class Mail shall be sufficient to constitute written notice. If there is no written response to a written notice shortening time, the District may proceed with the award.

Finality. Failure to comply with this Bid Protest Procedure shall constitute a waiver of the right to protest and shall constitute a failure to exhaust the protesting bidder's administrative remedies.

END OF DOCUMENT

**BID FORM**

Berryessa Union School District  
1376 Piedmont Rd.  
San Jose, CA 95132

Dear Board Members:

The undersigned doing business under the firm name of:

\_\_\_\_\_ hereby propose and agree to enter into a Contract, to furnish any and all labor, materials, applicable taxes, equipment and services for the completion of Work described hereinafter and in the Contract Documents:

**New District Office  
Flooring  
Bid # B-08-2022-23**

prepared by: McKim Design Group for the amount of:

<b>1</b>	_____ Dollars	\$ _____
	<b>Amount in Words Base Bid – Flooring</b>	
<b>2</b>	<b>Ten Thousand Dollars</b>	<b>\$10,000.00</b>
	<b>Allowance for Unforeseen Conditions</b>	
<b>3</b>	_____ Dollars	\$ _____
	<b>Total Amount in Words Base Bid + Allowance</b>	

11.1.6.1 UNIT PRICES

Any and all additional work and/or deductions shall be based on the Unit Prices. DO NOT INCLUDE THE UNIT PRICING IN YOUR BASE BID.

N/A

11.1.6.2 COURSE-OF-CONSTRUCTION INSURANCE REQUIREMENTS

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 satisfactory to the Owner, issued on a completed value basis on all insurable Work included under the Contract Documents. 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.

The Contractor shall submit to the Owner for its approval all items deemed to be uninsurable under the Builder's Risk/Course-of Construction insurance. The risk of the damage to the Work due to the perils covered by the Builder's Risk/Course-of-Construction insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the surety, and no claims for such loss or damage shall be recognized by the Owner, nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

If written notice of the Award of Contract is mailed, faxed, or delivered to the undersigned at any time before this bid is withdrawn, the undersigned shall, within ten (10) days after the date of such mailing, faxing, or delivering of such notice, execute and deliver an agreement in the form of agreement present in these Contract Documents and give Performance and Payment Bonds in accordance with the specifications and bid as accepted.

The undersigned hereby designates as the office to which such Notice of Award of Contract may be mailed, faxed, or delivered:

---

Our Public Liability and Property Damage Insurance is placed with:

---

Our Workers' Compensation Insurance is placed with:

---

Circular letters, bulletins, addenda, etc., bound with the specifications or issued during the time of bidding are included in the bid, and, in completing the Contract, they are to become a part thereof.

The receipt of the following addenda to the specifications is acknowledged:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_ Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Date \_\_\_\_\_ Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

This bid may be withdrawn at any time prior to the scheduled time for the opening of bids or any authorized postponement thereof.

A bidder shall not submit a bid unless the bidder's California contractor's license number appears clearly on the bid, the license expiration date and class are stated, and the bid contains a statement that the representations made therein are made under penalty of perjury. Any bid submitted by a contractor who is not licensed pursuant to Business and Professions Code section 7028.15 shall be considered nonresponsive and shall be rejected. Any bid not containing the above information may be considered nonresponsive and may be rejected.

**NOTE:**

**Please note the signature requirements for each company type.**

Each bid must give the full business address of the bidder and be signed by bidder with bidder's usual signature.

**Bids by Partnerships** - must furnish the full name of all partners and 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.

**Bids by Corporations** - must be signed 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.**

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this bid are true and correct.

**CONTRACTOR**

Name of Company as Licensed: \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

California Contractor License No.: \_\_\_\_\_

Class and Expiration Date: \_\_\_\_\_

DIR Number: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

( ) Evidence of authority to bind corporation is attached.

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

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Its: \_\_\_\_\_  
Title (if Corporation Chairman, President  
Or Vice President)

Its: \_\_\_\_\_  
Title (if Corporation Secretary, Assistant  
Secretary, Chief Financial Officer,  
Treasurer, or Assistance Treasurer)

END OF DOCUMENT

**DOCUMENT 00 43 13**

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS that we the undersigned \_\_\_\_\_ as Principal and \_\_\_\_\_ as Surety, are hereby held and firmly bound unto the Berryessa Union School District (“Owner”) in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for payment of which sum, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain bid, attached hereto and hereby made a part hereof, to enter into a Contract in writing for the construction of New District Office – Structured Cabling Project in strict accordance with Contract Documents.

NOW, THEREFORE,

a. If said bid shall be rejected, or, in the alternative;

b. If said bid shall be accepted and the Principal shall execute and deliver a contract in the form of agreement attached hereto and shall execute and deliver Performance and Payment Bonds in the forms attached hereto (all properly completed in accordance with said bid), and shall in all other respects perform the agreement created by the acceptance of said bid;

Then this obligation shall be void, otherwise the same shall remain in full force and effect, it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal hereunder shall be the amount of this obligation as herein stated.

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

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under several seals this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, the name and corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body. In the presence of:

(Notary Seal)

\_\_\_\_\_  
(Principal)

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

\_\_\_\_\_  
(Corporate Surety)

\_\_\_\_\_  
Business Address)

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

\_\_\_\_\_

The rate or premium of this bond is \_\_\_\_\_ per thousand, the total amount of premium charged, \$\_\_\_\_\_.

(The above must be filled in by Corporate Surety).

END OF DOCUMENT

**DESIGNATION OF SUBCONTRACTORS**

Each bidder shall set forth below the name and the location of the place of business of each subcontractor and the California contractor license number of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the Work or improvement, or to a subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent (0.5%) of the bidder's total bid, and the portion of the Work which will be done by each subcontractor. An inadvertent error in listing a California contractor's license number shall not be grounds for filing a bid protest or for considering the bid nonresponsive if the bidder submits the corrected contractor's license number to the Owner within 24 hours after the bid opening, or any continuation thereof, so long as the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

If the Contractor fails to specify a subcontractor for any portion of the Work to be performed under the Contract in excess of one-half of 1 percent (0.5%) of the Contractor's total bid, the Contractor shall be deemed to have agreed to perform such portion itself, and shall not be permitted to subcontract that portion of the Work except under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the Work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the Owner.

As of March 1, 2015, for any bid proposal submitted, and as of April 1, 2015, for any contract for public work entered into, an inadvertent error in listing a subcontractor who is not registered under Labor Code section 1725.5 shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that either: the subcontractor is registered prior to the bid opening; or the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5(a)(2)(E), if applicable, within 24 hours after the bid opening; or the subcontractor is replaced by another registered subcontractor under Public Contract Code section 4107. Failure of a listed subcontractor to be registered shall be grounds under Public Contract Code section 4107 for the Contractor, with the Owner's consent, to substitute a registered subcontractor for the unregistered subcontractor.

Failure to provide this information in a legible manner may result in the rejection of an otherwise acceptable bid.

**NOTE:** *Reproduce page two of this section for additional listings needed beyond the length of this form.*





DOCUMENT 00 43 40

**SUFFICIENT FUNDS DECLARATION**  
**(Labor Code section 2810)**  
**TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

Owner: Berryessa Union School District

Project: \_\_\_\_\_

I, \_\_\_\_\_, declare that I am the \_\_\_\_\_ of \_\_\_\_\_, the entity making and submitting the bid for the above Project that accompanies this Declaration, and that such bid includes sufficient funds to permit \_\_\_\_\_ *[insert name of entity]* to comply with all local, state or federal labor laws or regulations during the Project, including payment of prevailing wage, and that \_\_\_\_\_ *[the entity]* will comply with the provisions of Labor Code section 2810(d) if awarded the Contract.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and executed on \_\_\_\_\_ 20\_\_, at \_\_\_\_\_ *[city]*, \_\_\_\_\_ *[state]*.

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

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

END OF DOCUMENT

**DOCUMENT 00 45 19**

**NON COLLUSION DECLARATION**  
**TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

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 \_\_\_\_\_, 201\_\_, at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

END OF DOCUMENT

WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700, in relevant part, provides:

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

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

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

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

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)

END OF DOCUMENT



DOCUMENT 00 45 28

**DRUG-FREE WORKPLACE CERTIFICATION**

PROJECT/CONTRACT NO.: \_\_\_\_\_ for the \_\_\_\_\_  
between Berryessa Union School District (the “District” or the “Owner”) and  
\_\_\_\_\_ (the “Contractor” or the “Bidder”) for  
\_\_\_\_\_ (the “Contract” or the “Project”).

This Drug-Free Workplace Certification form is required from the successful Bidder pursuant to Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any state agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a state agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

The District is not a “state agency” as defined in the applicable section(s) of the Government Code, but the District is a local agency and public school district under California law and requires all contractors on District projects to comply with the provisions and requirements of Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990.

Contractor shall certify that it will provide a drug-free workplace 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 the person’s or organization’s workplace and specifying actions which will be taken against employees for violations of the prohibition;
- b. Establishing a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace.
  - (2) The person’s or organization’s policy of maintaining a drug-free workplace.
  - (3) The availability of drug counseling, rehabilitation, and employee-assistance programs.
  - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required above, and that, as a condition of

employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a), and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the Contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

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

Proper Name of Contractor: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

END OF DOCUMENT

DOCUMENT 00 45 30

**ROOF PROJECT CERTIFICATION**

[Public Contract Code §3006(a),(b)]

I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], certify that I have not offered, given , or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract. As used in this certification, “person” means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals. Furthermore, I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing, consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], have the following financial relationships, with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

\_\_\_\_\_  
[name and address of building, contract date and number]

\_\_\_\_\_  
[name and address of building, contract date and number]

\_\_\_\_\_  
[name and address of building, contract date and number]

\_\_\_\_\_  
[name and address of building, contract date and number]

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

\_\_\_\_\_ Signature \_\_\_\_\_ Date

\_\_\_\_\_ Print Name

\_\_\_\_\_ Print Name of Employer

END OF DOCUMENT

**DOCUMENT 00 45 32**

**FINGERPRINTING NOTICE AND ACKNOWLEDGMENT**

(Education Code Section 45125.2(a))

*Note: This document must be executed and submitted with the bid.*

Business entities entering into contracts with the Owner for the construction, reconstruction, rehabilitation or repair of a facility must comply with Education Code sections 45125.1 and 45125.2. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. The following information is provided simply to assist such entities with compliance with the law.

1. If the Owner determines your employee(s) will have more than limited contact with students, then you must take one or more of the following steps:
  - a. Install a physical barrier at the worksite to limit contact with pupils.
  - b. Have an employee, who the Department of Justice has ascertained has not been convicted of a violent or serious felony, continually monitor and supervise employees. The entity shall verify in the Independent Contractor Student Contact Form to the Owner that the employee charged with monitoring and supervising its employees has no such convictions. (See attached.)
  - c. Arrange, with Owner's approval, for surveillance by Owner's personnel.

If one or more of these steps is taken, you are not required to comply with Education Code section 45125.1.

2. If you are providing the services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.2. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. Owner shall determine whether an emergency or exceptional situation exists.

I have read the foregoing and agree to comply with the requirements of Education Code §§ 45125.1 and 45125.2 as applicable.

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

\_\_\_\_\_  
Signature

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

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

## ATTACHMENT

Under Education Code section 45125.1, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.

- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any

methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

**INDEPENDENT CONTRACTOR STUDENT CONTACT FORM**

Contractor Name: \_\_\_\_\_  
Supervisor/Foreman Name: \_\_\_\_\_  
Start Date: \_\_\_\_\_  
Completion Date: \_\_\_\_\_  
Location of Work: \_\_\_\_\_  
Hours of Work: \_\_\_\_\_  
Length of Time on Grounds: \_\_\_\_\_  
Number of Employees on the Job: \_\_\_\_\_

Yes No  
[ ] [ ] Employees will have more than limited contact with students as determined by  
Owner, or if by Contractor, please explain:

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

If yes, the following steps will be taken to ensure student safety (check):

- A physical barrier will be installed at the worksite to limit contact with pupils.
- Employees will be continually monitored and supervised by an employee who has not been convicted of a violent or serious felony.

Name of Supervising Employee:  
\_\_\_\_\_

Date of Department of Justice verification that supervising employee has not been  
convicted of a violent or serious felony:  
\_\_\_\_\_

Name of employee who is the custodian of the Department of Justice verification  
information:  
\_\_\_\_\_

- Owner agrees: Employees will be surveilled by Owner’s personnel.

I declare under penalty of perjury that the foregoing is true and correct to the best of my  
knowledge.

Dated: \_\_\_\_\_  
Signature \_\_\_\_\_  
Typed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Note: This document must be executed and submitted with the executed Agreement between  
Owner and Contractor. END OF DOCUMENT*

**DOCUMENT 00 45 34**  
**IRAN CONTRACTING ACT CERTIFICATION**  
**(Public Contract Code sections 2202-2208)**

As required by Public Contract Code (“PCC”) section 2204 for contracts of \$1,000,000 or more, please insert bidder’s or financial institution’s name and Federal ID Number (if available) and complete **one** of the options below. Please note that California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (PCC §2205.)

**OPTION #1 - CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the bidder/financial institution identified below, and the bidder/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by California Department of General Services (“DGS”) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/bidder, for 45 days or more, if that other person/bidder will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS. (PCC §2204(a).)

<i>Bidder Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in</i>

**OPTION #2 – EXEMPTION**

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a bidder/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Bidder Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

END OF DOCUMENT

DOCUMENT 00 50 50

**NOTICE OF INTENT TO AWARD**

DATE POSTED:

CONTRACT NUMBER:

PROJECT TITLE:

Bonny S Gregorius, the Purchasing and Contracts Manager of the Berryessa Union School District, intends to recommend to the Board of Trustees of the Berryessa Union School District the Award of the above-referenced Project to at \_\_\_\_\_ meeting of the Board of Trustees.

Deliver to the District FOUR fully executed counterparts of Document 00 52 26 (Agreement). Each copy of Document 00 52 26 (Agreement) must bear your original signature on the signature page and your initials on each page. Please print as single sided copies.

You must provide a scanned signed copy of the agreement before 3:00pm on \_\_\_\_\_.  
You must provide the original completed documents listed below by 2:00pm on \_\_\_\_\_.

FOR THE BERRYESSA UNION SCHOOL DISTRICT

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

Bonny S Gregorius  
Purchasing and Contracts Manager  
408-923-1871 ofc  
408-926-8329 fax  
[bgregorius@busd.net](mailto:bgregorius@busd.net)

END OF DOCUMENT

**NOTICE OF AWARD**

Attn:

CONTRACT NO.:  
CONTRACT FOR:

The Contract Sum: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

1. One electronic copy of the proposed Contract Documents listed below accompanies this Notice of Intent to Award.
2. You must provide the original completed documents listed below by 2:00pm on \_\_\_\_\_.
  - a. Deliver to District TWO originals of Document 00 61 13.13 (Construction Performance Bond), executed by you and your surety.
  - b. Deliver to District TWO originals of Document 00 61 13.16 (Construction Labor and Material Payment Bond), executed by you and your surety.
  - c. Deliver to District TWO original sets of the insurance certificates with endorsements required under Document 00 72 00 (General Conditions).
3. Failure to comply with these conditions within the time specified will entitle District to consider your Bid abandoned, to annul this Notice of Award, and to declare your Bid security forfeited.
4. Within 10 days after you comply with the conditions in Paragraph 2 of this Document 00 51 00, District will return to you one fully signed counterpart of Document 00 52 26 (Agreement).
5. Before you may start any Work at the Site, you must attend a preconstruction conference. The preconstruction conference will be arranged through Kitchell CEM. Questions regarding bonds and insurance may be directed to Bonny S Gregorius, Purchasing Manager at 408-923-1871.

6. **SB 854 COMPLIANCE:** 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.

7. **FURNISHING OF ELECTRONIC CERTIFIED PAYROLL RECORDS TO LABOR COMMISSIONER:**

All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement).

**FOR THE BERRYESSA UNION SCHOOL DISTRICT**

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

Bonny S Gregorius  
Purchasing and Contracts Manager

Board Approval Date: \_\_\_\_\_

END OF DOCUMENT

**DOCUMENT 00 52 26**

**AGREEMENT BETWEEN OWNER AND CONTRACTOR**

This Agreement effective \_\_\_\_\_, 202\_\_, by and between Berryessa Union School District, Santa Clara County, California, hereinafter called the "Owner," and \_\_\_\_\_, hereinafter called the "Contractor."

**WITNESSETH:** That the Contractor and the Owner for the consideration hereinafter named agree as follows:

**ARTICLE I. 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:

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

**McKim Design Group**

and other contract documents relating thereto.

**ARTICLE II. 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.

**ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.**

Time is of the essence in this contract, and the time of Completion for the Project shall be as follows:

Start Construction – January 16, 2023

Complete Construction – February 24, 2023

Failure to Complete the Project within the time and in the manner provided for by the Contract Documents (i.e., by the Completion deadline) shall subject the Contractor to liquidated damages. For purposes of liquidated damages, the concept of “substantial completion” shall not constitute Completion and is not part of the Contract Documents. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Project were not Completed by the Completion 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 delay include, but are not limited to, loss of the use of the Project, disruption of activities, costs of administration, supervision 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 Project by the Completion deadline: **One Thousand Dollars (\$1000.00), for each calendar day** by which Completion of the Project is delayed beyond the Completion deadline as adjusted by change orders.

If the Contractor becomes liable under this section, the Owner, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages of payments and/or progress payments, and to collect the interest thereon, which would otherwise be or become due the Contractor until the liability of the Contractor under this section has been finally determined. If the retained percentages and withheld progress payments appear insufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner for such liabilities until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of Completion and liquidated damages.

**ARTICLE IV. PAYMENT AND RETENTION.** 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.

The retention amount on this Project is Five Percent (5%).

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

**ARTICLE VI. TERMINATION.** The Owner or Contractor may terminate the Contract as provided in the General Conditions.

**ARTICLE VII. 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 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. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner.

For public works contracts awarded on and after January 1, 2015, those public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations.

As of March 1, 2015, 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.

As of April 1, 2015, 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.

**ARTICLE VIII. 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.

**ARTICLE IX. 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.

**ARTICLE X. 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 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.

**ARTICLE XI. 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 \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a minimum of \$2,000,000.00 aggregate. The amount of automobile liability insurance shall be \$1,000,000.00 per accident for bodily injury and property damage combined single limit.

**ARTICLE XII. ENTIRE AGREEMENT.** The Contract constitutes the entire agreement between the parties relating to the Project and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Project 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 Code of Civil Procedure section 1856.

**ARTICLE XIII. 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.

**ARTICLE XIV. 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.

**ARTICLE XV. 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.

**ARTICLE XVI. 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.

**ARTICLE XVII. AMENDMENTS.** 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.

**ARTICLE XVIII. 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.

**ARTICLE XIX. 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.

**(CONTRACTOR)**

**(OWNER)**

\_\_\_\_\_  
SIGNED BY (Contractor)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
CALIFORNIA CONTRACTOR'S  
LICENSE NO.

\_\_\_\_\_  
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

DOCUMENT 00 54 26

**This is a fiduciary account created by statute, Public Contract Code section 22300. The funds deposited in this account shall not be released to Contractor or any other person or entity, other than Owner, including pursuant to any purported lien or writ of attachment or execution, without the prior written, express approval of Owner.**

**ESCROW AGREEMENT FOR  
SECURITY DEPOSITS IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into by and between the Berryessa Union School District, whose address is 1376 Piedmont Road, San Jose, California 95132 (hereinafter called "Owner"); \_\_\_\_\_, whose address is \_\_\_\_\_ (hereinafter called "Contractor"); and \_\_\_\_\_, a state or federally chartered bank in California whose address is \_\_\_\_\_ (hereinafter called "Escrow Agent").

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

1. Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by the Owner pursuant to the Contract entered into between the Owner and Contractor in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and dated \_\_\_\_\_, \_\_\_\_\_, (the "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for retention earnings, the Escrow Agent shall notify the Owner within ten (10) calendar days of the deposit. The market value of the securities at the time of the substitution, as valued by the Owner, shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. If the Owner determines that the securities are not adequate it will notify Contractor and Escrow Agent, and Contractor shall deposit additional security as further determined by the Owner. Securities shall be held in the name of the Owner and shall designate the Contractor as the beneficial owner.
2. Thereafter, Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
3. Pursuant to Public Contract Code section 22300, as an alternative to the procedures set forth above, Contractor may request in writing that the Owner pay

retention amounts directly to Escrow Agent. When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for benefit of the Contractor until such time as the escrow created under this Escrow Agreement is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

4. The Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor and Escrow Agent.
5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.
7. The Owner shall have the right to draw upon the securities or any amount paid directly to Escrow Agent in the event of default by the Contractor. Upon seven (7) days written notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash, including any amounts paid directly to Escrow Agent pursuant to Section 3 above, as instructed by Owner. Escrow Agent shall not be concerned with the validity of any notice of default given by Owner pursuant to this paragraph, and shall promptly comply with Owner's instructions to pay over said escrowed assets. Escrow Agent further agrees to not interplead the escrowed assets in response to a conflicting demand and hereby waives any present or future opportunity of interpleader.
8. Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.
9. Escrow Agent shall rely on the written notifications from the Owner and Contractor pursuant to Sections (4), (5), (6), (7) and (8) of this Agreement and the

Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner, the Contractor and the Escrow Agent in connection with the foregoing, and exemplars of their respective signatures are as follows:

ON BEHALF OF OWNER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

ON BEHALF OF CONTRACTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

ON BEHALF OF ESCROW AGENT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their proper officers on the date first set forth above.

OWNER:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

CONTRACTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

ESCROW AGENT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typewritten Name

\_\_\_\_\_  
Title

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

END OF DOCUMENT

**DOCUMENT 00 55 00**

**NOTICE TO PROCEED**

Dated: \_\_\_\_\_, 20\_\_

TO: \_\_\_\_\_  
(Contractor)

ADDRESS: \_\_\_\_\_

PROJECT:

PROJECT/CONTRACT NO.: \_\_\_\_\_ between the Berryessa Union School District and Contractor ("Contract").

You are notified that the Contract Time under the above Contract will commence to run on \_\_\_\_\_, 20\_\_\_. By that date, you are to start performing your obligations under the Contract Documents. In accordance with the Agreement executed by Contractor, the date of completion is \_\_\_\_\_, 20\_\_.

You must submit the following documents by 5:00 p.m. of the **TENTH (10<sup>TH</sup>)** calendar day following the date of this Notice to Proceed:

- a. Contractor's preliminary schedule of construction.
- b. Contractor's preliminary schedule of values for all of the Work.
- c. Contractor's preliminary schedule of submittals, including Shop Drawings, Product Data, and Samples submittals
- d. Contractor's Safety Plan specifically adapted for the Project.
- e. A complete subcontractors list, including the name, address, telephone number, facsimile number, California State Contractors License number, classification, and monetary value of all Subcontracts.

Thank you. We look forward to a very successful Project.

Berryessa Union School District

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

END OF DOCUMENT

**DOCUMENT 00 61 13.13**

**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 \_\_\_\_\_, 201\_\_, for construction of:

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 \_\_\_\_\_, 201\_\_ 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

**DOCUMENT 00 61 13.16**

**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:

Which said agreement dated \_\_\_\_\_, 20\_\_, 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 \_\_\_\_\_, 201\_\_.

(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

**DOCUMENT 00 72 00**

**GENERAL CONDITIONS**

**for**

**CONTRACT OF CONSTRUCTION**

**Bid #B-07-2022-23**

**STRUCTURED CABLING at NEW DISTRICT OFFICE**

**BERRYESSA UNION SCHOOL DISTRICT**

**11/28/2022**

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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 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 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. It shall include the initial obligation of any Contractor or Subcontractor, who performs any portion of the Work, to visit the Site of the proposed Work with Owner’s representatives, a continuing obligation after the commencement of the Work to fully acquaint and familiarize itself with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, and make such investigation as it may see fit so that it shall fully understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Contractor or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated

bid documents. The “Site” refers to the grounds of the Project as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work. 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 in whole or in part and which may 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 OR COMPLETE**

Statutory definitions of “completion” and “complete” shall apply for those statutory purposes. For accrual of liquidated damages, Claim and warranty purposes, “completion” and “complete” mean the point in the Project 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 of the Work shall not constitute “completion” or “complete” under the Contract Documents.

## 1.2 EXECUTION, CORRELATION AND INTENT

### 1.2.1 CORRELATION AND INTENT

1.2.1.1 ***Documents Complementary and Inclusive.*** 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.

1.2.1.2 ***Coverage of the Drawings and Specifications.*** The Drawings and Specifications generally describe the work to be performed by Contractor. Generally, the Specifications describe work which cannot be readily indicated on the Drawings and indicate types, qualities, and methods of installation of the various materials and equipment required for the Work. It is not intended to mention every item of Work in the Specifications, which can be adequately shown on the Drawings, or to show on the Drawings all items of Work described or required by the Specifications even if they are of such nature that they could have been shown. All materials or labor for Work, which is shown on the Drawings or the Specifications (or is reasonably inferable therefrom as being necessary to complete the Work), shall be provided by the Contractor whether or not the Work is expressly covered in the Drawings or the Specifications. It is intended that the Work be of sound, quality construction, and the Contractor shall be responsible for the inclusion of adequate amounts to cover installation of all items indicated, described, or implied in the portion of the Work to be performed by Contractor.

1.2.1.3 ***Conflicts.*** 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.

1.2.1.4 ***Conformance With Laws.*** 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.

Before commencing any portion of the Work, Contractor shall check and review the Drawings and Specifications for such portion for conformance and compliance with all laws, ordinances, codes, rules and regulations of all governmental authorities and public utilities affecting the construction and operation of the physical plant of the Project, all quasi-governmental and other regulations affecting the construction and operation of the physical plant of the Project, and other special requirements, if any, designated in the Contract Documents. In the event Contractor observes any violation of any law, ordinance, code, rule or regulation, or inconsistency with any such restrictions or special requirements of the Contract Documents, Contractor shall promptly notify Architect and Owner in writing of same and shall ensure that any such violation or inconsistency shall be corrected in the manner provided hereunder prior to the construction of that portion of the Project. 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.

If, as and to the extent that Public Contract Code section 1104 is deemed to apply after the Award of the Contract, Contractor shall not be required to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications, notwithstanding any other provision in the Contract Documents, except to the extent that Contractor discovered or should have discovered and reported any errors and omissions to the Architect or Owner, including but not limited to as the result of any review of the plans and specifications by Contractor required by the Instructions to Bidders or other Contract Documents, whether or not actually performed by Contractor.

**1.2.1.5 Ambiguity.** Before commencing any portion of the Work, Contractor shall carefully examine all Drawings and Specifications and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify Architect and Owner in writing of any perceived or alleged error, inconsistency, ambiguity, or lack of detail or explanation in the Drawings and Specifications in the manner provided herein. If the Contractor or its Subcontractors, material or equipment suppliers, or any of their officers, agents, and employees performs, permits, or causes the performance of any Work under the Contract Documents, which it knows or should have known to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all costs arising therefrom including, without limitation, the cost of correction thereof without increase or adjustment to the Contract Sum or the time for performance. If Contractor performs, permits, or causes the performance of any Work under the Contract Documents prepared by or on behalf of Contractor which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction, without increase to or adjustment in the Contract Sum or the time for performance. In no case shall any Subcontractor proceed with the Work if uncertain without the Contractor's written direction and/or approval.

**1.2.1.6 Execution.** Execution of the Agreement Between Owner and Contractor by the Contractor is a representation that the Contractor has visited the site, become familiar with the local conditions under which the Work is to be performed and has correlated personal observations with the requirements of the Contract Documents.

## **1.2.2 ADDENDA AND DEFERRED APPROVALS**

**1.2.2.1 Addenda.** Subsequent addenda issued shall govern over prior addenda only to the extent specified. In accordance with Title 24, California Code of Regulations, addenda shall be approved by the Division of the State Architect ("DSA").

**1.2.2.2 Deferred Approvals.** The requirements approved by the DSA on any item submitted as a deferred approval in accordance with Title 24, California Code of Regulations, shall take precedence over any previously issued addenda, drawing or specification.

## **1.2.3 SPECIFICATION INTERPRETATION**

1.2.3.1 **Titles.** The Specifications are separated into titled sections for convenience only and not to dictate or determine the trade or craft involved. Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of work to be performed by any trade.

1.2.3.2 **As Shown, Etc.** Where “as shown,” “as indicated,” “as detailed,” or words of similar import are used, reference is made to the Drawings accompanying the Specifications unless otherwise stated. Where “as directed,” “as required,” “as permitted,” “as authorized,” “as accepted,” “as selected,” or words of similar import are used, the direction, requirement, permission, authorization, approval, acceptance, or selection by Architect is intended unless otherwise stated.

1.2.3.3 **Provide.** “Provide” means “provided complete in place,” that is, furnished, installed, tested, and ready for operation and use.

1.2.3.4 **General Conditions.** The General Conditions and any supplementary general conditions are a part of each and every section of the Specifications.

1.2.3.5 **Abbreviations.** In the interest of brevity, the Specifications are written in an abbreviated form and may not include complete sentences. Omission of words or phrases such as “Contractor shall,” “shall be,” etc., are intentional. Nevertheless, the requirements of the Specifications are mandatory. Omitted words or phrases shall be supplied by inference in the same manner as they are when a “note” occurs on the Drawings.

1.2.3.6 **Plural.** Words in the singular shall include the plural whenever applicable or the context so indicates.

1.2.3.7 **Metric.** The Specifications may indicate metric units of measurement as a supplement to U.S. customary units. When indicated thus: 1” (25 mm), the U. S. customary unit is specific, and the metric unit is nonspecific. When not shown with parentheses, the unit is specific. The metric units correspond to the “International System of Units” (SI) and generally follow ASTM E 380, “Standard for Metric Practice.”

1.2.3.8 **Standard Specifications.** Any reference to standard specifications of any society, institute, association, or governmental authority is a reference to the organization’s standard specifications, which are in effect as of the date the Notice to Bidders is first published. If applicable specifications are revised prior to completion of any part of the Work, the Contractor may, if acceptable to Owner and Architect, perform such Work in accordance with the revised specifications. The standard specifications, except as modified in the Specifications for the Project, shall have full force and effect as though printed in the Specifications. Architect will furnish, upon request, information as to how copies of the standard specifications referred to may be obtained.

1.2.3.9 **Absence of Modifiers.** In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but th

e fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **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. Neither the Contractor nor any Subcontractor, Sub-subcontractor, or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Owner, upon request upon completion of the Work. The Drawings, Specifications, and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor, or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's property interest or other reserved right. All copies made under this license shall bear appropriate attribution and the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect.

## **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 and/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 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

##### **2.2.1 INTENTIONALLY LEFT BLANK**

## 2.2.2 SITE SURVEY

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.

## 2.2.3 SOILS

**2.2.3.1 Owner Furnished Services.** When required by the scope of the Project, the Owner will furnish, at its expense, the services of geotechnical engineers or consultants when reasonably required or as required by local or state codes. Such services with reports and appropriate professional recommendations shall include test boring, test pits, soil bearing values, percolation tests, air and water pollution tests, and ground corrosion and resistivity tests, including necessary operations for determining subsoil, air, and water conditions.

**2.2.3.2 Contractor Reliance.** 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 of 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.

## 2.2.4 UTILITY SURVEY

When required by the scope of the Project, the Owner will furnish, at its expense, all information regarding known existing utilities on or adjacent to the Site, including location, size, inverts, and depths.

## 2.2.5 INFORMATION

Upon the request of the Contractor, Owner will make available such existing information regarding utility services and Site features, including existing construction, related to the Project

as is available from Owner's records. The Contractor may not rely upon the accuracy of any such information, other than that provided under Sections 2.2.2 and 2.2.4 (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 Project, and prior experience with similar projects), unless specifically stated in writing that the Contractor may rely upon the designated information.

## 2.2.6 EXISTING UTILITY LINES; REMOVAL, RELOCATION

2.2.6.1 **Removal, Relocation.** 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 Project 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.

2.2.6.2 **Assessment.** These subparagraphs shall not be construed to preclude assessment against the Contractor for any other delays in completion of the Work. Nothing in these subparagraphs shall be deemed to require the Owner to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, or meter junction boxes on or adjacent to the Site.

2.2.6.3 **Notification.** If the Contractor, while performing work under this Contract, discovers utility facilities not identified by the Owner in the Contract plans or specifications, Contractor shall immediately notify the Owner and the utility in writing.

2.2.6.4 **Underground Utility Clearance.** It shall be Contractor's sole responsibility to timely notify all public and private utilities serving the Site prior to commencing work. The Contractor shall notify and receive clearance from any cooperative agency, such as Underground Service Alert, in accordance with Government Code section 4216, et seq. Contractor shall promptly provide a copy of all such notifications to the Owner.

## 2.2.7 EASEMENTS

Owner shall secure and pay for easements for permanent structures or permanent changes in existing facilities, if any, unless otherwise specified in the Contract or Contract Documents.

## 2.2.8 REASONABLE PROMPTNESS

Information or services under Owner's control will be furnished by the Owner with reasonable promptness. The Owner shall not be liable for any delays caused by factors beyond the Owner's

control including but not limited to DSA's or any other local, State or federal agency's review of bids, change order requests, RFI's or any other documents.

### **2.2.9 COPIES FURNISHED**

The Contractor will be furnished such copies of Drawings and Project Manuals as are stated in the Contract Documents.

### **2.2.10 DUTIES CUMULATIVE**

The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein, and especially those in Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

## **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, 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. The right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Article 6.

## **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, 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 with Contractor. Owner may exercise this right at any time during the Contractor's Work.

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 representative. 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.

#### **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 any of the Work is performed by contractors retained directly by the Owner, Contractor shall be responsible for the coordination and sequencing of the Work of those other contractors so as to avoid any impact on the Project Schedule pursuant to the requirements of Article 6. Specific duties of the Contractor shall be in accordance with Title 24 of the California Code of Regulations. Contractor shall fully comply with any and all reporting requirements of Education Code sections 17309 and 81141 in the manner prescribed by Title 24.

##### **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 ARCHITECT’S 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 and the Architect, or the 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.

### **3.2.5 PROJECT MEETINGS**

Contractor shall attend Owner's Project meetings as scheduled by the Contract Documents, or as otherwise instructed by Owner, to discuss the current status of the Project and the future progress of the Work. Contractor shall have five (5) days after receipt of Owner's Project meeting minutes to provide written objections and suggested corrections.

### **3.3 SUPERINTENDENT**

#### **3.3.1 FULL TIME 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.

#### **3.3.2 STAFF**

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.

#### **3.3.3 RIGHT TO REMOVE**

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**

#### **3.4.1 CONTRACTOR TO PROVIDE**

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.

#### **3.4.2 QUALITY**

Unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of such quality as required to satisfy the standards of the Contract

Documents. The Contractor shall, if requested, promptly furnish satisfactory evidence as to kind and quality of all materials and equipment. All labor shall be performed by workers skilled in their respective trades, and the quality of their work shall meet whichever is the higher standard for their work: the standard in the industry or the standard in the Contract Documents.

### **3.4.3 REPLACEMENT**

Any work, materials, or equipment, which does not conform to these standards may be disapproved and rejected by the Owner, in which case, they shall be removed and replaced by the Contractor at no cost to the Owner.

### **3.4.4 DISCIPLINE**

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract in accordance with paragraph 5.5.1 including, but not limited to, Subcontractors, and material or equipment suppliers retained for the Project.

### **3.5 WARRANTY**

For the period of one (1) year after completion of the Work (see Sections 9.7.1 and 12.2.5), 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. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty does not cover damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### **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**

#### **3.7.1 PAYMENT**

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 13.5.2, unless a different mileage range is specified in the Contract Documents.

### 3.7.2 COMPLIANCE

The Contractor shall comply with and give notices required by any law, ordinance, rule, regulation, and lawful order of public authorities bearing on performance of the Work.

### 3.7.3 CONTRACT DOCUMENTS

It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with any applicable law, statute, ordinance, building codes, rule, or regulation. However, if the Contractor knew, or should have known, or observes that portions of the Contract Document are at variance therewith, the Contractor shall promptly notify the Architect, any construction manager, and Owner in writing, and necessary changes shall be accomplished by appropriate modification.

### 3.7.4 RESPONSIBILITY

If the Contractor performs Work that it knows, or should have known, is contrary to any law, statute, ordinance, building code, rule or regulation, the Contractor shall assume full responsibility for such Work, for all delays attributable thereto, and shall bear the attributable cost of correction or Project delay.

## 3.8 ALLOWANCES

### 3.8.1 CONTRACT

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.

### 3.8.2 SCOPE

3.8.2.1 **Prompt Selection.** Materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay to the Work.

3.8.2.2 **Cost.** Allowances shall cover the cost to the Contractor of materials and equipment delivered at the Site and all required taxes, less applicable trade discounts, etc., as delineated in paragraph 7.7.4.

3.8.2.3 **Cost Included in Contract Sum.** Contractor's costs for unloading and handling at the Site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.

3.8.2.4 **Contract Sum Adjustment.** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual cost and the allowances under paragraph 3.8.2.2 and the change in the Contractor's costs under paragraph 3.8.2.3.

### 3.9 CONTRACTOR'S CONSTRUCTION SCHEDULES

#### 3.9.1 REQUIREMENTS

Before the Contractor's commencement of Work on the Project Site or within two (2) weeks of award of the Contract, whichever is earlier, Contractor shall prepare and submit for the Owner's, and any construction manager's, information the construction schedule for the Work, which shall conform to the Contract Documents' requirements.

Contractor shall submit a monthly updated schedule that will include an accurate as-built schedule and the current as-planned schedule, both of which shall conform to the Contract Documents' requirements. Contractor shall submit its daily logs for the prior month with the updated schedule.

The schedule and updates shall conform, at a minimum, to industry standards for critical path scheduling and to facilitate Owner's Project management and evaluation of Contractor Claims for additional money or time.

The schedule and updates shall not exceed time limits (including milestone deadlines) under the Contract Documents and shall comply with the Contract Documents scheduling requirements and with any scheduling requirements the Owner provides to the Contractor at the beginning of the Work. The original schedule and all updates shall accurately reflect work performed to date, all construction tasks (including procurement), the critical path schedule for completion of the remainder of the Project, and the percentage of the Work completed. The original schedule and updates shall include all delay days for weather not unusually severe, even though that weather will not entitle Contractor to additional time or money.

The construction schedule shall be in the form of either a tabulation, chart, or graph, unless otherwise stated in Division 1 of the Specifications, 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. Float suppression techniques such as preferential sequencing, special lead/lag logic restraints, extended activity durations, or imposed dates shall be apportioned for the benefit of the Project. Whenever in the Contract Documents Contractor is required to provide a schedule and/or schedule updates, the Contractor shall provide the schedule and updates in electronic format as well as hard copy. Contractor shall be solely responsible for the accuracy, utility and reasonableness of all of its schedules. Owner's acceptance, approval or non-rejection of Contractor's schedules shall not affect Contractor's responsibility for its schedules.

The Contractor and Owner shall use any float on a “first come, first served” basis. The original schedule and updates shall reflect Contractor’s and Owner’s use of float. Float is not for the exclusive use or benefit of either Owner or Contractor, but it is a jointly owned expiring Project resource available to both parties as needed to meet schedule milestones. For the original schedule and updates, Contractor shall use a critical path network format with the critical paths clearly indicated. Contractor shall use an MS Project, Primavera, or an equivalent or better program. Contractor shall provide schedule conversion to MS Project or as directed by District. Contractor shall include reports that sort and list the activities in order of increasing float and by early and late start dates. Contractor shall endeavor to label ten to thirty percent (10-30%) of the tasks as critical, but shall not label less than five (5%) or more than fifty (50%) as critical. Contractor shall use calendar days.

If any change in Contractor’s method of operations will cause a change in the construction schedule, Contractor shall submit to Owner, Architect and any construction manager, a revised construction schedule within seven (7) days of the change, unless a different time period is stated in Division 1 of the Specifications.

If, in the Owner’s opinion, the Contractor is not prosecuting the Work at a rate sufficient to meet the Project schedule, a contractual milestone or the Project completion date (as adjusted by change orders) or if the Contractor’s actual progress falls behind the Project schedule or it is apparent to Owner or Contractor that Contractor will not meet contractual milestones or the Project completion date (as adjusted by change orders), the Owner may require that the Contractor prepare and submit a recovery plan. Contractor must submit a recovery plan within seven (7) days of a demand for the plan, unless a different time period is stated in Division 1 of the Specifications. At a minimum, the recovery plan must include a revised schedule that gets the Work back on schedule and completes all Work by the contractual milestones and Project completion date (as adjusted by change orders) or by other dates Owner specifies in the demand for a recovery plan. The recovery plan shall state the corrective actions Contractor will undertake to implement it. The recovery plan shall also list any additional money that Contractor believes it should receive if Owner orders Contractor to fully or partially implement the recovery plan. If the Owner orders Contractor to implement the recovery plan, Contractor shall do so, but the order shall not act constitute an admission by Owner that Contractor is entitled to additional money. To recover additional money, Contractor must comply with General Conditions Articles 4.5, 7 and 8.

All schedules Contractor submits shall be certified as true and correct, as follows:

I, [name of declarant], declare the following:

[Contractor company name] has contracted with [public entity name] for the [name of project] Project. [Contractor company name] authorized me to prepare schedules for [public entity name] for this Project, and I prepared the attached schedule. I am the most knowledgeable person at [contractor company name] regarding the scheduling of this Project.

The attached schedule does not breach the Contract between [contractor company name] and [public entity name] for this Project, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate as-built and as-planned dates of work on the Project (including supporting data), and is not a false claim.

The attached schedule is submitted in compliance with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72 (Fraudulent Claims), Government Code sections 12650 et seq. (False Claims Act; for example, Government Code section 12651(a)(7)), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other Claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself and/or [contractor company name].

While preparing this declaration and schedule I consulted with others (including attorneys, consultants, or others who work for [contractor company name]) when necessary to ensure that the statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
[name of declarant]

### 3.9.2 DSA OVERSIGHT PROCESS

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.

### 3.9.3 FAILURE TO MEET REQUIREMENTS

Failure of the Contractor to provide proper schedules 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. These documents shall be available to the Owner and shall be delivered to the Architect for delivery to the Owner upon completion of the Work.

### 3.11 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

#### 3.11.1 SUBMITTALS DEFINED

3.11.1.1 **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, and includes: illustrations; fabrication, erection, layout and setting drawings; manufacturer’s standard drawings; schedules; descriptive literature, instructions, catalogs, and brochures; performance and test data including charts; wiring and control diagrams; and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the Contract Documents. The Contractor shall obtain and submit with the shop drawings all seismic and other calculations and all product data from equipment manufacturers. “Product data” as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work. As used herein, the term “manufactured” applies to standard units usually mass-produced, and “fabricated” means items specifically assembled or made out of selected materials to meet individual design requirements. 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.

3.11.1.2 **Samples.** The term “samples” as used herein are physical examples furnished by Contractor to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the Specifications, and any other samples as may be required by the Owner to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by the Contractor conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

3.11.1.3 **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” provisions in Division 1 of the Specifications and in

accordance with the Contractor's original and updated schedules, and 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 fifteen (15) days after the execution of the Agreement. Contractor may be assessed \$100 a day for each day it is late in submitting a shop drawing or sample. No extensions of time will be granted to Contractor or any Subcontractor because of its failure to have shop drawings and samples submitted in accordance with the Schedule. Each Subcontractor shall submit all shop drawings, samples, and manufacturer's descriptive data for the review of the Owner, the Contractor, and the Architect through the Contractor. By submitting shop drawings, product data, and samples, the Contractor or submitting party (if other than Contractor) represents that it has determined and verified all materials, field measurements, field conditions, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. At the time of submission, any deviation in the shop drawings, product data, or samples from the requirements of the Contract Documents shall be narratively described in a transmittal accompanying the submittal. However, submittals shall not be used as a means of requesting a substitution, the procedure for which is defined in paragraph 3.11.4, "Substitutions." Review by Owner and Architect shall not relieve the Contractor or any Subcontractor from its responsibility in preparing and submitting proper shop drawings in accordance with the Contract Documents. Contractor shall stamp, sign, and date each submittal indicating its representation that the submittal meets all of the requirements of the Contract Documents. Any submission, which in Owner's or Architect's opinion is incomplete, contains numerous errors, or has been checked only superficially by Contractor will be returned unreviewed for resubmission by the Contractor.

3.11.1.4 ***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 neither be construed as a complete check nor relieve the Contractor, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless the Contractor has, in writing, called the Architect's attention to the deviations at the time of submission and the Architect has given specific written approval. The Architect's review shall not relieve the Contractor or Subcontractors from responsibility for errors of any sort in shop drawings or schedules, for proper fitting of the Work, or from the necessity of furnishing any Work required by the Contract Documents, which may not be indicated on shop drawings when reviewed. Contractor and Subcontractors shall be solely responsible for determining any quantities, whether or not shown on the shop drawings.

### 3.11.2 DRAWING SUBMISSION PROCEDURE

3.11.2.1 ***Transmittal Letter and Other Requirements.*** All shop drawings must be properly identified with the name of the Project and dated, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Project and to the Specification section number for identification of each item clearly stating in narrative form, as we

ll as “clouding” on the submissions, all qualifications, departures, or deviations from the Contract Documents, if any. Shop drawings, for each section of the Work, shall be numbered consecutively, and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor. Only shop drawings required to be submitted by the Contract Documents shall be reviewed.

3.11.2.2 **Copies Required.** Each submittal shall include one (1) legible, reproducible and five (5) legible prints and one (1) electronic copy of each drawing, including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the Specifications until final acceptance thereof is obtained. Subcontractor shall submit copies, in an amount as requested by the Contractor, of: manufacturers’ descriptive data for materials, equipment, and fixtures, including catalog sheets showing dimensions, performance, characteristics, and capacities; wiring diagrams and controls; schedules; all seismic calculations and other calculations; and other pertinent information as required.

3.11.2.3 **Corrections.** The Contractor shall make any corrections required by Architect and shall resubmit as required by Architect the required number of corrected copies of shop drawings or new samples until approved. Contractor shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections required by the Architect on previous submissions. Professional services required for more than one (1) re-review of required submittals of shop drawings, product data, or samples are subject to charge to the Contractor pursuant to paragraph 4.4.

3.11.2.4 **Approval Prior to Commencement of Work.** No portion of the Work requiring a shop drawing or sample submission shall be commenced until the submission has been reviewed by Owner and approved by Architect unless specifically directed in writing by the Owner. All such portions of the Work shall be in accordance with approved shop drawings and samples.

### 3.11.3 SAMPLE SUBMISSIONS PROCEDURE

3.11.3.1 **Samples Required.** In case a considerable range of color, graining, texture, or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by the Contractor to indicate the full range of characteristics, which will be present in the finished products; and products delivered or erected without submittal and approval of full range samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the Specifications, samples shall be submitted in duplicate. All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Project, the purpose for which the samples are submitted, and the date and shall be accompanied by a letter of transmittal containing similar information, together with the Specification section number for identification of each item. Each tag or sticker shall have clear space for the review stamps of Contractor and Architect.

3.11.3.2 **Labels and Instructions.** Samples of materials, which are generally furnished in containers bearing the manufacturers’ descriptive labels and printed application instructions, sh

all, if not submitted in standard containers, be supplied with such labels and application instructions.

3.11.3.3 **Architect's Review.** The Architect will review and, if appropriate, approve submissions and will return them to the Contractor with the Architect's stamp and signature applied thereto, indicating the appropriate action in compliance with the Architect's standard procedures.

3.11.3.4 **Record Drawings and Annotated Specifications.** The Contractor will prepare and maintain on a current basis an accurate and complete set of Record Drawings showing clearly all changes, revisions, and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions, and other significant features, and Annotated Specifications showing clearly all changes, revisions, and substitutions during construction. A copy of such Record Drawings and Annotated Specifications will be delivered to Owner in accordance with the Schedule prepared by Contractor. In the event of a specification that allows Contractor to elect one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items the Contractor has furnished. The Contractor will update the Record Drawings and Annotated Specifications as often as necessary to keep them current but no less often than weekly. The Record Drawings and Annotated Specifications shall be kept at the Site and available for inspection by the Owner, Inspector of Record and the Architect. On completion of the Contractor's portion of the Work and prior to Application for Final Progress Payment, the Contractor will provide one complete set of Record Drawings and Annotated Specifications to the Owner, certifying them to be a complete and accurate reflection of the actual construction conditions of the Work.

3.11.3.5 **Equipment Manuals.** Contractor shall obtain and furnish three (3) complete sets of manuals containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract Documents and any additional data specifically requested under the various sections of the Specifications for each division of the Work. The manuals shall be arranged in proper order, indexed, and placed in three-ring binders. At the completion of its Work, the Contractor shall certify, by endorsement thereon, that each of the manuals is complete, accurate, and covers all of its Work. Prior to submittal of Contractor's Application for Final Progress Payment, and as a further condition to its approval by the Architect, each Subcontractor shall deliver the manuals, arranged in proper order, indexed, endorsed, and placed in three-ring binders, to the Contractor, who shall assemble these manuals for all divisions of the Work, review them for completeness, and submit them to the Owner through the Architect.

3.11.3.6 **Owner's Property.** All shop drawings and samples submitted shall become the Owner's property.

#### 3.11.4 SUBSTITUTIONS

3.11.4.1 **One Product Specified.** Unless the Specifications state that no substitution is permitted, whenever in the Contract Documents any specific article, device, equipment, product, material, fixture, patented process, form, method, or type of construction is indicated or specified by name, make, trade name, or catalog number, with or without the words “or equal,” such specification shall be deemed to be used for the purpose of facilitating description of material, process, or article desired and shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer any material, process, or article, which shall be substantially equal or better in every respect to that so indicated or specified and will completely accomplish the purpose of the Contract Documents.

3.11.4.2 **Two or More Products Specified.** When two or more acceptable products are specified for an item of the Work, the choice will be up to the Contractor. Contractor shall utilize the same product throughout the Project. If a timely substitution request as set forth in Section 3.11.4.3 is not provided and an “or equal” substitution is requested, the Owner may consider the substitution if the product specified is no longer commercially available. If the Owner allows the substitution to be proposed pursuant to such an untimely request, the Contractor will be responsible for the professional fees incurred by the Architect or Architect’s consultants in reviewing the proposed substitution which fees may be withheld from progress payments and/or retention.

3.11.4.3 **Substitution Request Form.** Requests for substitutions of products, materials, or processes other than those specified must be made on the Substitution Request form available from the Owner prior to the date of the bid opening. Any Requests submitted less than fourteen (14) days prior to the date of the bid opening will not be considered, except as noted in paragraph 3.11.4.2. A Substitution Request must be accompanied by evidence as to whether or not the proposed substitution: is equal in quality and serviceability to the specified item; will entail no changes in detail and construction of related work; will be acceptable in consideration of the required design and artistic effect; will provide no cost disadvantage to Owner; and will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts. The burden of proof of these facts shall be upon the Contractor. The Contractor shall furnish with its request sufficient information to determine whether the proposed substitution is equivalent including but not limited to all drawings, specifications, samples, performance data, calculations, and other information as may be required to assist the Architect and the Owner in determining whether the proposed substitution is acceptable. The final decision shall be the Owner’s. The written approval of the Owner, consistent with the procedure for Change Orders, shall be required for the use of a proposed substitute material. Owner may condition its approval of the substitution upon delivery to Owner of an extended warranty or other assurances of adequate performance of the substitution. All risks of delay due to the Division of the State Architect’s, or any other governmental agency having jurisdiction, approval of a requested substitution shall be on the requesting party.

3.11.4.4 **List of Manufacturers and Products Required.** The Subcontractor shall prepare and submit to the Contractor within thirty (30) days of execution of the Subcontract comprehensive lists, in quadruplicate, of the manufacturers and products proposed for the Project, including information on materials, equipment, and fixtures required by the Contract Documents, as may be required for Contractor’s or Architect’s preliminary approval. Approval of

such lists of products shall not be construed as a substitute for the shop drawings, manufacturer's descriptive data, and samples, which are required by the Contract Documents, but rather as a base from which more detailed submittals shall be developed for the final review of the Contractor and the Architect.

### **3.11.5 DEFERRED APPROVALS**

Deferred approvals shall be submitted and processed pursuant to the requirements of Division 1 of the Specifications. All risks of delay due to the Division of the State Architect's, or any other governmental agency having jurisdiction, approval of a deferred approval shall be on the requesting party.

## **3.12 CUTTING AND PATCHING**

### **3.12.1 SCOPE**

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

### **3.12.2 CONSENT**

The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work. All cutting shall be done promptly, and all repairs shall be made as necessary.

### **3.12.3 STRUCTURAL MEMBERS**

New or existing structural members and elements, including reinforcing bars and seismic bracing, shall not be cut, bored, or drilled except by written authority of the Architect and DSA. Work done contrary to such authority is at the Contractor's risk, subject to replacement at its own expense and without reimbursement under the Contract. Agency approvals shall be obtained by the Architect, not by the Contractor.

### **3.12.4 SUBSEQUENT REMOVAL**

Permission to patch any areas or items of the Work shall not constitute a waiver of the Owner's or the Architect's right to require complete removal and replacement of the areas or items of the Work if, in the opinion of the Architect or the Owner, the patching does not satisfactorily restore quality and appearance of the Work or does not otherwise conform to the Contract Documents. Any costs caused by defective or ill-timed cutting or patching shall be borne by the person or entity responsible.

### **3.13 CLEANING UP**

#### **3.13.1 CONTRACTOR'S RESPONSIBILITY**

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 neat and orderly condition. All crates, cartons, paper, and other flammable waste materials shall be removed from Work areas and properly disposed of at the end of each day. The Contractor shall continuously remove from and about the Site the waste materials, rubbish, tools, construction equipment, machinery, and materials no longer required for the Work.

#### **3.13.2 FAILURE TO CLEANUP**

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. Each Subcontractor shall have the responsibility for the cleanup of its own Work. If the Subcontractor fails to clean up, the Contractor must do so.

#### **3.13.3 CONSTRUCTION BUILDINGS**

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. If the Contractor does not remove the tools, equipment, machinery, and materials within fifteen (15) days after completion of its Work, then they shall be deemed abandoned, and the Owner can dispose of them for its own benefit in whatever way it deems appropriate. Contractor shall pay for any costs to dispose of the items.

### **3.14 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.

### **3.15 ROYALTIES AND PATENTS**

#### **3.15.1 PAYMENT AND INDEMNITY**

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, to the extent not caused by the Owner's active negligence, sole negligence or willful misconduct, from loss on account thereof but 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. However, if the Contractor has reason to believe the required design,

process, or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect.

### **3.15.2 REVIEW**

The review by the Owner or Architect of any method of construction, invention, appliance, process, article, device, or material of any kind shall be for its adequacy for the Work and shall not be an approval for the use by the Contractor in violation of any patent or other rights of any person or entity.

## **3.16 INDEMNIFICATION**

### **3.16.1 SCOPE: CONTRACTOR**

To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Owner, the 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.

### **3.16.2 SCOPE: SUBCONTRACTORS**

3.16.2.1 **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.

3.16.2.2 **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.

### 3.16.3 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.

## 3.17 OWNER AS INTENDED BENEFICIARY

The Owner is an intended beneficiary of any architectural or engineering work secured by, or performed by, the Contractor to fulfill its obligations under the Contract. Contractor shall state in its contracts with architectural or engineering consultants that their work is for the intended benefit of the Owner.

### **3.18 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 General Conditions section 4.5, 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, regardless of the merits of the defense. 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 Project management and the mitigation of Project costs and delays.

## **ARTICLE 4**

### **ADMINISTRATION OF THE CONTRACT**

#### **4.1 ARCHITECT**

##### **4.1.1 DEFINITION**

The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative, and shall also refer to all consultants under the Architect's direction and control.

##### **4.1.2 MODIFICATION**

To the extent the Contract Documents indicate that Owner has assigned duties or responsibilities to the Architect, Owner reserves the right at all times to reassign such duties or responsibilities to different Owner representatives.

##### **4.1.3 TERMINATION**

In the case of the termination of the Architect, the Owner may appoint an architect or another construction professional or may perform such functions with its own licensed professional

personnel. The status of the replacement Architect under the Contract Documents shall be that of the former architect.

## **4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT**

### **4.2.1 STATUS**

The Architect will provide administration of the Contract and may be one of several Owner's representatives during construction, through release of all retention, and during the one (1) year period following the commencement of any warranties. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent set forth in the Owner/Architect agreement. The Architect will have all responsibilities and power established by law, including California Code of Regulations, Title 24, to the extent set forth in the Owner/Architect agreement.

### **4.2.2 SITE VISITS**

The Architect will visit the Site at intervals necessary in the judgment of the Architect or as otherwise agreed by the Owner and the Architect in writing to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents.

### **4.2.3 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 in the Architect's administration of the Contract Documents, or by tests, inspections, or approvals required or performed by persons other than the Contractor.

### **4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION**

The Owner and the Contractor shall communicate through the Architect, unless there is a construction manager for the Project or the Owner directs otherwise. Communications between Owner and Subcontractors or material or equipment suppliers shall be through the Contractor.

### **4.2.5 PAYMENT APPLICATIONS**

The Contractor shall submit payment applications to the Architect, unless there is a construction manager for the Project or the Owner directs otherwise.

### **4.2.6 REJECTION OF WORK**

The Architect, Inspector of Record, any construction manager and others may recommend to the Owner that the Owner reject Work which does not conform to the Contract Documents or that the Owner require additional inspection or testing of the Work in accordance with paragraph

13.5.5, whether or not the Work is fabricated, installed, or completed. However, no recommendation shall create a duty or responsibility to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

#### 4.2.7 CHANGE ORDERS

The Architect will prepare change orders and construction change directives and may authorize minor changes in the Work.

#### 4.2.8 WARRANTIES UPON COMPLETION

The Architect in conjunction with the Inspector of Record, or as otherwise directed by Owner, will conduct field reviews of the Work to determine the date of completion, shall receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor. The handling by the Architect of such warranties, maintenance manuals, or similar documents shall not diminish or transfer to the Architect any responsibilities or liabilities required by the Contract Documents of the Contractor or other entities, parties, or persons performing or supplying the Work.

Except as may be otherwise directed by Owner, the Architect will conduct a field review of the Contractor's comprehensive list of items to be completed or corrected for development of a punch list and one (1) follow-up field review if required. The cost incurred by the Owner for further field reviews or the preparation of further punch lists by the Architect shall be invoiced to the Contractor and withheld from payment and/or retention.

#### 4.2.9 INTERPRETATION

The Architect, Inspector of Record, any construction manager, the Owner or any independent consultant of Owner, as Owner deems appropriate, will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of the Contractor. The Owner's response to such requests will be made with reasonable promptness, while allowing sufficient time to permit adequate review and evaluation of the request.

#### 4.2.10 ADDITIONAL INSTRUCTIONS

4.2.10.1 *Architect's Interpretations and Decisions.* Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations of and decisions regarding the Contract Documents, the Architect will endeavor to secure faithful performance under the Contract Documents by both the Owner and the Contractor and will not show partiality to either. The Work shall be executed in conformity with, and the Contractor shall do no work without, approved drawings, Architect's clarifying instructions, and/or submittals.

4.2.10.2 *Typical Parts and Sections.* Whenever typical parts or sections of the Work are completely detailed on the Drawings, and other parts or sections which are essentially of the sa

me construction are shown in outline only, the complete details shall apply to the Work which is shown in outline.

4.2.10.3 **Dimensions.** Dimensions of Work shall not be determined by scale or rule. Figured dimensions shall be followed at all times. If figured dimensions are lacking on Drawings, Architect shall supply them on request. The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the Contract Documents.

### 4.3 INSPECTOR OF RECORD

#### 4.3.1 GENERAL

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.

#### 4.3.2 INSPECTOR OF RECORD'S DUTIES

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 nor shall the Inspector of Record's approval of the Work and methods relieve the Contractor of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

#### 4.3.3 INSPECTOR OF RECORD'S AUTHORITY TO REJECT OR STOP WORK

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. The Contractor shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work order or rejection of any portion of the Work shall not relieve the Contractor from any of its obligations pursuant to the Contract Documents.

#### 4.3.4 INSPECTOR OF RECORD'S FACILITIES

Within seven (7) days after notice to proceed, the Contractor shall provide the Inspector of Record with the temporary facilities as required under Division 1 of the Specifications.

#### **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. Such invoicing shall be independent from any other Owner remedies, including but not limited to liquidated damages. If payments then or thereafter due to the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. Additional services shall include, but shall not be limited to, the following:

- A. Services made necessary by the default of the Contractor.
- B. Services made necessary due to the defects or deficiencies in the Work of the Contractor.
- C. Services required by failure of the Contractor to perform according to any provision of the Contract Documents.
- D. Services in connection with evaluating substitutions of products, materials, equipment, Subcontractors proposed by the Contractor, and making subsequent revisions to drawings, specifications, and providing other documentation required (except for the situation where the specified item is no longer manufactured or available).
- E. Services for evaluating and processing Claims submitted by the Contractor in connection with the Work outside the established Change Order process.
- F. Services required by the failure of the Contractor to prosecute the Work in a timely manner in compliance within the specified time of completion.
- G. Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of Work involved.
- H. Services in conjunction with more than one (1) re-review of required submittals of shop drawings, product data, and samples.

#### **4.5 NOTICES OF POTENTIAL CHANGE, CHANGE ORDER REQUESTS, AND CLAIMS**

If the Contractor identifies the potential for extra work, delay in the critical path schedule, or the need for additional money or time, or if the Contractor requests additional money or time, or if the Contractor believes that Owner has failed to pay amounts due or otherwise breached the Contract, or otherwise believes that it is entitled to a modification of the Contract terms and conditions, then Contractor shall follow the procedures in this Section 4.5 and Article 7,

otherwise Contractor shall have waived its rights to pursue those issues and any later attempts to recover money or obtain a modification shall be barred. Contractor specifically acknowledges the Owner's and public's interest in, and need to know of, potential changes and disputes as early as possible so Owner can investigate, mitigate and resolve adverse cost and time impacts, if any. It is Contractor's obligation to know and comply with the requirements of Section 4.5 and Article 7, and Owner has no obligation to notify Contractor of any failure to comply with those requirements.

#### **4.5.1 NOTICE OF POTENTIAL CHANGE**

Contractor shall submit a written Notice of Potential Change for extra work, critical path delay, or additional money or time. Contractor shall submit written Notices of Potential Change to Owner within five (5) days of Contractor becoming aware of the issues creating the potential for change, unless the issues are, or may soon be, adversely affecting the costs or critical path of the Work, in which case the Contractor must submit the written notice without delay so the Owner may take immediate action to mitigate cost and schedule impacts of the change, if any. The written notice shall explain the nature of the potential change so the Owner may take action to mitigate costs and schedule impacts, if necessary.

When submitting a written Notice of Potential Change based on extra work, Contractor shall not perform the extra work until directed in writing to do so by Owner. When submitting a written Notice of Potential Change for an issue of critical path delay, Contractor shall proactively mitigate the effects of the alleged delay as much as reasonably possible so as to minimize any impact to the schedule, until otherwise directed by Owner.

Failure to timely submit a written Notice of Potential Change shall constitute a complete waiver by Contractor of any right to later submit a change order request or pursue a Claim on that issue, or to later pursue any additional money or time extensions in any manner related to that issue, regardless of the merits. 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 Project management and the mitigation of Project costs and delays.

#### **4.5.2 CHANGE ORDERS REQUESTS**

If, after submitting a written Notice of Potential Change pursuant to Section 4.5.1, Contractor continues to believe that it is entitled to additional money or time (including but not limited to grant of a time extension; payment of money or damages arising from work done by, or on behalf of, the Contractor, payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or an amount the payment of which is disputed by the Owner) based on an issue, then Contractor shall submit a Change Order Request ("COR") to Owner within twenty (20) days of (i) becoming aware of the issues creating a potential change, or (ii) the date by which it should have become aware of the issues creating a potential change. A rejection at any time or a lack of a rejection by Owner of a Notice of Potential Change does not affect the timeline for submitting a COR.

Failure to timely submit a COR related to an issue, or failure to comply with any of the COR requirements in the Contract shall constitute a complete waiver by Contractor of any right to later submit a COR or Claim on that issue, or to later pursue any additional money (including time extensions) in any manner related to that issue, regardless of the merits. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

The COR shall state the grounds for the additional money or time requested and the amount of money or time requested, and Contractor shall include all information supporting the COR.

Contractor shall certify the COR using the form set forth in Section 4.5.5.1, except that every reference to “Claim” shall be changed to “COR.” If a COR is submitted without certification, a certification can still be submitted within the timelines set forth in the first paragraph of section 4.5.2. If the COR is not timely certified, Contractor will have completely waived its rights to any money or time for that issue. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

The Owner may accept the entire COR, accept part of the COR and reject the remainder, reject the entire COR, or request additional information. If the Owner does not respond within thirty (30) days by accepting the entire COR, accepting part of the COR and rejecting the remainder, or requesting additional information, the entire COR shall be deemed rejected as of the thirtieth (30th) day. If the Owner requests additional information, then the Contractor shall submit the information within fifteen (15) days of the date of the request and the Owner shall have fifteen (15) days after the receipt of the additional information to accept or reject (in whole or in part) the COR. If the Owner fails to respond within fifteen (15) days after the submission of additional information, the entire COR shall be deemed rejected as of the fifteenth (15th) day.

#### 4.5.3 DEFINITION OF CLAIM

A “Claim” is a separate demand by the Contractor for (a) a time extension, (b) payment of money or damages arising from work done by, or on behalf of, the Contractor, 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 Owner. A claim includes any claim within the scope of Public Contract Code section 20104 et seq. Resubmittal in any manner of a COR which was previously rejected under Section 4.5.2 constitutes a Claim, whether the COR was rejected in whole or in part, and whether the COR was rejected expressly or deemed rejected by Owner inaction. A Claim includes any dispute Contractor may have with the Owner, including one which does not require a Notice of Potential Change or COR under Sections 4.5.1 and 4.5.2, and includes an alleged breach of contract by the Owner. A Claim under this Article 4.5 shall also constitute a claim for purposes of the California False Claims Act. In the event of a conflict between a Claims provision in Division 1 of the Specifications and Section 4.5, Section 4.5 shall take precedence.

The Notice of Potential Change and COR procedures above are less formal procedures which precede the more formal Claim. A Notice of Potential Change does not constitute a Claim. A COR does not constitute a Claim; **except that** if insufficient time remains before the Claim deadline (see Article 4.5.4) for Contractor to submit a COR and for Owner to process and reject

the COR under Article 4.5.2, then either (1) Contractor may submit a COR which Owner shall treat as a Claim, but only if the COR complies with all requirements in this Article 4.5 and Article 7 for COR's and Claims, or (2) a COR is not required so long as a Claim complying with this Article 4.5 is timely submitted.

A Claim does not include vouchers, invoices, progress payment applications, or other routine or authorized forms of requests for progress payments on the Contract; however, those documents remain "claims" for purposes of the California False Claims Act. A Claim does not include a Government Code Claim. ("Government Code Claim" means a claim under Government Code sections 900 et seq. and 910 et seq.)

#### 4.5.4 TIME FOR SUBMITTING CLAIM; WAIVER

Contractor shall submit a Claim to the Owner's construction manager (or in the absence of a construction manager, to Architect and Owner) on or before the date of the Final Progress Payment. Owner's rejection, or lack of rejection, of a COR at any time does not affect the deadline for filing a Claim.

In addition, on or before submitting its request for a final progress payment based on 100% completion of the work, Contractor shall submit to Owner, in writing, a summary of all Claims for money or time extensions under or arising out of this Contract which were timely filed and which were fully compliant with the Contract's requirements for Claims. The submission of an Application for Payment for the Final Progress Payment shall constitute a complete waiver of all Claims against Owner under or arising out of this Contract, except those identified in the above summary. Contractor will not have satisfied a condition precedent or exhausted administrative remedies. This Claim summary requirement shall not extend the time for submitting a Claim.

Failure to timely submit a Claim, failure to include a Claim in the Claim summary, or failure to comply with any of the Claim requirements in the Contract, including but not limited to this Article 4, will act as a complete waiver of Contractor's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim for the money or time (see Section 4.5.6.4), and (c) initiate any action, proceeding or litigation for the money or time, regardless of the merits. Contractor will not have satisfied a condition precedent or exhausted administrative remedies. Owner does not have an obligation to reject the Claim for a failure to comply with any of the Claim requirements in the Contract, including the lack of certification, and any failure by Owner to reject, or any delay in rejecting, a Claim on that basis does not waive the Owner's right to reject the Claim on that basis at a later time. In no event may the Contractor reserve its rights to assert a Claim for a time extension or additional money beyond the timelines set forth in this provision unless the Owner agrees in writing to allow the reservation.

#### 4.5.5 CONTENT OF CLAIM

4.5.5.1 *Claim Format; Waiver.* Every Claim shall be in writing. All money or time extensions sought must be stated and itemized in the Claim at the time submitted. The re

sponsibility to substantiate Claims shall rest with the Contractor. In addition, the Contractor shall include a certification with each and every Claim at the time of submission, as follows:

I, [name of declarant], declare the following:

[Contractor company name] has contracted with Berryessa Union School District for the Northwood Elementary School Flexible Instructional Space Alteration and Related Modernization Project. ([Contractor company name]) authorized me to prepare the attached Claim for money and/or time extension) for Berryessa Union School District regarding this Project (dated \_\_\_\_\_, 20\_\_, entitled \_\_\_\_\_, and requesting \$ \_\_\_\_\_ and/or \_\_\_ additional days), and I prepared the attached Claim. I am the most knowledgeable person at [contractor company name] regarding this Claim.

The attached Claim complies with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself or [contractor company name].

The attached Claim does not breach the Contract between [contractor company name] and Berryessa Union School District for this Project, is not a false claim, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate supporting data, and only requests money and/or time extensions that accurately reflect the adjustments to money and time for which I believe that Berryessa Union School District is responsible under its Contract with [contractor company name].

While preparing this declaration and Claim I consulted with others (including attorneys, consultants, or others who work for [Contractor company name]) when necessary to ensure that the statements were true and correct.

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 and all rights to additional money or time for the issues covered by the Claim are waived due to a condition precedent not having been satisfied.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed \_\_\_\_\_, 2\_\_, at \_\_\_\_\_, California.

[name of declarant]

Contractor's failure to timely submit a certification will constitute a complete waiver of Contractor's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

**4.5.5.2 Claims for Additional Money.** Each Claim for additional money (including but not limited to those described in (b) and (c) of the first paragraph of Section 4.5.3) must include all facts supporting the Claim, including but not limited to all supporting documentation plus a written analysis as to (a) why the claimed cost was incurred, (b) why Contractor could not mitigate its costs, (c) why the claimed cost is the responsibility of the Owner, and (d) why the claimed cost is a reasonable amount. In no event will the Contractor be allowed to reserve its rights to assert a Claim for money at a later time, unless the Owner expressly agrees in writing to allow the reservation. Any costs, direct or indirect, not asserted shall be waived. A Claim may not include any costs incurred in preparation of the Claim or in preparation of any underlying COR, including but not limited to costs of delay analysis.

**4.5.5.3 Claims for Additional Time**

**4.5.5.3.1 Notice of Extent of Claim.** If the Contractor wishes to make a Claim for an increase in the Contract Time (including but not limited to Section 4.5.3(a)), the Claim shall include, but not be limited to, all facts supporting the Claim, all documentation of such facts, all information required by the Contract Documents, and a current schedule and delay analysis explaining (a) the nature of the delay, (b) the Owner's responsibility for the claimed delay, (c) the claimed delay's impact on the critical path, (d) the claimed delay's impact on completion date (including an analysis of any float still remaining and whether the alleged delay in work exceeds such remaining float), and (e) why Contractor could not mitigate the delay impacts.

In the case of a continuing delay, only one (1) initial Claim is necessary that is based on estimates of when the continuing delay will end, but within thirty (30) days of the end of the continuing delay an updated final Claim must be submitted, which shall also be certified. In no event will the Contractor be allowed to reserve its rights to assert a Claim for a time extension, unless the Owner expressly agrees in writing to allow the reservation. Any time extension not asserted shall be waived.

**4.5.5.3.2 Unusually Severe Weather Claims.** If unusually severe weather is the basis for a Claim for additional time, Contractor must provide Owner data and facts showing that the weather conditions were abnormal for the period of time, could not have been reasonably an

anticipated or mitigated, and had an adverse effect on the critical path of the scheduled construction.

**4.5.5.4 “Pass Through” Claims.** A Subcontractor or supplier to Contractor may not submit a request for additional time or money directly to the Owner. If a subcontractor or supplier submits a request for additional money or time to Contractor and Contractor wishes to pass it through to Owner, then Contractor must comply with all requirements of Section 4.5, including Notices of Potential Change, Change Order Requests, and Claims. Contractor must prepare and submit its own analysis of the Subcontractor’s request, and the Claim must include a copy of the Subcontractor’s request along with any other necessary supporting documentation.

The Contractor’s analysis of the Subcontractor’s request must include Contractor’s detailed explanation as to why the Subcontractor or supplier’s request is the Owner’s responsibility, including Contractor’s analysis of (a) why the amount of damages the Subcontractor or supplier requests is justified and appropriate, (b) how Contractor’s breach of the subcontract caused the Subcontractor or supplier to incur these damages, and (c) how the Owner’s breach of the Contract caused the Contractor’s breach of the subcontract. Any Contractor Claim that fails to include the above information, or that states that Owner is responsible for the Subcontractor’s request only in the event that Contractor is found to owe money to Subcontractor, shall act as a complete waiver of Contractor’s rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

**4.5.6 PROCEDURES FOR CLAIMS LESS THAN OR EQUAL TO \$375,000 (PUBLIC CONTRACT CODE SECTION 20104.2)**

Claims less than or equal to \$375,000 are subject to this section 4.5.6, as well as the separate procedures and substantive provisions of Sections 4.5.1 through 4.5.5.

**4.5.6.1 Claims for Less Than \$50,000.** For Claims of less than fifty thousand dollars (\$50,000), the Owner shall respond in writing to any written Claim within 45 days of receipt of the Claim, or may request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the claim the Owner may have against the Contractor.

If additional information is thereafter required, it shall be requested and provided pursuant to this subsection, upon mutual agreement of the Owner and Contractor. If Owner and Contractor cannot reach mutual agreement, Contractor’s failure to provide any reasonably-requested information within fifteen (15) days after the request, shall act as a complete waiver of Contractor’s rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for the money or time, and (c) initiate any action, proceeding or litigation for such money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

The Owner's written response to the Claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

**4.5.6.2 Claims Over \$50,000 and Less Than or equal to \$375,000.** For claims over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the Owner shall respond in writing to all written Claims within 60 days of receipt of the Claim, or may request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim the Owner may have against the Contractor.

If additional information is thereafter required, it shall be requested and provided pursuant to this subsection, upon mutual agreement of the Owner and Contractor. If Owner and Contractor cannot reach mutual agreement, Contractor's failure to provide any reasonably-requested information within thirty (30) days after the request, shall act as a complete waiver of Contractor's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6.4) for such money or time, and (c) initiate any action, proceeding or litigation for such money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

The Owner's written response to the Claim, as further documented, shall be submitted to the Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

**4.5.6.3 Meet and Confer.** If the Contractor disputes the Owner's written response, or the Owner fails to respond within the time prescribed, the Contractor may so notify the Owner, in writing, either within 15 days of receipt of the Owner's response or within 15 days of the Owner's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the Owner shall schedule a meet and confer conference for settlement of the dispute, which shall take place within 30 days of the demand. Upon written agreement of the Owner and Contractor, the conference may take place during regularly scheduled Project meetings.

If Contractor fails to timely notify the Owner that it wishes to meet and confer pursuant to the previous paragraph, then Contractor will have waived all rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim (see Section 4.5.6) for such money or time, and (c) initiate any action, proceeding or litigation for such money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

If a Claim, or any portion of a Claim, over \$100,000 remains in dispute after the meet and confer and Contractor wishes to pursue it, Contractor must demand non-binding mediation in writing within fifteen (15) days. If Contractor fails to timely notify the Owner in writing that it wishes to mediate pursuant to this paragraph, Contractor will have waived all right to further pursue the

Claim pursuant to section 4.5.4. The parties shall reasonably cooperate to schedule and attend a mediation as soon as reasonably possible.

**4.5.6.4 Government Code Claim.** If the Claim or any portion remains in dispute after the meet and confer conference and Contractor wishes to pursue it, the Contractor **must** file a timely and proper Government Code Claim. The filing of a Government Code Claim is specifically required in addition to all contractual procedures described in Sections 4.5 through 4.5.6.3. The above contractual procedures do not act as a substitute for the Government Code Claim process, and the two sets of procedures shall be sequential with the contractual procedures coming first.

Failure to timely file a Government Code Claim shall act as complete waiver of Contractor's rights to (a) recover money or time on the issues for which a Government Code Claim was required, and (b) initiate any action, proceeding or litigation for such money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

Owner and Contractor shall proceed with the Government Code Claim according to Government Code, Section 900 et seq., and as otherwise permitted by law. For purposes of the applicable Government Code provisions, and as provided in Public Contract Code section 20104.2(e), the running of the time period within which a Contractor must file a Government Code Claim shall be tolled from the time the Contractor submits a written Claim under Article 4.5 until the time that the Claim is denied, in whole or in part, as a result of the meet and confer process in Section 4.5.6.3, including any period of time utilized by the meet and confer process.

#### **4.5.7 PROCEDURES FOR CLAIMS OVER \$375,000**

Contractor and Owner shall proceed with Claims over \$375,000 pursuant to Section 4.5.6, except as follows: (a) Section 4.5.6.1, shall not be applicable; (b) for Section 4.5.6.2, Owner shall respond in writing to all written Claims within 90 days of receipt of the Claim, or may request, in writing, within 45 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim the Owner may have against the Contractor; (c) for Section 4.5.6.2, Owner shall respond within 45 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or documentation, whichever is greater; and (d) for Section 4.5.6.3, following the meet and confer conference, if the Claim or any portion of it remains in dispute and Contractor wishes to pursue it, Contractor must demand in writing within fifteen (15) days that the parties mediate (non-binding). 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 pursuant to Section 4.5.4. The parties shall reasonably cooperate to schedule and attend a mediation as soon as reasonably possible.

#### **4.5.8 CONTINUING CONTRACT PERFORMANCE**

Despite submission or rejection of a Notice of Potential Change, COR or Claim, the Contractor shall proceed diligently with performance of the Contract as directed by Owner, and the Owner shall continue to make any undisputed payments in accordance with the Contract.

#### 4.5.9 CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS

4.5.9.1 ***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, the Contractor shall give notice 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 Notice of Potential Change, Change Order Request, and Claims (beginning with Section 4.5.1).

4.5.9.2 ***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:

4.5.9.2.1 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, that 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.

4.5.9.2.2 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 for, performance of any part of the work shall issue a change order under the procedures described in the Contract.

4.5.9.2.3 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 any scheduled completion date provided for by the Contract, 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.

#### **4.5.10 INJURY OR DAMAGE TO PERSON OR PROPERTY**

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, any of the other party's employees or agents, or others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. For a Notice of Potential Change, COR and Claim for additional cost or time related to this injury or damage, Contractor shall follow Section 4.5.

### **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.

###### **5.1.3 SPECIALTY CONTRACTORS**

If a Subcontractor is designated as a "Specialty Contractor" as defined in section 7058 of the Business and Professions Code, all of the Work outside of that Subcontractor's specialty shall be performed in compliance with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq.

##### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

### 5.2.1 ASSIGNMENT OR SUBSTITUTION - CONSENT OF OWNER

In accordance with Public Contract Code sections 4107 and 4107.5, no Contractor whose bid is accepted shall, without the written consent of the Owner: substitute any person or entity as a Subcontractor in place of the Subcontractor designated in the original bid; permit any such Subcontract to be assigned or transferred, or allow it to be performed by any person or entity other than the original Subcontractor listed in the original bid; sublet or subcontract any portion of the Work in excess of one-half of one percent (0.5%) of the Contractor's total bid as to which its original bid did not designate a Subcontractor. Any assignment or substitution made without the prior written consent of the awarding authority shall be void, and the assignees shall acquire no rights in the Contract. Any consent, if given, shall not relieve Contractor or its Subcontractors from their obligations under the terms of the Contract Documents.

### 5.2.2 GROUNDS FOR SUBSTITUTION

Pursuant to Public Contract Code section 4107 and the procedure set forth therein, no Contractor whose bid is accepted may request to substitute any person or entity as a Subcontractor in place of a Subcontractor listed in the original bid except in the following instances:

- A. When the Subcontractor listed in the bid after having a reasonable opportunity to do so, fails or refuses to execute a written Contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written Contract, based upon the general terms, conditions, plans and specifications for the Project involved or the terms of that Subcontractor's written bid, is presented to the Subcontractor by the prime contractor;
- B. When the listed Subcontractor becomes insolvent or the subject of an order for relief in bankruptcy;
- C. When the listed Subcontractor fails or refuses to perform his or her Subcontract;
- D. When the listed Subcontractor fails or refuses to meet the bond requirements of the prime contractor set forth in Public Contract Code section 4108.
- E. When the Contractor demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions of Public Contract Code section 4107.5, that the name of the Subcontractor was listed as the result of inadvertent clerical error;
- F. When the listed Subcontractor is not licensed pursuant to the Contractors License Law; or
- G. When the awarding authority, or its duly authorized officer, determines that the Work being performed by the listed Subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the Subcontractor is substantially delaying or disrupting the progress of the Work.

- H. When the listed Subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 of the Labor Code.
- I. When the awarding authority determines that a listed Subcontractor is not a responsible contractor.

5.2.2.1 **No Change in Contract.** Any substitutions of Subcontractors shall not result in any increase in the Contract Sum or result in the granting of any extension of time for the completion of the Project.

5.2.2.2 **Substitution Due to Clerical Error.** The Contractor, as a condition of asserting a claim of inadvertent clerical error in the listing of a Subcontractor, shall, pursuant to Public Contract Code section 4107.5, within two (2) working days after the time of the prime bid opening by the awarding authority, give written notice to the awarding authority and copies of such notice to both the Subcontractor it claims to have listed in error, and the intended Subcontractor who had bid to the Contractor prior to bid opening. Any listed Subcontractor who has been notified by the Contractor in accordance with the provisions of this section as to an inadvertent clerical error, shall be allowed six (6) working days from the time of the prime bid opening within which to submit to the awarding authority and to the Contractor written objection to the Contractor's claim of inadvertent clerical error.

In all other cases, the Contractor must make a request in writing to the awarding authority for the substitution of a subcontractor, giving reasons therefore. The awarding authority shall mail a written notice to the listed Subcontractor giving reasons for the proposed substitution. The listed Subcontractor shall have five (5) working days from the date of such notice within which to file with the awarding authority written objections to the substitution.

Failure to file written objections pursuant to the provisions of this section within the times specified herein shall constitute a complete waiver of objection to the substitution by the listed Subcontractor and, where the ground for substitution is an inadvertent clerical error, an agreement by the listed Subcontractor that an inadvertent clerical error was made.

If written objections are filed, the awarding authority shall give five (5) days notice to the Contractor and to the listed Subcontractor of a hearing by the awarding authority on the Contractor's request for substitution as provided in Public Contract Code section 4107. The determination by the awarding authority shall be final.

### 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. Each subcontract agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the

Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Upon written request of the Subcontractor, the Contractor shall identify to the Subcontractor the terms and conditions of the proposed subcontract agreement, which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### **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.

#### **5.5 SUBCONTRACTOR'S RESPONSIBILITIES**

Every Subcontractor is bound to the following provisions, unless specifically noted to the contrary in the Subcontractor's contract subject to the limitations of section 5.3.

##### **5.5.1 SUPERVISION BY SUBCONTRACTORS**

Subcontractors shall efficiently supervise their Work, using their best skill and attention. Each of them shall carefully study and compare all Drawings, Specifications, and other instructions, shall at once report to Contractor any error or omission which any of them may discover, and shall subsequently proceed with the Work in accordance with instructions from the Contractor concerning such error or omission. Each Subcontractor shall be fully responsible for and shall bear the full risk of loss of all of its property.

##### **5.5.2 DISCIPLINE AND ORDER**

Each Subcontractor shall at all times enforce strict discipline and good order among its Subcontractors, material or equipment suppliers, or their agents, employees, and invitees, and shall establish and maintain surveillance over the activities of each of the foregoing to minimize any disturbance, damage, pollution, or unsightly conditions relative to property areas adjacent to or in the vicinity of the Site. The Contractor shall have the right to remove from the Work any

employee of a Subcontractor for any reason including, without limitation, incompetence or carelessness.

### **5.5.3 DEFECTS DISCOVERED**

Should the proper and accurate performance of the Work depend upon the proper and accurate performance of other work not included in its Contract, each Subcontractor shall use all necessary means to discover any defect in such other work and shall allow the Contractor, the Owner and Architect, or other Subcontractors as Contractor elects, a reasonable amount of time to remedy such defects. If the Subcontractor should proceed with its Work, it shall be considered to have accepted such other work, unless the Subcontractor shall have proceeded pursuant to instructions in writing by the Contractor over its written objection.

### **5.5.4 SUBCONTRACTOR INFORMATION**

Each Subcontractor shall submit to the Owner, the Contractor, or the Architect, as the case may be, promptly when requested by any of the foregoing, information with respect to the names, responsibilities, and titles of the principal members of its staff, the adequacy of the Subcontractor's equipment and the availability of necessary materials and supplies. Subcontractor shall fully cooperate with Contractor in its periodic review of the adequacy of Subcontractor's supervision, personnel, and equipment, and the availability of necessary materials and supplies and shall promptly comply with the requirements of the Contractor with respect thereto.

### **5.5.5 TEMPORARY STRUCTURES**

Each Subcontractor shall furnish at its expense its own temporary facilities and storage except those specifically agreed to be furnished to it by the Contractor in the Subcontract Agreement. Subcontractor's material storage rooms and field offices, etc., will be placed in locations designated by the Contractor. When it becomes necessary due to the progress of the Project for the Subcontractor to relocate its field operations, it will do so in an expeditious manner and at no additional cost to Contractor or Owner. The construction of material storage rooms and field offices, etc., will be of fire resistive material only, such as concrete or gypsum block, rated drywall, or sheet metal.

### **5.5.6 CHARGES TO SUBCONTRACTOR**

Each Subcontractor may be subject to the Contractor's reasonable charges for hoisting, repair to other work caused by the fault or negligence of Subcontractor, removal of Subcontractor's rubbish, and clean-up occasioned by Subcontractor.

### **5.5.7 FINES IMPOSED**

Subcontractor shall comply with and pay any fines or penalties imposed for violation of any applicable law, ordinance, rule, regulation, Environmental Impact Report mitigation requirement, and lawful order of any public authority, including, without limitation, all OSHA and California OSHA requirements and those of other authorities having jurisdiction of the safety of persons or property.

#### **5.5.8 PROJECT SIGNS**

Each Subcontractor shall not display on or about the Project any sign, trademark, or other advertisement. The Owner will permit a single Project sign, which shall be subject to the Owner's prior and sole discretion and approval, as to all matters including, without limitation, size, location, material, colors, style and size of printing, logos and trademarks (if any), text, and selection of names to be displayed.

#### **5.5.9 REMEDIES FOR FAILURE TO PERFORM**

Without limitation of any other right or remedy available to Contractor under the Contract Documents or at law, should: the Subcontractor fail to perform its portion of the Work in a skilled and expeditious manner in accordance with the terms of the Contract Documents with sufficient labor, materials, equipment, and facilities; delays the progress of the job or otherwise fail in any of its obligations; or either a receiver is appointed for the Subcontractor or the Subcontractor is declared to be bankrupt or insolvent, and such appointment, bankruptcy, or insolvency proceedings or declaration is not set aside within thirty (30) days, then the Contractor, upon three (3) days notice to the Subcontractor (subject to the requirements of Pub. Contracts Code, § 4107), may provide such labor, materials, or perform such work and recover the cost plus profit and overhead from monies due or to become due thereafter to the Subcontractor. The Contractor may terminate the employment of the Subcontractor, taking possession of its tools, materials, and equipment related to the Work and cause the entire portion of the Subcontractor's Work to be finished either by another Subcontractor or through the Contractor's own forces.

#### **5.5.10 DISPUTES NOT TO AFFECT WORK**

In the event of any dispute as to whether or not any portion of the Work is within the scope of the Work to be performed by a Subcontractor, or any dispute as to whether or not the Subcontractor is entitled to a Change Order for any Work requested of it or entitled to payment, the Subcontractor shall continue to proceed diligently with the performance of the Work. Regardless of the size or nature of the dispute, the Subcontractor shall not under any circumstances cease or delay performance of its portion of the Work during the existence of the dispute. The Contractor shall continue to pay the undisputed amounts called for under the Subcontract Agreement during the existence of the dispute. Any party stopping or delaying the progress of the Work because of a dispute shall be responsible in damages to the Owner, the Architect, and the Contractor for any losses suffered as a result of the delay.

#### **5.5.11 APPLICATION FOR PAYMENT**

Contractor agrees to advise the Subcontractor if any documentation in connection with the Subcontractor's application for payment has not been accepted or is in any way unsatisfactory.

#### **5.5.12 COMPLIANCE WITH PROCEDURES**

Each Subcontractor shall comply with all procedures established by the Contractor for coordination among the Owner, the Owner's consultants, Architect, Contractor, and the various Subcontractors for coordination of the Work with all local municipal authorities, government agencies, utility companies, and any other agencies with jurisdiction over all or any portion of the Work. The Subcontractor shall cooperate fully with all of the foregoing parties and authorities.

#### **5.5.13 ON-SITE RECORD KEEPING**

Subcontractor shall comply with all on-Site record keeping systems established by the Contractor and shall, upon the request of the Contractor, provide the Contractor with such information and reports as the Contractor may deem appropriate. Without limitation of the foregoing, the Subcontractor shall assemble all required permits and certificates so that they are readily accessible at the Site.

#### **5.5.14 NON-EXCLUSIVE OBLIGATIONS**

The specific requirements of Article 5 are not intended to exclude the obligation of the Subcontractor to comply with any of the other provisions of the General Conditions and the other Contract Documents which are relevant to the proper performance of its portion of the Work.

## **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 work related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site under Conditions of the Contract 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 Section 4.5 in the Contract Documents.

### **6.1.2 DESIGNATION AS CONTRACTOR**

When separate contracts are awarded for different portions of the Project or other construction or operations on the Site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Owner/Contractor Agreement.

### **6.1.3 CONTRACTOR 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.

### **6.1.4 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, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10 and 12.

## **6.2 MUTUAL RESPONSIBILITY**

### **6.2.1 DELIVERY AND STORAGE**

The Contractor shall afford the Owner and separate contractor’s 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.

### **6.2.3 COSTS INCURRED**

Costs, expenses, and damages caused by delays, improperly timed activities, defective construction, or damages to another's work/Work or property shall be borne by the party responsible. Should Contractor/any contractor cause damage to the work/Work or property of any separate contractor on the Project, or cause any delay to any such contractor, the Contractor shall defend, indemnify and hold Owner harmless for such damage or delay under section 3.16. Owner may withhold from progress payments and/or retention the cost of delay or damage to another contractor's work or damage to another contractor's property caused by Contractor.

### **6.2.4 CORRECTION OF DAMAGE**

The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors.

### **6.3 OWNER'S RIGHT TO CLEAN UP**

If a dispute arises among the Contractor, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 3.13, the Owner may clean up and allocate the cost among those responsible as the Owner determines to be just.

## **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 Owner reserves the right to require Contractor to perform such work. No adjustment will be made in the Contract unit price of any Contract item regardless of the quantity ultimately required.

Owner shall compensate Contractor with money or grant extra time for any extra work ordered by the Owner to be performed. Contractor shall follow the provisions of 7.6 and 7.7 when requesting additional money or additional time. Contractor shall expeditiously perform all extra

work upon direction, even if no agreement has been reached on extra time or money. For all such changes resulting in a credit to Owner, Contractor shall follow 7.5 and 7.7 in providing the credit to Owner. Contractor shall bring all potential credits to the Owner's attention.

There shall be no change whatsoever in the drawings, specifications, or in the Work or payments under the Contract Documents without an executed Change Order, Construction Change Directive, or order by the Owner pursuant to Section 7.1.2. 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 properly requested under Section 4.5 and 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 request for such extension is properly made under Section 4.5 and such time is thereof approved in writing by Change Order or Construction Change Directive. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications.

#### **7.1.2 AUTHORITY TO ORDER MINOR CHANGES**

The Owner has 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 Construction Change Directive and shall be binding on the Contractor. The Contractor shall carry out such written orders promptly.

#### **7.2 CHANGE ORDERS ("CO")**

A CO is a written instrument signed by the Owner and the Contractor, stamped (or sealed) and signed by Architect, and approved by the Owner's Governing Board and DSA where required, stating the agreement of Owner and Contractor 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.

Unless expressly stated otherwise in the CO, any CO executed by Owner and Contractor constitutes and includes full and complete money and time (including but not limited to, adjustments to money and time) for all costs and effects caused by any of the changes described within it. Unless expressly stated otherwise in the CO, in consideration for the money received for the changes described in the CO, Contractor waives all Claims for all costs and effects caused by any of the changes, including but not limited to labor, equipment, materials, delay, extra work, overhead (home and field), profit, direct costs, indirect costs, acceleration, disruption, impaired productivity, time extensions, and any the costs and effects on Subcontractors and suppliers of any tier.

### **7.3 CONSTRUCTION CHANGE DIRECTIVES (“CCD”)**

#### **7.3.1 DEFINITION**

A CCD is a written unilateral order signed by the Owner, and if necessary by the Architect, directing a change in the Work and stating an 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 pursuant to Section 7.1.1.

#### **7.3.2 USE TO DIRECT CHANGE**

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 of Potential Change, COR and Claim procedures of Section 4.5 if Contractor believes it is entitled to changes in the Contract Sum or Contract Time.

### **7.4 REQUEST FOR INFORMATION (“RFI”)**

#### **7.4.1 DEFINITION**

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.

#### **7.4.2 SCOPE**

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.

#### **7.4.3 RESPONSE TIME**

Unless Owner expressly directs otherwise in writing, Contractor shall submit RFIs directly to the Architect, with copies forwarded to the Owner. Contractor shall submit a revised and updated priority schedule with each RFI. The Architect shall endeavor to follow the Contractor’s requested order of priorities. The Owner and Contractor agree that an adequate time period for the Architect (or other designated recipient of the RFI) 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 total time required for the Architect to respond is subject to the complexity of the RFI, the number of RFI's submitted concurrently and the reprioritization of pending RFI's submitted by the Contractor, among other things. If Contractor believes that the Architect's response results in a change in the Work that warrants additional money or time, or that Architect's response was unreasonably delayed and caused delay to the Project's critical path, Contractor shall follow the procedures for additional money or time under Section 4.5. No presumption shall arise as to the timeliness of the response if the response is more than fourteen (14) days after the Architect's receipt of the RFI. Contractor shall review the Contract Documents before submitting an RFI to ensure that the information is not already in the Contract Documents. To compensate the Owner for time and costs incurred for each time the information was already in the Contract Documents, Owner may withhold \$100 from progress payments or retention in addition to any other remedies which Owner may have the right to pursue.

#### **7.4.4 COSTS INCURRED**

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")**

#### **7.5.1 DEFINITION**

An RFP is Owner's written request asking the Contractor to submit to the Owner an estimate of the effect, including credits, of a proposed change on the Contract Sum and the Contract Time.

#### **7.5.2 SCOPE**

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 money for preparing a response to an RFP, whether ultimately accepted or not.

### **7.6 CHANGE ORDER REQUEST ("COR")**

#### **7.6.1 DEFINITION**

A COR is a written request prepared by the Contractor asking the Owner for additional money or time.

#### **7.6.2 CHANGES IN PRICE**

A COR shall include breakdowns per section 7.7 to validate any proposed change in Contract Sum.

### 7.6.3 CHANGES IN TIME

Where a change in Contract Time is requested, a COR shall also include delay analysis to validate any proposed change to the Contract Time, and shall meet all requirements in these General Conditions, including but not limited to Section 8.4. 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 PRICE OF CHANGE ORDERS

### 7.7.1 SCOPE

Any COR shall provide in writing to the Owner, the Architect and any construction manager, 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.

### 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. If the value is determined by this method the following requirements shall apply:

#### 1. Daily Reports by Contractor.

a) General: At the close of each working day, the Contractor shall submit a daily report to the Inspector of Record and any construction manager, on forms approved by the Owner, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, the location of the work, and for other services and expenditures when authorized concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Inspector of Record and the Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy

of the report. Reports by Subcontractors or others shall be submitted through the Contractor.

- b) Labor: Show names of workers, classifications, and hours worked.
- c) Materials: Describe and list quantities of materials used.
- d) Equipment: Show type of equipment, size, identification number, and hours of operation, including, if applicable, loading and transportation.
- e) Other Services and Expenditures: Describe in such detail as the Owner may require.

2. **Basis for Establishing Costs.**

a) Labor will be the actual cost for wages prevailing locally for each craft or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification, which would increase the extra work cost, will not be permitted unless the Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

b) Materials shall be at invoice or lowest current price at which such materials are locally available and delivered to the Site in the quantities involved, plus sales tax, freight, and delivery.

The Owner reserves the right to approve materials and sources of supply or to supply materials to the Contractor if necessary for the progress of the Work. No markup shall be applied to any material provided by the Owner.

c) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$100 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies or distributors at the time the work is performed.

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.

Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Owner than holding it at the work Site, it shall be returned unless the Contractor elects to keep it at the work Site at no expense to the Owner.

All equipment shall be acceptable to the Inspector of Record, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and modifications shall be used to classify equipment, and equipment shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

d) Other Items. The Owner may authorize other items which may be required on the extra work. Such items include labor, services, material, and equipment which are different in their nature from those required by the Work, and which are of a type not ordinarily available from the Contractor or any of the Subcontractors. Invoices covering all such items in detail shall be submitted with the Application for Payment.

e) Invoices. Vendors' invoices for material, equipment rental, and other expenditures shall be submitted with the COR. If the Application for Payment is not substantiated by invoices or other documentation, the Owner may establish the cost of the item involved at the lowest price which was current at the time of the Daily Report.

f) Overhead, premiums and profit. For overhead, including direct and indirect costs, submit with the COR and include: home office overhead, off-Site supervision, CO preparation/negotiation/research for Owner initiated changes, time delays, project interference and disruption, additional guaranty and warranty durations, on-Site supervision, additional temporary protection, additional temporary utilities, additional material handling costs, and additional safety equipment costs.

### 7.7.3 **FORMAT FOR PROPOSED COST CHANGE**

The following format shall be used as applicable by the Owner and the Contractor to communicate proposed additions and deductions to the Contract.

	<u>EXTRA</u>	<u>CREDIT</u>
A. Material (attach itemized quantity and unit cost plus sales tax, invoices, receipts, truck tags, etc., for force account work)	_____	_____
B. Labor (attach itemized hours and rates, daily logs, certified payroll, etc.)	_____	_____
C. Equipment (attach any invoices)	_____	_____
D. Subtotal	_____	_____
E. If Subcontractor performed Work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed fifteen percent (15%) of item D.	_____	_____
F. Liability and Property Damage Insurance, Worker's Compensation Insurance, Social Security, and Unemployment Taxes, not to exceed twenty percent (20%) of Item B.		
G. Subtotal	_____	_____
H. General Contractor's Overhead and Profit, not to exceed fifteen percent (15%) of Item G; and for work performed by subcontractors, not to exceed five percent (5%).	_____	_____
I. Subtotal	_____	_____
J. Bond not to exceed one percent (1%) of Item I.	_____	_____
K. TOTAL	_____	_____

It is expressly understood that the value of such extra work or changes, as determined by any of the aforementioned methods, expressly includes (1) any and all of the Contractor's costs and expenses, both direct and indirect, resulting from additional time required on the project or resulting from delay to the project, and (2) any costs of preparing a COR, including but not limited to delay analysis. Any costs or expenses not included are deemed waived.

It is further understood that the **total** percentage markup on any change order shall not exceed twenty five percent (25%).

#### **7.7.4 DISCOUNTS, REBATES, AND REFUNDS**

For purposes of determining the cost, if any, of any change, addition, or omission to the Work hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to the Contractor, and the Contractor shall make provisions so that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a reduction of the Contractor's cost in determining the actual cost of construction for purposes of any change, addition, or omissions in the Work as provided herein.

#### **7.7.5 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.

#### **7.7.6 NOTICE REQUIRED**

Contractor shall submit a written Notice of Potential Change for additional money or time pursuant to section 4.5.1.

#### **7.7.7 APPLICABILITY TO SUBCONTRACTORS**

Any requirements under this Article 7 shall be equally applicable to COs or CCDs issued to Subcontractors by the Contractor to the same extent required of the Contractor.

#### **7.8 WAIVER OF RIGHT TO CLAIM MONEY OR TIME**

Failure to demand money based on costs, or time extensions, as part of a COR constitutes a complete waiver of Contractor's right to claim the omitted money or time. All money or time for an issue must be included in the COR at the time submitted.

### **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**

Contractor shall not commence the Work until it receives a Notice to Proceed from Owner. The date of commencement of the Work is the date established in the Notice to Proceed. The date of commencement shall not be postponed by the failure to act of the Contractor or of persons or entities for whom 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 FORCES**

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.

#### **8.2.4 COSTS FOR AFTER HOURS INSPECTIONS**

If the work done after hours is required by the Contract Documents to be done outside the Contractor's or the Inspector of Record's regular working hours, the costs of any inspections, if required to be done outside normal working hours, shall be borne by the Owner.

If the Owner allows the Contractor to do work outside regular working hours for the Contractor's own convenience, the costs of any inspections required outside regular working hours, among other remedies, shall be invoiced to the Contractor by the Owner and withheld from progress payments and/or retention. Contractor shall give Owner at least 48 hours notice prior to working outside regular working hours.

If the Contractor elects to perform work outside the Inspector of Record's regular working hours, costs of any inspections required outside regular working hours, among other remedies, may be invoiced to the Contractor by the Owner and withheld from progress payments and/or retention.

#### **8.2.5 TIME FOR COMMENCEMENT BY SUBCONTRACTORS**

Unless otherwise provided in the Contract Documents, all Subcontractors shall commence their Work within two (2) consecutive business days after notice to them by the Contractor and shall prosecute their Work in accordance with the progress of the Work.

### **8.3 PROGRESS AND COMPLETION**

#### **8.3.1 TIME OF THE ESSENCE**

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.

#### **8.3.2 NO COMMENCEMENT WITHOUT INSURANCE**

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.

#### **8.3.3 EXPEDITIOUS COMPLETION**

The Contractor shall proceed expeditiously to perform the Work, with adequate forces, labor, materials, equipment, services and management, and shall achieve Completion within the Contract Time.

#### **8.4 EXTENSIONS OF TIME - LIQUIDATED DAMAGES**

##### **8.4.1 CONDITIONS ALLOWING FOR EXTENSIONS OF TIME TO COMPLETE THE WORK, ONLY (EXCUSABLE DELAY)**

If Contractor exercises due diligence, but the critical path schedule of the Work is unavoidably delayed due to acts of God, acts of public enemy, acts of the 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, labor disputes, unusually severe weather, or delays of subcontractors due to such causes, the Owner shall extend the time to complete the Work if Contractor complies with Section 4.5 and Article 7. Owner shall take into consideration other relevant factors such as concurrent delays. Contractor has the burden of proving that any delay was excusable.

##### **8.4.2 COMPENSABLE DELAY (TIME AND MONEY)**

Compensable delays are those excusable delays for which Contractor is also entitled to money. 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 City or the delay was caused by factors beyond the control of the Owner, including but not limited to a delay under Section 2.2.8 above or a delay caused by a utility company's failure to perform despite Owner's reasonable arrangements for such performance; 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.

##### **8.4.3 NOTICE BY CONTRACTOR REQUIRED; PROCEDURES FOR DEMANDING ADDITIONAL TIME OR MONEY**

For notice and other required procedures related to requests by Contractor for additional time or money related to delay, Contractor shall comply with the Contract Documents, including but not limited to Sections 3.18 and 4.5, and Article 7, above.

##### **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 on the Project in a shorter period than established in the Contract Documents, the parties stipulating that the period set forth in the Contract Documents is a reasonable time within which to perform the Work on the Project.

#### **8.4.5 LIQUIDATED DAMAGES**

Failure to Complete the Project within the time and in the manner provided for by the Contract Documents (i.e., by the Completion deadline) shall subject the Contractor to liquidated damages. For purposes of liquidated damages, the concept of “substantial completion” shall not constitute Completion and is not part of this agreement. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Project were not completed by the Completion 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 delay include, but are not limited to, loss of the use of the Project, disruption of activities, costs of administration, supervision and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount set forth in the Agreement shall be presumed to be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Project by the Completion deadline, during or as a result of each calendar day by which Completion of the Project is delayed beyond the Completion deadline as adjusted by Change Orders.

If the Contractor fails to Complete the Project by the Completion deadline as adjusted by Change Orders, and liquidated damages therefore accrue, the Owner, in addition to all other remedies provided by law, shall have the right to assess 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 the Completion deadline (as adjusted by Change Orders) that the Contractor cannot or will not complete the Work before that Completion deadline, 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 the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of Completion and liquidated damages.

#### **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, later adjusted by Change Orders and Construction Change Directives, and is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

#### **9.2 COST BREAKDOWN**

##### **9.2.1 REQUIRED INFORMATION**

On forms approved by the Owner, the Contractor shall furnish the following:

- A. Within ten (10) days of the mailing, faxing or delivering of the Notice of Award of the Contract, a detailed breakdown of the Contract Sum (Schedule of Values) for each Project or Site. Each item in the schedule of values shall include its proper share of the overhead and profit.
- B. Within ten (10) days of the mailing, faxing or delivering of the Notice of Award of the Contract, a schedule of estimated monthly payment requests (cash flow) due the Contractor showing the values and construction time of the various portions of the Work to be performed by it and by its Subcontractors or material and equipment suppliers containing such supporting evidence as to its correctness as the Owner may require;
- C. Five (5) days prior to the submission of a pay request, an itemized breakdown of work done for the purpose of requesting partial payments;
- D. Within ten (10) days of the mailing, faxing or delivering of the Notice of Award of the Contract, the name, address, telephone number, fax number, license number, and classification of all of its Subcontractors and of all other parties furnishing labor, material, or equipment for its Contract, along with the amount of each such subcontract or the price of such labor, material, and equipment needed for its entire portion of the Work.

##### **9.2.2 OWNER ACCEPTANCE REQUIRED**

The Owner shall review all submissions received pursuant to paragraph 9.2.1 in a timely manner.

All submissions must be accepted by the Owner before becoming the basis of any payment.

### 9.3 APPLICATIONS FOR PAYMENT

#### 9.3.1 PROCEDURE

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 Architect, unless there is a construction manager for the Project or the Owner directs otherwise, an itemized Application for Payment for operations completed in accordance with the Schedule of Values through the end of the previous calendar month. Such application shall be notarized, if required, and supported by the following or such portion thereof as the applicable entity requires:

- A. The amount paid to the date of the Application to the Contractor, to all its Subcontractors, and all others furnishing labor, material, or equipment for its Contract;
- B. The amount being requested with the Application for Payment by the Contractor on its own behalf and separately stating the amount requested on behalf of each of the Subcontractors and all others furnishing labor, material, and equipment under the Contract;
- C. The balance that will be due to each of such entities after said payment is made;
- D. A certification that the Record Drawings and Annotated Specifications are current;
- E. The Owner approved additions to and subtractions from the Contract Sum and Time;
- F. A summary of the retentions (each Application shall provide for retention, as set out in Article 9.6);
- G. Material invoices, evidence of equipment purchases, rentals, and other support and details of cost as the Owner may require from time to time;
- H. The percentage of completion of the Contractor's Work by line item;
- I. A statement showing all payments made by the Contractor for labor and materials on account of the Work covered in the preceding Application for Payment. Such applications shall not include requests for payment of amounts the Contractor does not intend to pay to subcontractors or others because of a dispute or other reason; and
- J. Contractor's monthly reports, daily reports, and monthly schedule updates for all months of Work prior to the Application for Payment that Contractor has not previously submitted.

### **9.3.2 PURCHASE OF MATERIALS AND EQUIPMENT**

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 Architect specifically recommends, and Owner specifically approves the payment in writing. If payments are to be made on account of materials and equipment not incorporated in the Work, but delivered and suitably stored at the Site or at some other location agreed upon in writing by the Owner, the payments shall be conditioned upon submission by the Contractor, Subcontractor, or vendor of bills of sale and such other documents satisfactory to the Owner to establish the Owner's title to such materials or equipment free of all liens and encumbrances, and otherwise protect the Owner's interest, including, without limitation, provision of applicable insurance and transportation to the Site. All stored items shall be inventoried, specified by identification numbers (if applicable), released to the Owner by sureties of the Contractor and the Subcontractor and, if stored off-Site, stored only in a bonded warehouse.

### **9.3.3 WARRANTY OF TITLE**

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. The Contractor further warrants that upon submittal of an Application for Payment all work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, material and equipment suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the work. Transfer of title to work does not constitute a waiver by Owner of any defects in the work.

## **9.4 REVIEW OF PROGRESS PAYMENT**

### **9.4.1 OWNER ACCEPTANCE**

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 as provided in paragraph 9.5.1.

### **9.4.2 OWNER'S REVIEW**

The review of the Contractor's Application for Payment by the Owner will be based, at least in part, on the Owner's observations at the Site and the data comprising the Application for Payment that the Work has progressed to the point indicated. The review is also subject to an evaluation of the Work for conformance with the Contract Documents, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion, and to specific qualifications expressed by the Owner. The Owner may reject the Application for Payment if it is not complete under section 9.3. The issuance of a Certificate for

Payment will constitute a representation that the Contractor is entitled to payment in the amount certified, subject to any specific qualifications Owner expresses in the Certificate for Payment. However, Contractor's entitlement to payment may be affected by subsequent evaluations of the Work for conformance with the Contract Documents, test and inspections and discovery of minor deviations from the Contract Documents correctable prior to completion. The issuance of a Certificate for Payment will not be a waiver by the Owner of any defects in the work covered by the Application for Payment, nor will it be a representation that the Owner has:

- A. Made exhaustive or continuous on-Site inspections to check the quality or quantity of the Work;
- B. Reviewed construction means, methods, techniques, sequences, or procedures;
- C. Reviewed copies of requisitions received from Subcontractors, material and equipment suppliers, and other data requested by the Owner to substantiate the Contractor's right to payment; or
- D. Made an examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

## 9.5 DECISIONS TO WITHHOLD PAYMENT

### 9.5.1 REASONS TO WITHHOLD PAYMENT

The Owner may withhold from a progress payment, in whole or in part, to such extent as may be necessary to protect the Owner due to any of the following:

- A. Defective or incomplete Work not remedied;
- B. Stop Payment Notices. For any stop payment notice, the Owner shall withhold the amount stated in the stop payment notice, the stop notice claimant's anticipated interest and court costs and an amount to provide for the public entity's reasonable cost of any litigation pursuant to the stop payment notice. For any stop payment notice action the parties resolve before judgment is entered, Owner has the right to permanently withhold for any reasonable cost of litigation for that stop payment notice, even if it exceeds the amount originally withheld by Owner for the estimated reasonable cost of litigation. However, if (1) the Contractor at its sole expense provides a bond or other security satisfactory to the Owner in the amount of at least one hundred twenty-five percent (125%) of the claim, in a form satisfactory to the Owner, which protects the Owner against such claim, and (2) the Owner chooses to accept the bond, then Owner would release the stop payment notice funds withheld to the Contractor, except that Owner may permanently withhold for any reasonable cost of litigation. Any stop payment notice release bond shall be executed by a California admitted, fiscally solvent surety, completely unaffiliated with and separate from the surety on the payment and performance bonds, that does not have any assets pooled with the payment and performance bond sureties.

- C. Liquidated damages against the Contractor, whether already accrued or estimated to accrue in the future;
- D. Reasonable doubt that the Work can be completed for the unpaid balance of any Contract Sum or by the completion date;
- E. Damage to the property or work of the Owner, another contractor, or subcontractor;
- F. Unsatisfactory prosecution of the Work by the Contractor;
- G. Failure to store and properly secure materials;
- H. Failure of the Contractor to submit on a timely basis, proper and sufficient documentation required by the Contract Documents, including, without limitation, monthly progress schedules, shop drawings, submittal schedules, schedule of values, product data and samples, proposed product lists, executed change orders, and verified reports;
- I. Failure of the Contractor to maintain record drawings;
- J. Erroneous estimates by the Contractor of the value of the Work performed, or other false statements in an Application for Payment;
- K. Unauthorized deviations from the Contract Documents;
- L. Failure of the Contractor to prosecute the Work in a timely manner in compliance with established progress schedules and completion dates;
- M. Subsequently discovered evidence or observations nullifying the whole or part of a previously issued Certificate for Payment;
- N. Failure by Contractor to pay Subcontractors or material suppliers as required by Contract or law, which includes but is not limited to Contractor's failure to pay prevailing wage and any assessment of statutory penalties;
- O. Overpayment to Contractor on a previous payment;
- P. Credits owed to Owner for reduced scope of work or work that Contractor will not perform;
- Q. The estimated cost of performing work pursuant to Section 2.4;
- R. Actual damages related to false claims by Contractor;
- S. Breach of any provision of the Contract Documents;

- T. Owner's potential or actual loss, liability or damages caused by the Contractor; and
- U. As permitted by other provisions in the Contract or as otherwise allowed by law, including statutory penalties Owner or other entities assessed against Contractor. (See e.g., Labor Code section 1813 (working hours) or Public Contract Code section 4110 (subcontractor listings and substitutions))

Owner may, but is not required to, provide to Contractor with the progress payment written notice of the items for which Owner is withholding amounts from the payment. To claim wrongful withholding by the Owner, or if Contractor otherwise disputes any amount being withheld, Contractor must submit an inquiry in writing to Owner within thirty (30) days of receipt of the notice, and Owner shall respond within fifteen (15) days of receipt of the inquiry. If any disputed issues remain unresolved after Owner's response, Contractor shall timely submit a Claim pursuant to Section 4.5.

For any withhold amount based on an estimate where the actual amount later becomes known and certain, no later than the final accounting for the Project the Owner will release any amount withheld over that certain and known amount. If the certain and known amount exceeds the amount previously withheld, Owner may withhold additional amounts from Contractor to cover the excess amount. If available funds are not sufficient, Contractor shall pay Owner the difference.

#### **9.5.2 PAYMENT AFTER CURE**

When Contractor removes or cures the grounds for withholding amounts, payment shall be made for amounts withheld because of them. No interest shall be paid on any retainage or amounts withheld due to the failure of the Contractor to perform in accordance with the terms and conditions of the Contract Documents.

#### **9.5.3 OVERPAYMENT AND/OR FAILURE TO WITHHOLD**

Neither Owner's overpayment to Contractor, nor Owner's failure to withhold an amount from payment that Owner had the right to withhold, shall constitute a waiver by Owner of its rights to withhold those amounts from future payments to Contractor or to otherwise pursue recovery of those amounts from Contractor.

### **9.6 PROGRESS PAYMENTS**

#### **9.6.1 PAYMENTS TO CONTRACTOR**

Unless otherwise stated in the Contract Documents, within thirty (30) days after receipt of an undisputed and properly submitted Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the undisputed value of the Work performed up to the last day of the previous month, less the aggregate of previous payments; and Owner shall retain the

other five percent (5%) of the undisputed value of the Work. The value of the Work completed shall be an estimate only, no inaccuracy or error in said estimate shall operate to release the Contractor, or any bondsman, from damages arising from such Work or from enforcing each and every provision of this Contract, and the Owner shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall base an Application for Payment only on the original Contract Sum plus any fully executed and Board-approved Change Orders. Contractor shall not include Notices of Potential Claims, CORs, Claims or disputed amounts.

The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the Owner concerning the Work, or any portion thereof, remains uncomplished with. Payment shall not be a waiver of any such direction.

#### **9.6.2 PAYMENTS TO SUBCONTRACTORS**

No later than ten (10) days after receipt of payment from Owner, pursuant to Business and Professions Code section 7108.5, the Contractor shall pay to each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

#### **9.6.3 PERCENTAGE OF COMPLETION OR PAYMENT INFORMATION**

The Owner will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor, and action taken thereon by the Owner, on account of portions of the Work done by such Subcontractor.

#### **9.6.4 NO OBLIGATION OF OWNER FOR SUBCONTRACTOR PAYMENT**

The Owner shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.

#### **9.6.5 PAYMENT TO SUPPLIERS**

Payment to material or equipment suppliers shall be treated in a manner similar to that provided in paragraphs 9.6.2, 9.6.3 and 9.6.4.

#### **9.6.6 PAYMENT NOT CONSTITUTING APPROVAL OR ACCEPTANCE**

An accepted Application for Payment, issuance of a Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance or approval of any portion of the Work, especially any Work not in accordance with the Contract Documents.

### 9.6.7 JOINT CHECKS

Owner shall have the right, if necessary for the protection of the Owner, to issue joint checks made payable to the Contractor and Subcontractors and/or material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. However, Owner has no duty to issue joint checks. In no event shall any joint check payment be construed to create any contract between the Owner and a Subcontractor of any tier, any obligation from the Owner to such Subcontractor, or rights in such Subcontractor against the Owner.

## 9.7 COMPLETION OF THE WORK

### 9.7.1 CLOSE-OUT PROCEDURES

When the Contractor considers that the Work is complete and submits a written notice to Owner requesting an inspection of the Work, the Owner shall review the Work and prepare and submit to the Contractor a comprehensive list of items to be completed or corrected (the "Punch List"). The Contractor and/or its Subcontractors shall proceed promptly to complete and correct items on the Punch List. Failure to include an item on the Punch List does not alter the responsibility of the Contractor to complete all Work (including the omitted item) in accordance with the Contract Documents, and to complete or correct the work so long as the statute of limitations (or repose) has not run.

When the Contractor believes the Punch List work is complete and in accordance with the Contract Documents, it shall then submit a request for an additional inspection by the Owner to determine completion. Owner shall again inspect the Work and inform the Contractor of any items that are incomplete or incorrect. Contractor shall promptly complete or correct items until no items remain. After the Work, including all Punch List work, is inspected and informally deemed by the Owner to be complete, the Owner's governing body may formally accept the Work as complete at a meeting of the governing body. Warranties required by the Contract Documents shall commence on the date of Contractor's completion of the Work.

### 9.7.2 COSTS OF MULTIPLE INSPECTIONS

More than two (2) requests by Contractor to make inspections to confirm completion as required under paragraph 9.7.1 shall be considered an additional service of Owner, and all subsequent costs will be invoiced to Contractor and withheld from remaining payments.

## 9.8 PARTIAL OCCUPANCY OR USE

The Owner may occupy or use any completed, or partially completed, portion of the Work at any stage prior to acceptance, or prior to completion if there is no formal acceptance. Occupancy or use of any portion of the Work, or the whole Work, shall not constitute approval or acceptance of it, nor shall such occupancy or use relieve Contractor of any of its obligations under the Contract Documents regarding that portion of, or the whole, 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. When the Contractor considers a portion complete, the Contractor may request an inspection of that portion and preparation of a Punch List by the Owner for that portion, as set forth for the entire Work under paragraph 9.7.1; however, such inspection and Punch List shall not act as any form of approval or acceptance of that portion of the Work, or of any Work not complying with the requirements of the Contract, and that portion shall be subject to subsequent inspections and Punch Lists.

Immediately prior to such partial occupancy or use, the Owner, the Architect and the Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

## **9.9 FINAL PROGRESS PAYMENT AND RELEASE OF RETENTION**

### **9.9.1 FINAL APPLICATION FOR PROGRESS PAYMENT**

When, pursuant to Section 9.7.1, the Owner finds all of the Work is completed in accordance with the Contract Documents, it shall so notify Contractor, who shall then submit to the Owner its final Application for Payment.

Upon receipt and approval of such final Application for Payment, the Owner shall issue a final Certificate of Payment, based on its knowledge, information, and belief, and on the basis of its observations, inspections, and all other data accumulated or received by the Owner in connection with the Work, that such Work has been completed in accordance with the Contract Documents.

### **9.9.2 PROCEDURES FOR APPLICATION FOR FINAL PROGRESS PAYMENT**

The Application for Final Progress Payment pursuant to Section 9.9.1 shall be accompanied by the same details as set forth in paragraph 9.3, and in addition, the following conditions must be fulfilled:

- A. The Work shall be complete, and the Contractor shall have made, or caused to have been made, all corrections to the Work which are required to remedy any defects therein, to obtain compliance with the Contract Documents or any requirements of applicable codes and ordinances, or to fulfill any of the orders or directions of Owner required under the Contract.
- B. Each Subcontractor shall have delivered to the Contractor all written guarantees, warranties, applications, and bonds required by the Contract Documents for its portion of the Work, and Contractor delivered them to the Owner.
- C. The Contractor shall deliver to the Owner (i) reproducible final Record Drawings and Annotated Specifications showing the Contractor's Work "as built," with the Contractor's certification of the accuracy of the Record Drawings and Annotated

Specifications, (ii) all warranties and guarantees, (iii) operation and maintenance instructions, manuals and materials for equipment and apparatus, and (iv) all other documents required by the Contract Documents.

- D. Contractor shall provide extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.

Acceptance of Final Progress Payment shall constitute a complete waiver of Claims except for those previously identified in writing and identified by that payee as unsettled at the time of Final Progress Payment.

### 9.9.3 RELEASE OF RETAINAGE

Owner may withhold from release or payment of retainage (or “retention”) up to 150% of disputed amounts listed in Section 9.5. If retainage is held in an escrow account pursuant to an escrow agreement under Public Contract Code section 22300 (see Section 9.10) and Owner withholds from release of retainage based on a breach of the Contract, or other default, by Contractor, Owner may withdraw the withheld retainage from the escrow account. Owner shall release the undisputed retainage within sixty (60) days after completion of the Work. For this purpose, “completion” is defined in Public Contract Code section 7107(c). No interest shall be paid on any retainage, or on any amounts withheld, except as provided to the contrary in any Escrow Agreement and General Conditions between the Owner and the Contractor under Public Contract Code section 22300.

### 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 entered by Owner and Contractor pursuant to Public Contract Code section 22300, 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**

##### **10.1.1 CONTRACTOR RESPONSIBILITY**

The Contractor shall have responsibility for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Each Contractor shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs. Contractor will ensure that his employees and Subcontractors cooperate and coordinate safety matters with any other contractors to form a joint safety effort.

##### **10.1.2 SUBCONTRACTOR RESPONSIBILITY**

Subcontractors have the responsibility for participating in, and enforcing, the safety and loss prevention programs established by the Contractor for the Project, which will cover all Work performed by the Contractor and its Subcontractors. Each Subcontractor shall designate a responsible member of its organization whose duties shall include loss and accident prevention, and who shall have the responsibility and full authority to enforce the program. This person shall attend meetings with the representatives of the various Subcontractors employed to ensure that all employees understand and comply with the programs.

##### **10.1.3 COOPERATION**

All Subcontractors and material or equipment suppliers, shall cooperate fully with Contractor, the Owner, and all insurance carriers and loss prevention engineers.

##### **10.1.4 ACCIDENT REPORTS**

Subcontractors shall promptly report in writing 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. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger. Contractor shall thereafter promptly report the facts in writing to the Owner giving full details of the accident.

### 10.1.5 FIRST-AID SUPPLIES AT SITE

The Contractor will provide and maintain at the Site first-aid supplies for minor injuries.

## 10.2 SAFETY OF PERSONS AND PROPERTY

### 10.2.1 THE CONTRACTOR

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.

### 10.2.2 CONTRACTOR NOTICES

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.

### 10.2.3 SAFETY BARRIERS AND SAFEGUARDS

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.

### 10.2.4 USE OR STORAGE OF HAZARDOUS MATERIAL

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.

### 10.2.5 FINGERPRINTING

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 a part of the Contract. Contractor

shall hold harmless, defend and indemnify the Owner under section 3.16, for any costs, including attorneys' fees, Owner incurs from Contractor's failure to comply.

### **10.3 PROTECTION OF WORK AND PROPERTY**

#### **10.3.1 PROTECTION OF WORK**

The Contractor and Subcontractors shall continuously protect the Work, the Owner's property, and the property of others, from damage, injury, or loss until formal acceptance of the Work or completion of the Work if there is no formal acceptance 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.

#### **10.3.2 PROTECTION FOR ELEMENTS**

The Contractor will remove all mud, water, or other elements as may be required for the proper protection and prosecution of its Work. The Contractor shall at all times provide heat, coverings, and enclosures necessary to maintain adequate protection against weather so as to preserve the Work, materials, equipment, apparatus, and fixtures free from injury or damage.

#### **10.3.3 SHORING AND STRUCTURAL LOADING**

The Contractor shall not impose structural loading upon any part of the Work under construction or upon existing construction on or adjacent to the Site in excess of safe limits, or loading such as to result in damage to the structural, architectural, mechanical, electrical, or other components of the Work. The design of all temporary construction equipment and appliances used in construction of the Work and not a permanent part thereof, including, without limitation, hoisting equipment, cribbing, shoring, and temporary bracing of structural steel, is the sole responsibility of the Contractor. All such items shall conform to the requirements of governing codes and all laws, ordinances, rules, regulations, and orders of all authorities having jurisdiction. The Contractor shall take special precautions, such as shoring of masonry walls and temporary tie bracing of structural steel work, to prevent possible wind damage during construction of the Work. The installation of such bracing or shoring shall not damage or cause damage to the Work in place or the Work installed by others. Any damage which does occur shall be promptly repaired by the Contractor at no cost to the Owner.

#### **10.3.4 CONFORMANCE WITHIN ESTABLISHED LIMITS**

The Contractor and Subcontractors shall confine their construction equipment, the storage of materials, and the operations of workers to the limits indicated by laws, ordinances, permits, and the limits established by the Owner, and shall not unreasonably encumber the premises with construction equipment or materials.

#### **10.3.5 SUBCONTRACTOR ENFORCEMENT OF RULES**

Subcontractors shall enforce the Owner's and the Contractor's instructions, laws, and regulations regarding signs, advertisements, fires, smoking, the presence of liquor, and the presence of firearms by any person at the Site.

#### **10.3.6 SITE ACCESS**

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.

#### **10.3.7 PROTECTION OF MATERIALS**

The Contractor and the Subcontractors shall receive, count, inspect for damage, record, store, and protect construction materials for the Work and Subcontractors shall promptly send to the Contractor evidence of receipt of such materials, indicating thereon any shortage, change, or damage (failure to so note shall constitute acceptance by the Subcontractor of financial responsibility for any shortage).

### **10.4 EMERGENCIES**

#### **10.4.1 EMERGENCY ACTION**

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 money or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Section 4.5 and Article 7.

#### **10.4.2 ACCIDENT REPORTS**

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**

#### **10.5.1 DISCOVERY OF 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 or not such material was generated by the

Contractor or the Owner. The Work in the affected area shall not thereafter be resumed, except by written agreement of the Owner and the Contractor, if in fact the material is asbestos, polychlorinated biphenyl (PCB), or other hazardous material, and has not been rendered harmless. The Work in the affected area shall be resumed only in the absence of asbestos, polychlorinated biphenyl (PCB), or other hazardous material, or when it has been rendered harmless by written agreement of the Owner and the Contractor.

#### **10.5.2 HAZARDOUS MATERIAL WORK LIMITATIONS**

In the event that the presence of hazardous materials is suspected or discovered on the Site, the Owner shall retain an independent testing laboratory to determine the nature of the material encountered and whether corrective measures or remedial action is required. The Contractor shall not be required pursuant to Article 7 to perform without consent any Work in the affected area of the Site relating to asbestos, polychlorinated biphenyl (PCB), or other hazardous material, until any known or suspected hazardous material has been removed, or rendered harmless, or determined to be harmless by Owner, as certified by an independent testing laboratory and/or approved by the appropriate government agency.

#### **10.5.3 INDEMNIFICATION BY OWNER FOR HAZARDOUS MATERIAL NOT CAUSED BY CONTRACTOR**

In the event the presence of hazardous materials on the Site is not caused by the Contractor, Owner shall pay for all costs of testing and remediation, if any, and shall compensate Contractor for any additional costs incurred or Project delay in accordance with the applicable provisions of Article 7 herein. Owner shall defend, indemnify and hold harmless the Contractor and its agents, officers, directors and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with or arising out of, or relating to, the performance of the Work in the area affected by the hazardous material, except to the extent the claims, damages, losses, costs, or expenses were caused by Contractor's active negligence, sole negligence or willful misconduct. By providing this indemnification, District does not waive any immunities.

#### **10.5.4 INDEMNIFICATION BY CONTRACTOR FOR HAZARDOUS MATERIAL CAUSED BY CONTRACTOR**

In the event the presence of hazardous materials on the Site is caused by Contractor, Subcontractors, materialmen or suppliers, the Contractor shall pay for all costs of testing and remediation, if any, and shall compensate the Owner for any additional costs incurred as a result of the generation of hazardous material on the Project Site. In addition, the Contractor shall defend, indemnify and hold harmless Owner and its agents, officers, and employees from and against any and all claims, damages, losses, costs and expenses incurred in connection with, arising out of, or relating to, the presence of hazardous material on the Site, except to the extent the claims, damages, losses, costs, or expenses were caused by Owner's active negligence, sole negligence or willful misconduct.

#### **10.5.5 TERMS OF HAZARDOUS MATERIAL PROVISION**

The terms of this Hazardous Material provision shall survive the completion of the Work and/or any termination of this Contract.

#### **10.5.6 ARCHEOLOGICAL MATERIALS**

In the event the Contractor encounters or reasonably suspects the presence on the Site of archeological materials, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and the Architect in writing. The Work in the affected area shall not thereafter be resumed, except after Contractor's receipt of written notice from the Owner.

### **ARTICLE 11**

#### **INSURANCE AND BONDS**

##### **11.1. CONTRACTOR'S LIABILITY INSURANCE**

###### **11.1.1 LIABILITY INSURANCE REQUIREMENTS**

11.1.1 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 set forth below, 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:

- 11.1.1.1 claims for damages because of bodily injury (including emotional distress), sickness, disease, or death of any person other than the Contractor's employees. This coverage shall be provided in a form at least as broad as Insurance Services Office (ISO) Form CG 0001 11188;
- 11.1.1.2 claims for damages arising from personal or advertising injury in a form at least as broad as ISO Form CG 0001 11188;
- 11.1.1.3 claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents; and

- 11.1.1.4 claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work; and
- 11.1.1.5 claims involving blanket contractual liability applicable to the Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Contractor and the Subcontractors; and
- 11.1.1.6 claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)

If commercial general liability insurance or another insurance form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project location (with the ISO CG 2501 or insurer's equivalent endorsement provided to the Owner) or the general aggregate limit shall be twice the required occurrence limit.

Any deductible or self-insured retention must be declared to and approved by the Owner. At the option of the Owner, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its Board of Trustees, members of its Board of Trustees, officers, employees, agents and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### **11.1.2 SUBCONTRACTOR INSURANCE REQUIREMENTS**

The Contractor shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance, 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, in like amounts and scope of coverage.

#### **11.1.3 OWNER'S INSURANCE**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

#### **11.1.4 ADDITIONAL INSURED ENDORSEMENT REQUIREMENTS**

The Contractor shall name, on any policy of insurance, the Owner and the Architect as additional insureds. Subcontractors shall name the Contractor, the Owner and the Architect as additional insureds. The Additional Insured Endorsement included on all such insurance policies shall state

that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

#### 11.1.5 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 of the Project 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. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in Work under this Contract on or at the site of the Project is not protected under the Workers' Compensation laws, the Contractor shall provide or cause a Subcontractor to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Contractor shall file with the Owner certificates of insurance as required under this Article and in compliance with Labor Code section 3700.

If the contractor fails to maintain such insurance, the Owner may take out compensation insurance which the Owner might be liable to pay under the provisions of the Act by reason of an employee of the Contractor being injured or killed, and withhold from progress payments and/or retention the amount of the premium for such insurance.

#### 11.1.6 BUILDER'S RISK/"ALL RISK" INSURANCE

11.1.6.1 *COURSE-OF-CONSTRUCTION INSURANCE REQUIREMENTS.* Unless provided by 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 satisfactory to the Owner, issued on a completed value basis on all insurable Work included under the Contract Documents. 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.

The Contractor shall submit to the Owner for its approval all items deemed to be uninsurable under the Builder's Risk/Course-of Construction insurance. The risk of the damage to the Work due to the perils covered by the Builder's Risk/Course-of-Construction insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the surety,

and no claims for such loss or damage shall be recognized by the Owner, nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

#### **11.1.7 CONSENT OF INSURER FOR PARTIAL OCCUPANCY OR USE**

Partial occupancy or use in accordance with the Contract Documents shall not commence until the insurance company providing property insurance has consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company and shall, without mutual consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of the insurance.

#### **11.1.8 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 Project 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.

#### **11.1.9 OTHER INSURANCE**

The Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.

#### **11.1.10 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 subject to the following requirements:

- (a) Certificates and insurance policies shall include the following clause:

This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the Owner. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice.

- (b) Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.

- (c) Certificates of insurance shall clearly state that the Owner, the Architect and the Construction Manager are named as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by Owner and any other insurance carried by the Owner with respect to the matters covered by such policy shall be excess and non-contributing.
- (d) The Contractor and its Subcontractors shall produce a certified copy of any insurance policy required under this Section upon written request of the Owner.

#### **11.1.11 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. Compliance by Contractor with the requirement to carry insurance and furnish certificates, policies, Additional Insured Endorsement and Declarations Page evidencing the same shall not relieve the Contractor from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the Owner and the Architect.

### **11.2 PERFORMANCE AND PAYMENT BONDS**

#### **11.2.1 BOND REQUIREMENTS**

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. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California. All bonds shall be submitted on the Owner's approved form.

To the extent, if any, that the Contract Sum is increased in accordance with the Contract Documents, the Contractor shall cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the Owner. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Sum, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor will release the surety. If the Contractor fails to furnish the required bond, the Owner may terminate the Contract for cause.

#### **11.2.2 SURETY QUALIFICATION**

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**

##### **12.1.1 UNCOVERING WORK FOR REQUIRED INSPECTIONS**

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.

##### **12.1.2 COSTS FOR INSPECTIONS NOT REQUIRED**

If a portion of the Work has been covered which the Owner has not specifically requested to observe prior to its being covered, the Owner may request to see such work, and it shall be uncovered by the Contractor. If such work is in accordance with the Contract Documents, costs of uncover and replacement shall, by appropriate Change Order, be paid by the Owner. If such work is not in accordance with Contract Documents, the Contractor shall pay such costs, unless the condition was caused by the Owner or a separate contractor, in which event the Owner shall be responsible for payment of such costs to the Contractor.

#### **12.2 CORRECTION OF WORK; WARRANTY**

##### **12.2.1 CORRECTION OF REJECTED WORK**

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.

##### **12.2.2 REMOVAL OF NONCONFORMING WORK**

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 or approved by the Owner.

##### **12.2.3 OWNER'S RIGHTS IF CONTRACTOR FAILS TO CORRECT**

If the Contractor fails to correct nonconforming work within a reasonable time, the Owner may correct it in accordance with Section 2.4. As part of Owner's correction of the work, the Owner

may remove any portion of the nonconforming Work and store any salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days written notice sell such material or equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's and other professionals and representatives' services and expenses, made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contractor shall be invoiced for the deficiency or Owner may withhold such costs from payment pursuant to Section 9.5. If progress payments or retention then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

#### **12.2.4 COST OF CORRECTING THE WORK**

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.

#### **12.2.5 WARRANTY CORRECTIONS (INCLUDES REPLACEMENT)**

Pursuant to the warranty in Section 3.5, if within one (1) year after the 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 12.2.5 shall survive acceptance of the Work under the Contract and termination of the Contract.

#### **12.2.6 NO TIME LIMITATION**

Nothing contained 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. Establishment of the time period of one (1) year as described in Section 12.2.5 relates only to the specific warranty obligation of the Contractor to correct the Work after the date of commencement of warranties under Sections 3.5 and 9.7.1, and has, for example, no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, or to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### **12.3 NONCONFORMING WORK AND WITHHOLDING THE VALUE OF IT**

If it is found at any time before completion of the Work that the Contractor has varied from the Contract Documents in materials, quality, form, finish, or in the amount or value of the materials or labor used, the Owner may, in addition to other remedies in the Contract Documents or under law and as allowed by law, accept the improper work. The Owner may withhold from any amount due or to become due Contractor that sum of money equivalent to the difference in value between the Work performed and that called for by the Drawings and Specifications. The Owner shall determine such difference in value. No structural related work shall be accepted that is not in conformance with 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**

The Owner and the Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole or in part without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

#### **13.3 WRITTEN NOTICE**

In the absence of specific notice requirements in the Contract Documents, written notice shall be deemed to have been duly served if delivered in person to the individual, member of the firm or entity, or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the party giving notice. Owner shall, at Contractor's cost, timely notify Contractor of Owner's receipt of any third party claims relating to the Contract pursuant to Public Contract Code section 9201.

#### **13.4 RIGHTS AND REMEDIES**

##### **13.4.1 DUTIES AND OBLIGATIONS CUMULATIVE**

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.

#### **13.4.2 NO WAIVER**

No action or failure to act by the Owner, Inspector of Record, Architect or any construction manager 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.

#### **13.5 TESTS AND INSPECTIONS**

##### **13.5.1 COMPLIANCE**

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.

##### **13.5.2 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 obtain prior approval. Owner will pay all costs for testing, contractor may not pay any testing expenses. Owner may invoice such costs or expenses to the Contractor or withhold such costs or expenses from progress payments and/or retention.

##### **13.5.3 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.

##### **13.5.4 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.

##### **13.5.5 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 13.5.1, 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 13.5.6.

#### **13.5.6 COSTS FOR RETESTING**

If such procedures for testing, inspection, or approval under sections 13.5.1, 13.5.2 and 13.5.5 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.

#### **13.5.7 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.

#### **13.5.8 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.

### **13.6 [INTENTIONALLY LEFT BLANK]**

## **13.7 TRENCH EXCAVATION**

### **13.7.1 TRENCHES GREATER THAN FIVE FEET**

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.

### **13.7.2 EXCAVATION SAFETY**

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.

### **13.7.3 NO TORT LIABILITY OF OWNER**

Pursuant to Labor Code section 6705, nothing in this Article shall impose tort liability upon the Owner or any of its employees.

### **13.7.4 NO EXCAVATION WITHOUT PERMITS**

The Contractor shall not commence any excavation work until it has secured all necessary permits including the required CAL OSHA excavation/shoring permit. Any permits shall be prominently displayed on the Site prior to the commencement of any excavation.

## **13.8 WAGE RATES**

### **13.8.1 WAGE RATES**

Pursuant to the provisions of Article 2 (commencing at § 1770), Chapter 1, Part 7, Division 2, of the Labor Code, the governing board of the Owner has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed for this Project from the Director of Industrial Relations (“Director”). These rates are on file with the Clerk of the Owner’s Governing Board, and copies will be made available to any interested party on request. The Contractor shall post a copy of such wage rates at the Site.

### **13.8.2 HOLIDAY AND OVERTIME PAY**

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Agreement applicable to each particular craft, classification, or type of worker employed.

### **13.8.3 WAGE RATES NOT AFFECTED BY SUBCONTRACTS**

The Contractor shall pay and shall cause to be paid each worker engaged in work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers.

### **13.8.4 CHANGE IN PREVAILING WAGE DURING BID OR CONSTRUCTION**

If during the period this bid is required to remain open, the Director of Industrial Relations determines that there has been a change in any prevailing rate of per diem wages in the locality

in which this public work is to be performed, such change shall not alter the wage rates discussed in the Notice to Bidders or the Contract subsequently awarded.

#### **13.8.5 FORFEITURE AND PAYMENTS**

Pursuant to Labor Code section 1775, the Contractor and any subcontractor under the Contractor shall as a penalty to the Owner, forfeit not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages, determined by the Director, for such craft or classification in which such worker is employed for any public work done under the Agreement by the Contractor or by any Subcontractor under it. Minimum penalties shall apply, as also provided in Labor Code section 1775. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on both of the following: (1) whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected upon being brought to the attention of the contractor or subcontractor; and (2) whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations. The difference between such prevailing rate of per diem wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of per diem wage shall be paid to each worker by the Contractor or subcontractor.

#### **13.8.6 MINIMUM WAGE RATES**

Any worker employed to perform work on the Project, which work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the Work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

#### **13.8.7 PER DIEM WAGES**

Pursuant to Labor Code section 1773.1, per diem wages include fringe benefits such as employer payments for health and welfare, pension, and vacation pay.

#### **13.8.8 POSTING OF WAGE RATES AND OTHER REQUIRED JOB SITE NOTICES**

The Contractor shall post at appropriate conspicuous points on the Site, a schedule showing all determined wage rates and all other required job site notices as prescribed by regulation.

### **13.9 RECORD OF WAGES PAID: INSPECTION**

#### **13.9.1 APPLICATION OF LABOR CODE**

Pursuant to section 1776 of the Labor Code:

(a) Each Contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of sections 1771, 1811 and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations ("DIR"). The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner monthly or more frequently, if so specified in the Agreement and in a format the Labor Commissioner prescribes.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement of the DIR. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of the preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to such records at the principal office of the Contractor.

(c) Unless required as of January 1, 2016, to be furnished directly to the Labor Commissioner under Labor Code section 1771.4(a)(3), the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement of the DIR or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in (a) above.

(d) A Contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement of the DIR shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or the subcontractor performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number. An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subsection.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of written notice requesting the records enumerated in subdivision (a). In the event that the Contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement of the DIR, these penalties shall be withheld from progress payments then due. A contractor is not subject to a

penalty assessment pursuant to this section due to the failure of the subcontractor to comply with this section.

## **13.10 APPRENTICES**

### **13.10.1 APPRENTICE WAGES AND DEFINITIONS**

All apprentices employed by the Contractor to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing with § 3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training.

### **13.10.2 APPRENTICE LABOR POOL**

When the Contractor to whom the Contract is awarded by the Owner, or any Subcontractor under him or her, in performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Contractor and Subcontractor may apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the Site of the Project, for a certificate approving the Contractor or Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to review by the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or Subcontractor in order to comply with this section. Every Contractor and Subcontractor shall submit the contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the crafts or trade in the area of the Site of the public work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Contractors or Subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade on the Project, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the Operating Engineer and Labor classification shall not be less than one (1) apprentice for each four (4) journeymen.

### **13.10.3 JOURNEYMAN/APPRENTICE RATIO; COMPUTATION OF HOURS**

Any ratio shall apply during any day or portion of a day when any journeyman or the higher standard stipulated by the joint apprenticeship committee, is employed at the job Site and shall be computed on the basis of the hours worked during the day by journeymen so. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by the section. The Contractor shall employ apprentices for the number of hours computed as above before the end of the Contract. However, the Contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job Site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one (1) apprentice for each five (5) journeymen in a craft or trade classification.

#### 13.10.4 JOURNEYMAN/APPRENTICE RATIO

The Contractor or Subcontractor, if he or she is covered by this section upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that he or she employs apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, or in the land surveyor classification, one (1) apprentice for each five (5) journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 hourly ratio as set forth in this section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000).

13.10.4.1 *Apprenticeable Craft or Trade.* “Apprenticeable craft or trade” as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a Contractor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions is met:

- A. Unemployment for the previous three-month period in the area exceeds an average of fifteen percent (15%).
- B. The number of apprentices in training in such area exceeds a ratio of 1-to-5.
- C. There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30) of its journeymen annually through the apprenticeship training, either on a statewide basis or on a local basis.

- D. Assignment of an apprentice to any work performed under this contract would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

#### **13.10.5 RATIO EXEMPTION**

When exemptions are granted to an organization which represents Contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

#### **13.10.6 APPRENTICE FUND**

A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in the Labor Code section 227.

#### **13.10.7 PRIME CONTRACTOR COMPLIANCE**

The responsibility of compliance with section 13.10 and section 1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Contractor. However, if a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (2) unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the contract executed between the contractor and the subcontractor for the performance of work on the public works project failed to include a copy of the provisions of Section 1771, 1775, 1776, 1777.5, 1831 and 1851. Additionally, the contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor, and upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due to the subcontractor for work performed on the public works project until the failure is corrected.

#### **13.10.8 DECISIONS OF JOINT APPRENTICESHIP COMMITTEE**

All decisions of the joint apprenticeship committee under this section 13.10 and Labor Code section 1777.5 are subject to Labor Code section 3081.

#### 13.10.9 NO BIAS

It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in the Labor Code section 3077.

#### 13.10.10 VIOLATION OF LABOR CODE

Pursuant to Labor Code section 1777.1, in the event a Contractor or Subcontractor willfully fails to comply with the provisions of this section 13.10 and Labor Code section 1777.5, among other things:

(a) The Labor Commissioner may deny to the contractor or subcontractor, and to its responsible officers, the right to bid on, or be awarded or perform work as a subcontractor on, any public works project for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.

(b) A contractor or subcontractor who violates section 1777.5 shall forfeit as a civil penalty an amount not exceeding the sum of one hundred dollars (\$100) for each full calendar day of noncompliance for a first violation and not more than three hundred dollars (\$300) for a second or subsequent violation within a three-year period. Upon receipt of a determination that a civil penalty has been imposed, the awarding body shall enforce the penalty, which includes withholding the amount of the civil penalty from the contract progress payments or retention then due or to become due.

(c) In lieu of the penalty provided, the Labor Commissioner may for a first time violation and with the concurrence of an applicable apprenticeship program, order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

(d) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund.

(e) The interpretation and enforcement of section 1777.5 and this section shall be in accordance with the regulations of the California Apprenticeship Council.

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

## **13.11 ASSIGNMENT OF ANTITRUST CLAIMS**

### **13.11.1 APPLICATION**

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. If the Owner receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Chapter 11 (commencing with § 4550) of Division 5 of Title 1 of the Government Code, the assignor may, upon demand, recover from the Owner any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the Owner as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

### **13.11.2 ASSIGNMENT OF CLAIM**

Upon demand in writing by the assignor, the Owner shall, within one (1) year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose and the Owner has not been injured thereby or the Owner declines to file a court action for the cause of action.

## **13.12 AUDIT**

Pursuant to and in accordance with the provisions of Government Code section 8546.7, or any amendments thereto, all books, records, and files of the Owner, the Contractor, or any Subcontractor connected with the performance of this Contract involving the expenditure of state funds in excess of Ten Thousand Dollars (\$10,000.00), including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor General of the State of California for a period of three (3) years after release of all retention under this Contract. Contractor shall preserve and cause to be preserved such books, records, and files for the audit period. During the progress of the Work and for three (3) years after release of all retention under the Contract, Owner shall also have the right to an audit, and Contractor must cooperate by producing all information requested within seven (7) days.

## **13.13 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 Order 2009-0009-DWQ (as amended by 2010-0014-DWQ and 2017-006-DWQ). The Notice of Intent must be sent to the

following address along with the appropriate payment (warrant to be furnished by the Owner upon request by the Contractor, allow warrant processing time.): California State Water Resources Control Board, Division of Water Quality, Storm Water Permit Unit, P.O. Box 1977, Sacramento, CA 95812-1977. The Contractor may also call the State Water Board's Construction Activity Storm Water Hotline at (916) 657-1146. The Notice of Intent shall be filed 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

**DOCUMENT 00 73 00**

**SPECIAL CONDITIONS**

1. **Mitigation Measures**

Contractor shall comply will all applicable mitigation measures, if any, adopted by any public agency with respect to this Project pursuant to the California Environmental Quality Act. (Public Resources Code section 21000 et. seq.).

2. **Modernization / Post Occupancy Projects**

- a. **Access.** Access to the school buildings and entry to buildings, classrooms, restrooms, mechanical rooms, electrical rooms, or other rooms, for construction purposes, must be coordinated with District and onsite District personnel before Work is to start. Unless agreed to otherwise in writing, only a school custodian will be allowed to unlock and lock doors in existing building(s). The custodian will be available only while school is in session. If a custodian is required to arrive before 7:00 a.m. or leave after 3:30 p.m. to accommodate Contractor's Work, the overtime wages for the custodian will be paid by the Contractor, unless, at the discretion of the District, other arrangements are made in advance.
- b. **Master Key.** Upon request, the District may, at is own discretion, provide a master key to the school site for the convenience of the Contractor. The Contractor agrees to pay all expenses to re-key the entire school site and all other affected District buildings if the master key is lost or stolen or if any unauthorized party obtains a copy of the key or access to the school.
- c. **Maintaining Services.** The Contractor is advised that Work is to be performed in spaces regularly scheduled for instruction. Interruption and/or periods of shutdown of public access, electrical service, water service, lighting, or other utilities shall be only as arranged in advance with the District. Contractor shall provide temporary services to all facilities interrupted by Contractor's Work.
- d. **Maintaining Utilities.** The Contractor shall maintain in operation during duration of Contract, drainage lines, storm drains, sewers, water, gas, electrical, steam, and other utility service lines within working area. No new services or connections shall be anticipated for operation of existing facilities during construction.
- e. **Confidentiality.** Contractor shall maintain the confidentiality of all information, documents, programs, procedures and all other items that Contractor encounters while performing the Work. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes, without

limitation, all student, parent, and employee disciplinary information and health information.

3. **Substitution for Specified Items**

- a. Requests for substitutions prior to award of the Contract shall be done within the time period indicated in the Instructions to Bidders.
- b. Whenever in the Specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified.
  - (1) If the material, process, or article offered by Contractor is not, in the opinion of the District, substantially equal or better in every respect to that specified, then Contractor shall furnish the material, process, or article specified in the Specifications without any additional compensation or change order.
  - (2) This provision shall not be applicable with respect to any material, product, thing or service for which District made findings and gave notice in accordance with Public Contract Code section 3400(b); therefore, Contractor shall not be entitled to request a substitution with respect to those materials, products or services.
- c. A request for a substitution shall be in writing and shall include:
  - (1) All variations of the proposed substitute from the material specified including, but not limited to, principles of operation, materials, or construction finish, thickness or gauge of materials, dimensions, weight, and tolerances;
  - (2) Available maintenance, repair or replacement services;
  - (3) Increases or decreases in operating, maintenance, repair, replacement, and spare parts costs;
  - (4) Whether or not acceptance of the substitute will require other changes in the Work (or in work performed by the District or others under Contract with the District); and
  - (5) The time impact on any part of the Work resulting directly or indirectly from acceptance of the proposed substitute.

- d. No substitutions shall be made until approved, in writing, by the District. The burden of proof as to equality of any material, process, or article shall rest with Contractor. The Contractor warrants that if substitutes are approved:
- (1) The proposed substitute is equal or superior in all respects to that specified, and that such proposed substitute is suitable and fit for the intended purpose and will perform adequately the function and achieve the results called for by the general design and the Contract Documents;
  - (2) The Contractor provides the same warranties and guarantees for the substitute that would be provided for that specified;
  - (3) The Contractor shall be fully responsible for the installation of the substitute and any changes in the Work required, either directly or indirectly, because of the acceptance of such substitute, with no increase in Contract Price or Contract Time. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time;
  - (4) The Contractor shall be responsible for any re-design costs occasioned by District's acceptance and/or approval of any substitute; and
  - (5) The Contractor shall, in the event that a substitute is less costly than that specified, credit the District with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event, the Contractor agrees to execute a deductive Change Order to reflect that credit.
- e. In the event Contractor furnishes a material, process, or article more expensive than that specified, the difference in the cost of that material, process, or article so furnished shall be borne by Contractor.
- f. In no event shall the District be liable for any increase in Contract Price or Contract Time due to any claimed delay in the evaluation of any proposed substitute or in the acceptance or rejection of any proposed substitute.

been convicted of a felony, as defined in Education Code section 45122.1. Contractor shall fully complete and perform all tasks required pursuant to the Criminal Background Investigation/ Fingerprinting Certification.

4. **Weather Days**

Extensions of the Performance Period shall be determined by reference to the Terms and Conditions to Field Contract. Rain in excess of one-tenth of an inch (1/10") in

one (1) day, or temperature which does not exceed 32° F shall be considered adverse weather. The following chart shows the normal number of adverse weather days:

Jan 10	Feb 8	Mar 8	Apr 5	May 2	Jun 1	Jul 0	Aug 0	Sep 1	Oct 3	Nov 7	Dec 8
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5. **Insurance Policy Limits.** All of Contractor’s insurance shall be with insurance companies with an A.M. Best rating of no less than A: XI. All limits of insurance shall not be less than what is specified in Agreement Between Owner and Contractor Document 00 52 26, Article XI, Indemnifications and Insurance in the.

6. **Permits, Certificates, Licenses, Fees, Approval**

a. **Payment for Permits, Certificates, Licenses, and Fees.** As required in the Terms and Conditions to Field Contract, the Contractor shall secure and pay for all permits, licenses and certificates necessary for the prosecution of the Work with the exception of the following:

- (1) Water connection fees
- (2) Sewer connection fees
- (3) Electrical connection fees
- (4) Gas connections fees
- (5) Cable TV connection fees
- (6) Phone connection fee

With respect to the above listed items, Contractor shall be responsible for securing such items, however, District will be responsible for payment of these charges or fees. Contractor shall notify the District of the amount due with respect to such items and to whom the amount is payable. Contractor shall provide the District with an invoice and receipt with respect to such charges or fees. The contractor shall receive written approval from the District prior to any payment.

b. **Storm Water Pollution Prevention Plan**

- NPDES PERMITTING

1. **General.** The intent of these requirements is to enforce federal, state and local laws, ordinances, codes and regulations that pertain to storm water pollution attributable to construction projects. Storm drains discharge directly to creeks without treatment. Therefore, discharge of pollutants (i.e. any substance, material or waste other than uncontaminated storm water) into the storm drain system is strictly prohibited.

For the purpose of eliminating storm water pollution, the Contractor shall implement effective control measures over the entire project. There are several publications which provide guidance on selecting and implementing effective control measures known as Best Management Practices (BMPs). BMPs include, but are not limited to, schedules of activities, prohibition of practices, general good housekeeping practices, operational practices, pollution prevention practices, maintenance procedures and other management procedures designed to prevent the discharge of pollutants directly or indirectly to the storm drain system. BMPs also include the construction of some facilities which may be required to prevent, control and abate storm water pollution. The reference publications are as follows:

- \* California Storm Water Best Management Practices Handbook-Industrial/Commercial
- \* California Storm Water Best Management Practices Handbook-Construction Activity

These handbooks may be purchased from Blue Print Services (BPS), 1700 Jefferson Street, Oakland, California 94612, (510) 287-5485.

The Contractor shall be responsible for preparing and submitting to the Owner a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the California NPDES (National Pollution Discharge Elimination System) General Permit for Storm Water Discharges associated with construction activity. The SWPPP shall address intended methods to reduce the amount of pollutants contained in storm water runoff during construction of the work.

The SWPPP is considered a report available to the public under Section 308 (b) of the Clean Water Act. The SWPPP shall be kept at the site during construction and made available upon request of a representative of the Regional Water Board or other local agency. The Contractor shall amend the SWPPP for any change in construction or operations which may affect the discharge of pollutants to surface water, ground waters, or storm drain system.

The Contractor shall submit the SWPPP to the Owner and governing agencies within fifteen (15) days of the Notice to Proceed. Upon approval of the SWPPP, the Contractor shall be responsible for implementing, maintaining, and repairing all storm water pollution controls as described in his approved SWPPP for the duration of the work. The Contractor shall make any repairs to the storm water pollution controls and amend the SWPPP if, in the opinion of the Owner, the Contractor is not in compliance with the SWPPP. Failure to make the necessary repairs or other maintenance when directed by the Owner shall result in the necessary repair work being done by District forces, and the Contractor will be billed at double the rate of all District expenses. In addition, the Contractor shall be responsible for any fines imposed by the

Regional Water Quality Control Board or other agency as a result of noncompliance, negligence, or violation of permit conditions.

Records of all inspections and compliance certifications reporting must be retained as part of the Storm Water Pollution Prevention Plan for a period of three years. Upon completion of the project construction and termination of coverage under the General Permit, the records shall be retained by the contractor with a copy of the final SWPPP.

2. Material Storage. Storage and exposure of raw materials, by-products, finished products, and containers shall be controlled as described below:

All construction materials shall be stored at least ten (10) feet away from inlets, catch basins, and curb returns. The Contractor shall not allow any material to enter the storm drain system. At the end of each working day, the Contractor shall collect and dispose of all scrap, debris, and waste material.

During wet weather or when rain is forecast, the Contractor shall store materials that can contaminate rainwater or be transported by storm water or other runoff to the storm drain system inside a building or cover them with a tarp or other waterproof material secured with weighted tires or sandbags to prevent contact with rain.

The Contractor is reminded that storage and disposal of all hazardous materials such as paints, thinners, solvents, and fuels; and all hazardous wastes such as waste oil must meet all federal, state and local standards and requirements.

3. De-watering Operations. All groundwater removed from the trench or excavations must be de-silted prior to discharging it into the storm drain system through filtering materials and methods meeting the Association of Bay Area Governments (ABAG) Standards for Erosion & Sediment Control Measures and/or through methods and procedures described in the California Storm Water Best Management Practice Handbook - Construction Activity (latest edition).
4. Pavement Saw-Cutting Operations. The Contractor shall prevent any saw-cutting debris from entering the storm drain system. The Contractor, preferably, shall use dry cutting techniques and sweep up residue. If wet methods are used, the Contractor shall vacuum slurry as cutting proceeds or collect all wastewater by constructing a sand bag sediment barrier. The bermed area shall be of adequate size to collect all wastewater and solids. The Contractor shall allow collected water to evaporate if the wastewater volume is minimal and if maintaining the ponding area does not interfere with public use of the street area or create a safety hazard. If approved by the Owner, the Contractor may direct or pump saw-cutting wastewater to a dirt area and allow to infiltrate. The dirt area shall be adequate to contain all the wastewater. After wastewater has infiltrated, all remaining saw-cutting residue must be removed and disposed of properly. Remaining silt and debris from the ponding or bermed area shall be removed or vacuumed and disposed of properly.

If a suitable dirt area is not available or discharge to the sanitary sewer is not feasible, with the approval of the Owner and Contra Costa County Flood Control (CCCFC) & Water Conservation District (WCD), the Contractor shall filter the saw-cutting wastewater through filtering materials and methods meeting ABAG Standards for Erosion and Sedimentation Control Measures (latest edition) before discharging to the storm drain.

5. Pavement Operations. The Contractor shall prevent the discharge of pollutants from paving operations by using measures to prevent run-on and run-off pollution, disposing of wastes properly, and by implementing the procedures in the Best Management Practices Handbook. In addition, the Contractor shall observe the following guidelines:

- Paving during wet weather:
  - a) No paving while it is raining.
  - b) No paving of the top lift of asphalt concrete (AC) on any day that experiences ¼” of rain in a twenty-four (24) hour period.
  - c) No paving of bottom lift if previous seventy-two (72) hour period experienced more than ½” rain, unless directed by the Owner.
- Store materials as required under section 2.
- Cover inlets and manholes when applying asphalt, seal coat, tack coat, slurry seal, fog seal, etc.
- Place drip pans or absorbent materials under paving equipment when not in use. During wet weather, store contaminated paving equipment indoors, or cover with tarp or other waterproof covering.
- Sweep site daily using mechanical methods to prevent sand, gravel or excess asphalt from entering or being transported by rain into the storm drain system.
- Keep ample supplies of drip pans or absorbent materials on-site.
- If paving involves Portland cement concrete, refer to section G6 below.
- All of the above at the discretion of the Owner.

6. Concrete Operations. **Do not wash out concrete trucks into storm drains, open ditches, streets, streams, etc.** The Contractor shall prevent the discharge of pollutants from concrete operations by using measures to prevent run-on and run-off pollution, properly disposing of wastes, and by implementing the following BMPs:

- Store all materials in waterproof containers or under cover away from drain inlets or drainage areas.
- Avoid mixing excess amounts of Portland cement materials. Dispose of any excess materials properly.
- Whenever possible, perform washout of concrete trucks off-site where discharge is controlled and not permitted to discharge to the storm drain system. For on-site washout:
- Locate washout area at least fifty (50) feet from storm drains, open ditches or other water bodies, preferably in a dirt area. Confine run-off from this area by constructing a temporary pit or bermed area large enough for the liquid and solid waste.

- Wash out concrete wastes into the temporary pit where the concrete can set, be broken up and then disposed of properly. If the volume of water is greater than what will allow concrete to set, allow the wash water to infiltrate and/or evaporate, if possible. Remove or vacuum the remaining silt and debris from the ponding or bermed area and dispose of it properly.
  - Dispose of wastewater from washing of exposed aggregate to dirt area. The dirt area shall be adequate to contain all the wastewater and once the wastewater has infiltrated, any remaining residue must be removed.
  - Collect and return sweepings from exposed aggregate concrete to a stockpile or dispose of the waste in trash container.
7. Grading and Excavation Operations. The Contractor shall prepare a 40 scale erosion control plan and submit it to the Owner and governing agencies for approval, within fifteen (15) days of the Notice To Proceed.

The erosion and sedimentation control materials and methods shall be in accordance with ABAG Standards For Erosion And Sediment Control Measures and/or the procedures and methods described in the California Storm Water Best Management Practice Handbook - Construction Activity (latest edition).

Sedimentation and erosion control/filter materials shall be placed in a manner that will retain any debris or sediment from flowing into the storm drain system. The Contractor shall have labor, tools, equipment and materials needed, at the job site, to provide the erosion control measures necessary as a result of earthwork or trenching before beginning or continuing these construction activities. Sand bags and straw wattle shall be stockpiled adjacent to the locations of activity and ready to be installed when the rainfall forecast for 48 hours is 40% or greater or when directed by the Owner.

The Contractor shall install siltation control devices around catch basins at the end of each working day. These devices shall be maintained at all times during the construction period, and shall be removed when construction is complete.

The Contractor shall not be allowed to block existing drainage flowing onto the work area. The Contractor shall install temporary drainage facilities, if necessary. There shall be no extra compensation to the Contractor for keeping existing drainage open. The Contractor is responsible for any damage to property or existing improvements resulting from blocking existing drainage.

The Contractor shall inspect the sites of work at the beginning and once every 24-hour period through the duration of each storm to assure that inlets and pipes are not blocked with silt or debris and shall be prepared to make repairs to the erosion control devices and take any other remedial measures as directed by the Owner. At the end of a storm event all depressions with ponded water, the water in catch basins, and the check dam ponds shall be pumped dry and all silt and debris

removed. This work shall be completed within twenty-four (24) hours after the end of each storm.

8. Spill Prevention and Control. The Contractor shall take any and all precautions to prevent accidental spills during the work under this contract. However, in the event of a spill:
  - The Contractor shall immediately contain and prevent leaks and spills from entering the storm drain system, and properly clean-up and dispose of the waste and clean-up materials. If waste is hazardous, the Contractor shall comply with all federal, state and local hazardous waste requirements.
  - The Contractor shall not wash any spilled material into the streets, gutters, storm drains, or creeks.
  - The Contractor shall report any hazardous material spills immediately to the Owner and the City of San Jose Police Department, as per hazardous material response protocol.
9. Vehicle/Equipment Cleaning. The Contractor shall not perform vehicle or equipment cleaning or maintenance on-site or in the street using soaps, solvents, de-greasers, steam cleaning equipment or equivalent methods. The Contractor shall perform vehicle or equipment cleaning with water only in a designated, bermed area that will not allow rinse water to run off-site or into the storm drain system. The rinse-water shall be permitted to infiltrate in dirt area or shall be discharged to the sanitary sewer with the approval of the Owner.

The Contractor shall dispose of wash water from the cleaning of water base paint equipment and tools to the sanitary sewer.

If using oil based paint, to the maximum extent practicable, the Contractor shall filter the paint thinner and solvents for reuse and dispose of the waste thinner and solvent, and sludge from cleaning of equipment and tools as hazardous waste. No disposal of oil base materials is allowed into the City sewer system.

10. Contractor Training and Awareness. The Contractor shall train all employees on the water pollution prevention requirements contained in these specifications. The Contractor shall inform all subcontractors of the water pollution prevention contract requirements and include appropriate subcontract provisions to ensure that these requirements are met.

The Contractor shall utilize thermoplastic to stencil new catch basins, constructed as part of the project, with “No Dumping, Drains to Bay”.

11. Good Housekeeping Practices. In addition to the practices and procedures discussed above, the Contractor shall implement the following applicable good housekeeping practices.
  - Store materials that have the potential to be transported to the storm drain system by storm run-off or by a spill under cover in a contained area or in sealed waterproof containers.

- Use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
- Secure opened bags of cement, and of other light or powdered materials which can be transported by wind.
- Pick up litter, construction debris and other wastes daily from outside areas including the sidewalk area, gutter, street pavement and storm drains impacted by the project. All wastes shall be stored in covered containers or disposed of or recycled immediately.
- Dispose of wash water to the sanitary sewer with the approval of Owner or recycle wash water (refer to section 6).
- Inspect vehicles and equipment arriving on-site for leaking fluids and promptly repair leaking vehicles and equipment. Vehicles leaking fluids will not be allowed on the construction site and if not repaired, must be removed.
- Avoid spills by handling materials carefully. Keep a stockpile of spill control materials, such as rags or absorbents, readily accessible on-site. Clean up all spills immediately to prevent any material from being discharged to the storm drain (refer to section 8).
- Train employees regularly on good housekeeping practices and BMPs. Assign responsibility to specific employees on BMPs, good housekeeping practices, and what to do in the event of a spill (refer to section 10).
- Maintain and replace all sediment and water pollution control devices as necessary to ensure that said controls are working effectively (e.g. inspect all sediment ponds or sandbag sedimentation/filtering systems after each rain. Remove accumulated sediment and debris and replace or repair damaged sandbags immediately).

END OF DOCUMENT

**DOCUMENT 00 73 73**

**COMPLIANCE MONITORING AND ENFORCEMENT NOTICE**

The \_\_\_\_\_ is a public works project that is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The prevailing wage laws require that all workers be paid at least the minimum hourly prevailing wage rate as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the project. The awarding body shall post prevailing wage rates and all other job site postings prescribed by regulation or require the prime contractor to do so.

The Contractor, and each subcontractor, shall submit weekly certified payrolls directly to the Labor Commissioner at least monthly or more frequently if specified in the contract with the District. CPRs shall be in a format prescribed by the Labor Commissioner and the department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements. Complaints concerning nonpayment of the required prevailing wage rates to workers on this project may be filed with the Division of Labor Standards Enforcement (DLSE).

END OF DOCUMENT

**HAZARDOUS MATERIALS PROCEDURES AND REQUIREMENTS**

**1. Summary**

This document includes information applicable to hazardous materials and hazard waste abatement.

**2. Notice of Hazardous Waste or Materials Conditions**

- a. Contractor shall give notice in writing to the District, the Construction Manager, and the Architect promptly, before any of the following conditions are disturbed, and in no event later than twenty-four (24) hours after first observance, of any:
  - (1) Material that Contractor believes may be material that is hazardous waste or hazardous material, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
  - (2) Other material that may present a substantial danger to persons or property exposed thereto in connection with Work at the site.
- b. Contractor's written notice shall indicate whether the hazardous waste or material was shown or indicated in the Contract Documents to be within the scope of Work, and whether the materials were brought to the site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible. As used in this document the term "hazardous materials" shall include, without limitation, asbestos, lead, Polychlorinated biphenyl (PCB), petroleum and related hydrocarbons, and radioactive material.
- c. In response to Contractor's written notice, the District shall investigate the identified conditions.
- d. If the District determines that conditions do not involve hazardous materials or that no change in terms of Contract is justified, the District shall so notify Contractor in writing, stating reasons. If the District and Contractor cannot agree on whether conditions justify an adjustment in Contract Price or Contract Times, or on the extent of any adjustment, Contractor shall proceed with the Work as directed by the District.
- e. If after receipt of notice from the District, Contractor does not agree to resume Work based on a reasonable belief it is unsafe, or does not agree to resume Work under special conditions, then District may order such portion of Work that is in connection with such hazardous condition or such affected area to be

deleted from the Work, or performed by others, or District may invoke its rights to terminate the Contract in whole or in part. District will determine entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of Work, or performing the Work by others.

- f. If Contractor stops Work in connection with any hazardous condition and in any area affected thereby, Contractor shall immediately redeploy its workers, equipment, and materials, as necessary, to other portions of the Work to minimize delay and disruption.

### **3. Additional Warranties and Representations**

- a. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have the required levels of familiarity with the Site and the Work, training, and ability to comply fully with all applicable law and contract requirements for safe and expeditious performance of the Work, including whatever training is or may be required regarding the activities to be performed (including, but not limited to, all training required to address adequately the actual or potential dangers of Contract performance).
- b. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have and maintain in good standing any and all certifications and licenses required by applicable federal, state, and other governmental and quasi-governmental requirements applicable to the Work.
- c. Contractor represents and warrants that it has studied carefully all requirements of the Specifications regarding procedures for demolition, hazardous waste abatement, or safety practices, specified in the Contract, and prior to submitting its bid, has either (a) verified to its satisfaction that the specified procedures are adequate and sufficient to achieve the results intended by the Contract Documents, or (b) by way of approved "or equal" request or request for clarification and written Addenda, secured changes to the specified procedures sufficient to achieve the results intended by the Contract Documents. Contractor accepts the risk that any specified procedure will result in a completed Project in full compliance with the Contract Documents.

### **4. Monitoring and Testing**

- a. District reserves the right, in its sole discretion, to conduct air monitoring, earth monitoring, Work monitoring, and any other tests (in addition to testing required under the agreement or applicable law), to monitor Contract requirements of safe and statutorily compliant work methods and (where

applicable) safe re-entry level air standards under state and federal law upon completion of the job, and compliance of the work with periodic and final inspection by public and quasi-public entities having jurisdiction.

- b. Contractor acknowledges that District has the right to perform, or cause to be performed, various activities and tests including, but not limited to, pre-abatement, during abatement, and post-abatement air monitoring, that District shall have no obligation to perform said activities and tests, and that a portion of said activities and tests may take place prior to the completion of the Work by Contractor. In the event District elects to perform these activities and tests, Contractor shall afford District ample access to the Site and all areas of the Work as may be necessary for the performance of these activities and tests. Contractor will include the potential impact of these activities or tests by District in the Contract Price and the Scheduled Completion Date.
- c. Notwithstanding District's rights granted by this paragraph, Contractor may retain its own industrial hygiene consultant at Contractor's own expense and may collect samples and may perform tests including, but not limited to, pre-abatement, during abatement, and post-abatement personal air monitoring, and District reserves the right to request documentation of all such activities and tests performed by Contractor relating to the Work and Contractor shall immediately provide that documentation upon request.

## **5. Compliance with Laws**

- a. Contractor shall perform safe, expeditious, and orderly work in accordance with the best practices and the highest standards in the hazardous waste abatement, removal, and disposal industry, the applicable law, and the Contract Documents, including, but not limited to, all responsibilities relating to the preparation and return of waste shipment records, all requirements of the law, delivering of all requisite notices, and obtaining all necessary governmental and quasi-governmental approvals.
- b. Contractor represents that it is familiar with and shall comply with all laws applicable to the Work or completed Work including, but not limited to, all federal, state, and local laws, statutes, standards, rules, regulations, and ordinances applicable to the Work relating to:
  - (1) The protection of the public health, welfare and environment;
  - (2) Storage, handling, or use of asbestos, PCB, lead, petroleum based products or other hazardous materials;
  - (3) The generation, processing, treatment, storage, transport, disposal, destruction, or other management of asbestos, PCB, lead, petroleum, or hazardous waste materials or other waste materials of any kind; and

- (4) The protection of environmentally sensitive areas such as wetlands and coastal areas.

## 6. Disposal

- a. Contractor has the sole responsibility for determining current waste storage, handling, transportation, and disposal regulations for the job Site and for each waste disposal facility. Contractor must comply fully at its sole cost and expense with these regulations and any applicable law. District may, but is not obligated to, require submittals with this information for it to review consistent with the Contract Documents.
- b. Contractor shall develop and implement a system acceptable to District to track hazardous waste from the Site to disposal, including appropriate "Hazardous Waste Manifests" on the EPA form, so that District may track the volume of waste it put in each landfill and receive from each landfill a certificate of receipt.
- c. Contractor shall provide District with the name and address of each waste disposal facility prior to any disposal, and District shall have the express right to reject any proposed disposal facility. Contractor shall not use any disposal facility to which District has objected. Contractor shall document actual disposal or destruction of waste at a designated facility by completing a disposal certificate or certificate of destruction forwarding the original to the District.

## 7. Permits

- a. Before performing any of the Work, and at such other times as may be required by applicable law, Contractor shall deliver all requisite notices and obtain the approval of all governmental and quasi-governmental authorities having jurisdiction over the Work. Contractor shall submit evidence satisfactory to District that it and any disposal facility
  - (1) have obtained all required permits, approvals, and the like in a timely manner both prior to commencement of the Work and thereafter as and when required by applicable law, and
  - (2) are in compliance with all such permits, approvals and the regulations.

For example, before commencing any work in connection with the Work involving asbestos-containing materials, or PCBs, or other hazardous materials subject to regulation, Contractor agrees to provide the required notice of intent to renovate or demolish to the appropriate state or federal agency having jurisdiction, by certified mail, return receipt requested, or by some other method of transmittal for which a return receipt is obtained, and to

send a copy of that notice to District. Contractor shall not conduct any Work involving asbestos-containing materials or PCBs unless Contractor has first confirmed that the appropriate agency having jurisdiction is in receipt of the required notification. All permits, licenses, and bonds that are required by governmental or quasi-governmental authorities, and all fees, deposits, tap fees, offsite easements, and asbestos and PCB disposal facilities expenses necessary for the prosecution of the Work, shall be procured and paid for by Contractor. Contractor shall give all notices and comply with the all applicable laws bearing on the conduct of the Work as drawn and specified. If Contractor observes or reasonably should have observed that Plans and Specifications and other Contract Documents are at variance therewith, it shall be responsible for promptly notifying District in writing of such fact. If Contractor performs any Work contrary to applicable laws, it shall bear all costs arising therefrom.

- b. In the case of any permits or notices held in District's name or of necessity to be made in District's name, District shall cooperate with Contractor in securing the permit or giving the notice, but the Contractor shall prepare for District review and execution upon approval, all necessary applications, notices, and other materials.

## **8. Indemnification**

- a. To the extent permitted by law, the indemnities and limitations of liability expressed throughout the Contract Documents apply with equal force and effect to any claims or liabilities imposed or existing by virtue of the removal, abatement, and disposal of hazardous waste. This includes, but is not limited to, liabilities connected to the selection and use of a waste disposal facility, personal injury, property damage, loss of use of property, damage to the environment or natural resources, or "disposal" and "release" of materials associated with the Work (as defined in 42 U.S.C. § 9601 et seq.).

## **9. Termination**

- a. District shall have an absolute right to terminate for default immediately without notice and without an opportunity to cure should Contractor knowingly or recklessly commit a material breach of the terms of the Contract Documents, or any applicable law, on any matter involving the exposure of persons or property to hazardous waste. However, if the breach of contract exposing persons or property to hazardous waste is due solely to an ordinary, unintentional, and non-reckless failure to exercise reasonable care, then the procedures for termination for cause shall apply without modification.

END OF DOCUMENT

**AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS**

THIS AGREEMENT AND RELEASE OF CLAIMS (“Agreement and Release”) IS MADE AND ENTERED INTO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ by and between the Berryessa Union School District (“District”) and \_\_\_\_\_ (“Contractor”), whose place of business is \_\_\_\_\_.

RECITALS:

- 1. District and Contractor entered into \_\_\_\_\_ NO.: \_\_\_\_\_ (“Contract” or “Project”) in the County of Santa Clara, California.
- 2. The Work under the Contract has been completed.

NOW, THEREFORE, it is mutually agreed between District and Contractor as follows:

AGREEMENT

- 3. Contractor will only be assessed liquidated damages as detailed below:

Original Contract Sum	\$ _____
Modified Contract Sum	\$ _____
Payment to Date	\$ _____
Liquidated Damages	\$ _____
Payment Due Contractor	\$ _____

- 4. Subject to the provisions hereof, District shall forthwith pay to Contractor the undisputed sum of \$\_\_\_\_\_ (\_\_\_\_\_ Dollars and \_\_\_\_\_ Cents) under the Contract, less any amounts represented by any notice to withhold funds on file with District as of the date of such payment.
- 5. Contractor acknowledges and hereby agrees that there are no unresolved or outstanding claims in dispute against District arising from the performance of work under the Contract, except for the claims described in Paragraph 6 and continuing obligations described in Paragraph 8. It is the intention of the parties in executing this Agreement and Release that this Agreement and Release shall be effective as a full, final and general release of all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities of Contractor against District, all its respective agents, employees, inspectors, assignees and transferees except for the

Disputed Claim is set forth in Paragraph 6 and continuing obligations described in Paragraph 8 hereof.

6. The following claims are disputed (hereinafter, the "Disputed Claims") and are specifically excluded from the operation of this Agreement and Release:

<u>Claim No.</u>	<u>Description of Claim</u>	<u>Amount of Claim</u>	<u>Date Claim Submitted</u>
------------------	-----------------------------	------------------------	-----------------------------

**[Insert information, including attachment if necessary]**

7. Consistent with California Public Contract Code section 7100, Contractor hereby agrees that, in consideration of the payment set forth in Paragraph 4 hereof, Contractor hereby releases and forever discharges District, all its agents, employees, inspectors, assignees, and transferees from any and all liability, claims, demands, actions, or causes of action of whatever kind or nature arising out of or in any way concerned with the Work under the Contract.
8. Guarantees and warranties for the Work, and any other continuing obligation of Contractor, shall remain in full force and effect as specified in the Contract Documents.
9. To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all losses, liabilities, claims, suits, and actions of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Contract unless caused wholly by the sole negligence or willful misconduct of the indemnified parties.
10. Contractor hereby waives the provisions of California Civil Code section 1542 which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

11. The provisions of this Agreement and Release are contractual in nature and not mere recitals and shall be considered independent and severable. If any such provision or any part thereof shall be at any time held invalid in whole or in part under any federal, state, county, municipal, or other law, ruling, or regulations, then such provision, or part thereof, shall remain in force and effect to the extent permitted by law, and the remaining provisions of this Agreement and Release shall also remain in full force and effect, and shall be enforceable.

12. All rights of District shall survive completion of the Work or termination of Contract, and execution of this Release.

\* \* \* CAUTION: THIS IS A RELEASE - READ BEFORE EXECUTING \* \* \*

Berryessa Union School District

TITLE: \_\_\_\_\_

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

CONTRACTOR

TITLE: \_\_\_\_\_

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

END OF DOCUMENT

11/13/13

**DOCUMENT 00 89 00**

**GUARANTEE FORM**

\_\_\_\_\_ ("Contractor") hereby agrees that the \_\_\_\_\_ ("Work" of Contractor) which Contractor has installed for the Berryessa Union School District ("District") for the following project:

**PROJECT:**

has been performed in accordance with the requirements of the Contract Documents and that the Work as installed will fulfill the requirements of the Contract Documents.

The undersigned agrees to repair or replace any or all of such Work that may prove to be defective in workmanship or material together with any other adjacent Work that may be displaced in connection with such replacement within a period of \_\_\_\_\_ year(s) from the date of completion as defined in Public Contract Code section 7107, subdivision (c), ordinary wear and tear and unusual abuse or neglect excepted. The date of completion is \_\_\_\_\_, 20\_\_.

In the event of the undersigned's failure to comply with the above-mentioned conditions within a reasonable period of time, as determined by the District, but not later than seven (7) days after being notified in writing by the District, the undersigned authorizes the District to proceed to have said defects repaired and made good at the expense of the undersigned. The undersigned shall pay the costs and charges therefore upon demand.

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

Proper Name of Contractor: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

Representatives to be contacted for service subject to terms of Contract:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

END OF DOCUMENT

11/13/13

**DOCUMENT 00 92 00**

**SMOKE-FREE ENVIRONMENT CERTIFICATION**

PROJECT/CONTRACT NO.: \_\_\_\_\_ between Berryessa Union School District (the “District” or the “Owner”) and \_\_\_\_\_ (the “Contractor” or the “Bidder”) (the “Contract” or the “Project”).

This Smoke-Free Environment Certification form is required from the successful Bidder.

Per District Board Policy and consistent with Education Code section 48901 and Health and Safety Code section 39002 all District sites, including the Project site are Tobacco Free Environments. Smoking and the use of tobacco products by all persons is prohibited on or in District property. District property includes; school buildings, school grounds, school owned vehicles and vehicles owned by others while on District property.

I acknowledge that I am aware of the District’s policy regarding smoke-free environments at District sites, including the Project site and hereby certify that I will adhere to the requirements of that policy and not permit any of my firm’s employees, agents, subcontractors, or my firm’s subcontractors’ employees or agents to smoke on the Project site.

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

Proper Name of Contractor: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

END OF DOCUMENT

**DOCUMENT 00 92 50**

**ASBESTOS AND OTHER HAZARDOUS MATERIALS CERTIFICATION**

Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations "New Material Hazardous", shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.

Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.

All Work or materials found to be New Hazardous Material or Work or material installed with "New Hazardous Material" containing equipment will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.

Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

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

Proper Name of Bidder: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

END OF DOCUMENT

**DOCUMENT 00 93 00**

**LEAD-BASED PAINT CERTIFICATION**

California Occupational Safety and Health Administration (CalOSHA), Environmental Protection Agency (EPA), California Department of Health Services (DHS), California Department of Education (CDE), and the Consumer Product Safety Commission (CPSC) regulate lead-containing paint and lead products. Because the Contractor and its employees will be providing services for the District, and because the Contractor's work may disturb lead-containing building materials, **CONTRACTOR IS HEREBY NOTIFIED** of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

The CDE mandates that school districts utilize DHS lead-certified personnel when a lead-based hazard is identified. Examples of lead-certified personnel include: project designers, inspectors, and abatement workers. Furthermore, since it is assumed by the district that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (**Including Title 8, California Code of Regulations, Section 1532.1**). Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the District.

The California Education Code also prohibits the use or import of lead-containing paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or in the modernization or renovation of any existing school facility. The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

If failure to comply with these laws, rules, and regulations results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom. If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the

Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

THE UNDERSIGNED HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED ALSO WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR.

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

Proper Name of Contractor: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

THE UNDERSIGNED HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED ALSO WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR. THE OWNER MAY REQUIRE PROOF OF SUCH AUTHORITY.

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

Proper Name of Bidder: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

END OF DOCUMENT



Date: \_\_\_\_\_  
Proper Name of Contractor: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

END OF DOCUMENT

11/13/13

**SECTION 01 10 00**  
**SUMMARY OF WORK**

**PART 1 GENERAL**

**1.1 PROJECT**

- A. Project Name: **BUSD – New District Office**
- B. Owner's Name: Berryessa Union School District.
- C. Architect: McKim Design Group

**1.2 CONTRACT DESCRIPTION**

- A. Contract Type: Each project will be a single prime contract based on a Stipulated Price as described in Document 00 5200 - Agreement Form.

**1.3 RELATED SECTIONS**

- A. Section 01 10 12 - Bid Division Descriptions.

**1.4 DESCRIPTION OF ALTERATIONS WORK**

- A. Scope of alterations work is shown on McKim Design Group drawings and specifications.
- B. Flooring - Bid #B-08-2022-23**

**1.5 OWNER OCCUPANCY**

- A. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.
- B. Schedule the Work to accommodate Owner occupancy

**The Project schedule –**

**Commence on: January 16, 2023**  
**Complete on February 24, 2023**

**C. Work by Others:**

- 1) **General Construction Work**
- 2) **Mechanical Work**
- 3) **Electrical Work**
- 4) **Data Work**
- 5) **Custom Casework**

- 6) **EMS Controls**
- 7) **Security**
- 8) **Landscaping**
- 9) **BUSD Maintenance Staff work**

## 1.6 CONTRACTOR USE OF SITE AND PREMISES

- A. Construction Operations: Limited to areas noted on Drawings.
- B. Provide access to and from site as required by law and by Owner.
  - 1. Emergency Building Exits During Construction: Keep all exits required by code open during construction period; provide temporary exit signs if exit routes are temporarily altered.
  - 2. Do not obstruct roadways, sidewalks, or other public ways without permit.
- C. Utility Outages and Shutdown.
  - 1. Do not disrupt or shut down life safety systems, including but not limited to fire sprinklers and fire alarm system, without 7 days' notice to Owner and authorities having jurisdiction.
  - 2. Limit shutdown of utility services to minimal hours, arranged at least 48 hours in advance with Owner.
  - 3. Prevent accidental disruption of utility services to other facilities.

**END OF SECTION**

**BID DIVISION DESCRIPTIONS**

**PART 1 - GENERAL**

**1.1 Section Includes**

- A. Descriptions of Bid Divisions.

**1.2 Related Sections**

- A. Section 01 11 00 - Summary of Work.

**1.3 DESCRIPTIONS OF BID DIVISIONS**

- A. For the purpose of clarity, the scope of work for each Bid Division has been divided into three categories: "INCLUDED", "ALSO INCLUDED", and "EXCLUDED".
  - 1. Items listed under "INCLUDED" are the standard and/or "conventional" work scope of each Bid Division.
  - 2. Information provided under "ALSO INCLUDED" points out some items which may be considered less obvious or "unconventional," but which are included in the work scope of a particular Bid Division. (Information under this heading is not always necessary to delineate a Bid Division.)
  - 3. Information provided under the heading "EXCLUDED" is for the purpose of indicating beginning and termination points, and/or to provide an understanding of fringe involvements included in Bid Divisions. (Information under this heading is not always necessary to delineate a Bid Division.)
  
- B. Bid Divisions are the categories of Work into which the Project will be divided for bidding and construction. Bid Divisions should not be confused with Specification Sections.
  - 1. Bid Division Descriptions (Section 01 11 12) are a written description of the Scope of the Work included in each of the Bid Divisions.
  - 2. Bid Division Descriptions have been written to clearly define each Bid Division. Contractors are encouraged to request information or clarification by calling the Construction Manager. The Owner will not be responsible for a Contractor's incorrect interpretation of the Descriptions.
  - 3. Although each Bid Division involves a standard segment of

"conventional" trade contracting, multiple contract project delivery requires that adjustments be made to permit the completion of each Bid Division as a separate segment of construction. Each Contractor shall carefully review the total scope of responsibilities with respect to the Work of the Bid Division(s) and shall provide for the total scope in Contractor's Bid Division Proposal.

4. Each Contractor shall become familiar with the work scopes of all other Bid Divisions which interface with the Bid Division of which a proposal is being submitted. Each Contractor shall consider that the work of Contractor's Bid Division(s) may follow the work of another Bid Division, that other Contractors may perform work after the work of Contractor's Bid Division(s), and that other Contractors may work simultaneously with the work of Contractor's Bid Division(s). Each Contractor shall include provisions for such sequencing and scheduling, and for cooperation and coordination with such other Contractors in the Bid Proposal.
5. Nothing contained in the Bidding Documents, including the Bid Division descriptions, shall be construed by Bidders as an assignment of work to any construction industry trade. Each Bidder is responsible for Bidder's own work assignments within the Bid Division.

#### 1.4 **BID DIVISION DESCRIPTION**

##### **BID DIVISION: Flooring – B-08-2022-23**

**Project # B-08-2022-23 – New District Office. The scope consists of floor prep, and installation of broadloom carpet, carpet tiles and LVT flooring at New District Office. The carpet tiles, LVT flooring and associated flooring material & accessories will be Contractor supplied and installed. The broadloom carpet is Owner supplied and Contractor installed with Contractor supplied material & accessories.**

Division 01 General Requirements  
Division 02 Existing Conditions & Demolition

**Also included but not limited to:**

Provide As-built drawings (for this Bid Division) showing original contract, change order work, RFI'S and any other additional work.

All construction included in this Bid Divisions shall be in accordance with all documents, all organizations having jurisdiction, and all other, applicable design criteria.

All labor, material and equipment for all needed floor preparation including but not limited to grinding, scaping, sanding and leveling.

Supply and install all interior thresholds and/or transition strips.

All labor and equipment (Contractor may use the District's forklift) to pick up the District supplied broadloom carpet at the BUSD Maintenance yard and transport the carpet to the new District office. Contractor will return any unused broadloom carpet to the BUSD Maintenance yard once the work is complete.

Provide coordination with other Bid Divisions, District Maintenance staff and District vendors.

**Excluded:**

Supply of Broadloom Carpet

**SECTION 01 20 00**  
**PRICE AND PAYMENT PROCEDURES**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. Procedures for preparation and submittal of applications for progress payments.
- B. Documentation of changes in Contract Sum and Contract Time.
- C. Change procedures.
- D. Correlation of Contractor submittals based on changes.
- E. Procedures for preparation and submittal of application for final payment.

**1.2 RELATED REQUIREMENTS**

- A. Document 00 50 00 - Contracting Forms and Supplements: Forms to be used.
- B. Document 00 52 00 - Agreement Form: Contract Sum, retainages, payment period, monetary values of unit prices.
- C. Document 00 72 00 - General Conditions and Document 00 73 00 - Supplementary Conditions: Additional requirements for progress payments, final payment, changes in the Work.
- D. Document 00 73 00 - Supplementary Conditions: Percentage allowances for Contractor's overhead and profit.
- E. Section 01 2100 - Allowances: Payment procedures relating to allowances.
- F. Section 01 2200 - Unit Prices: Monetary values of unit prices, payment and modification procedures relating to unit prices.

**1.3 SCHEDULE OF VALUES**

- A. Electronic media printout including equivalent information will be considered in lieu of standard form specified; submit draft to Architect and Construction Manager for approval.
- B. Forms filled out by hand will not be accepted.
- C. Submit Schedule of Values in duplicate within 10 days after date of the Notice of Award of the Contract. This date is per the District's General Conditions

Section 9.2.1.A by the District.

- D. Format: Utilize the Table of Contents of this Project Manual. Identify each line item with number and title of the specification Section. Identify site mobilization.
- E. Include in each line item, the amount of Allowances specified in this section. For unit cost Allowances, identify quantities taken from Contract Documents multiplied by the unit cost to achieve the total for the item.
- F. Include separately from each line item, a direct proportional amount of Contractor's overhead and profit.
- G. Revise schedule to list approved Change Orders, with each Application For Payment.

#### 1.4 APPLICATIONS FOR PROGRESS PAYMENTS

- A. Payment Period: Submit at intervals stipulated in the Agreement.
- B. Electronic media printout including equivalent information will be considered in lieu of standard form specified; submit sample to Architect for approval.
- C. Forms filled out by hand will not be accepted.
- D. For each item, provide a column for listing each of the following:
  - 1. Item Number.
  - 2. Description of work.
  - 3. Scheduled Values.
  - 4. Previous Applications.
  - 5. Work in Place and Stored Materials under this Application.
  - 6. Authorized Change Orders.
  - 7. Total Completed and Stored to Date of Application.
  - 8. Percentage of Completion.
  - 9. Balance to Finish.
  - 10. Retainage.
- E. Execute certification by signature of authorized officer.

- F. Use data from approved Schedule of Values. Provide dollar value in each column for each line item for portion of work performed and for stored products.
- G. List each authorized Change Order as a separate line item, listing Change Order number and dollar amount as for an original item of Work.
- H. Submit Four copies of each Application for Payment.
- I. Include the following with the application:
  - 1. Transmittal letter as specified for Submittals in Section 01 3000.
  - 2. Construction progress schedule, revised and current as specified in Section 01 3000.
  - 3. Partial release of liens from major Subcontractors and vendors.
  - 4. Affidavits attesting to off-site stored products.
  - 5. Conditional and Unconditional Waiver Releases.
- J. When Architect requires substantiating information, submit data justifying dollar amounts in question. Provide one copy of data with cover letter for each copy of submittal. Show application number and date, and line item by number and description.

## 1.5 MODIFICATION PROCEDURES

- A. Submit name of the individual authorized to receive change documents and who will be responsible for informing others in Contractor's employ a n d / o r subcontractors of changes to the Contract Documents.
- B. For required changes, Owner, Architect or Construction Manager will issue a CCD approved by DSA and signed by Owner instructing Contractor to proceed with the change, for subsequent inclusion in a Change Order.
  - 1. The document will describe the required changes and will designate method of determining any change in Contract Sum or Contract Time.
  - 2. Promptly execute the change.
- C. Contractor may propose a change by submitting a request for change to O w n e r , Architect or Construction Manager describing the proposed change and its full effect on the Work, with a statement describing the reason for the change, and the effect on the Contract Sum and Contract Time with full documentation and a statement describing the effect on Work by separate or other contractors. Document any requested substitutions in accordance with Section 01 6000.

- D. Computation of Change in Contract Amount: As specified in the Agreement and Conditions of the Contract.
1. For change requested by Owner, Architect or Construction Manager for work falling under a fixed price contract, the amount will be based on Contractor's price quotation.
  2. For change requested by Contractor, the amount will be based on the Contractor's request for a Change Order as approved by Owner, Architect or Construction Manager.
  3. For pre-determined unit prices and quantities, the amount will be based on the fixed unit prices.
  4. For change ordered by Owner, Architect or Construction Manager without a quotation from Contractor, the amount will be determined by Architect based on the Contractor's substantiation of costs as specified for Time and Material work.
- E. Substantiation of Costs: Provide full information required for evaluation.
1. On request, provide the following data:
    - a. Quantities of products, labor, and equipment.
    - b. Taxes, insurance, and bonds.
    - c. Overhead and profit.
    - d. Justification for any change in Contract Time.
    - e. Credit for deletions from Contract, similarly documented.
  2. Support each claim for additional costs with additional information:
    - a. Origin and date of claim.
    - b. Dates and times work was performed, and by whom.
    - c. Time records and wage rates paid.
    - d. Invoices and receipts for products, equipment, and subcontracts, similarly documented.
  3. For Time and Material work, submit itemized account and supporting data after completion of change, within time limits indicated in the Conditions of the Contract.

- F. Execution of Change Orders: Owner, Architect or Construction Manager will issue Change Orders for signatures of parties as provided in the Conditions of the Contract.
- G. After execution of Change Order, promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust the Contract Sum.
- H. Promptly revise progress schedules to reflect any change in Contract Time, revise sub-schedules to adjust times for other items of work affected by the change, and resubmit.
- I. Promptly enter changes in Project Record Documents.

#### 1.06 APPLICATION FOR FINAL PAYMENT

- J. Prepare Application for Final Payment as specified for progress payments, identifying total adjusted Contract Sum, previous payments, and sum remaining due.
- K. Application for Final Payment will not be considered until the following have been accomplished:
  - 1. All closeout procedures specified in Section 01 7000 have been accomplished and the project is Certified by DSA.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

**END OF SECTION**

**SECTION 01 21 00**  
**ALLOWANCES**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

**1.2 RELATED REQUIREMENTS**

- A. Section 01 2000 - Price and Payment Procedures: Additional payment and modification procedures.

**1.3 CONTINGENCY ALLOWANCE**

- A. Contractor's costs for products, delivery, installation, labor, insurance, payroll, taxes, bonding, equipment rental, overhead and profit will be included in Change Orders authorizing expenditure of funds from this Contingency Allowance.
- B. Funds will be drawn from the Contingency Allowance only by Change Order.
- C. Labor quantities MUST be verified by the I.O.R. prior to payment.
- D. At closeout of Contract, funds remaining in Contingency Allowance will be credited to Owner by Change Order.

**PART 2 PRODUCTS - NOT USED**

**PART 3 EXECUTION - NOT USED**

END OF SECTION

**SECTION 01 22 00**  
**UNIT PRICES**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. List of unit prices, for use in preparing Bids.
- B. Measurement and payment criteria applicable to Work performed under a unit price payment method.

**1.2 RELATED REQUIREMENTS**

- A. Document 00 21 13 - Instructions to Bidders: Instructions for preparation of pricing for Unit Prices.
- B. Document 00 43 22 - Unit Prices Form: List of Unit Prices as supplement to Bid Form.
- C. Section 01 2000 - Price and Payment Procedures: Additional payment and modification procedures.

**1.3 COSTS INCLUDED**

- A. Unit Prices included on the Bid Form shall include full compensation for all required labor, products, tools, equipment, plant, transportation, services and incidentals; erection, application or installation of an item of the Work; overhead and profit.

**1.4 UNIT QUANTITIES SPECIFIED**

- A. Quantities indicated in the Bid Form are for bidding and contract purposes only. Quantities and measurements of actual Work will determine the payment amount.

**1.5 MEASUREMENT OF QUANTITIES**

- A. Measurement methods delineated in the individual specification sections complement the criteria of this section. In the event of conflict, the requirements of the individual specification section govern.
- B. Take all measurements and compute quantities. Measurements and quantities will be verified by Architect, Owner or Construction Manager.
- C. Assist by providing necessary equipment, workers, and survey personnel as required.

- D. Measurement by Weight: Concrete reinforcing steel, rolled or formed steel or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook or scale weight.
- E. Measurement by Volume: Measured by cubic dimension using mean length, width and height or thickness.
- F. Measurement by Area: Measured by square dimension using mean length and width or radius.
- G. Linear Measurement: Measured by linear dimension, at the item centerline or mean chord.
- H. Stipulated Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as a completed item or unit of the Work.
- I. Perform surveys required to determine quantities, including control surveys to establish measurement reference lines. Notify Architect prior to starting work.
- J. Contractor's Engineer Responsibilities: Sign surveyor's field notes or keep duplicate field notes, calculate and certify quantities for payment purposes.

## 1.6 PAYMENT

- A. Payment for Work governed by unit prices will be made on the basis of the actual measurements and quantities of Work that is incorporated in or made necessary by the Work and accepted by the Architect, multiplied by the unit price.
- B. Payment will not be made for any of the following:
  1. Products wasted or disposed of in a manner that is not acceptable.
  2. Products determined as unacceptable before or after placement.
  3. Products not completely unloaded from the transporting vehicle.
  4. Products placed beyond the lines and levels of the required Work.
  5. Products remaining on hand after completion of the Work.
  6. Loading, hauling, and disposing of rejected Products.

## 1.7 DEFECT ASSESSMENT

- A. Replace Work, or portions of the Work, not conforming to specified requirements.

- B. If, in the opinion of Architect, Owner or Construction Manager it is not practical to remove and replace the Work, Architect will direct one of the following remedies:
1. The defective Work may remain, but the unit price will be adjusted to a new unit price at the discretion of Architect, Owner or Construction Manager.
  2. The defective Work will be partially repaired to the instructions of the Architect, and the unit price will be adjusted to a new unit price at the discretion of Architect.
- C. The individual specification sections may modify these options or may identify a specific formula or percentage price reduction.
- D. The authority of Architect to assess the defect and identify payment adjustment is final.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

**END OF SECTION**

## DOCUMENT 01 23 00

### ALTERNATES AND UNIT PRICING

#### **PART I – ALTERNATES**

##### **1.01 RELATED DOCUMENTS AND PROVISIONS**

- A. All Contract Documents should be reviewed for applicable provisions related to the provisions in this document, including without limitation:
  - 1. General Conditions;
  - 2. Special Conditions;
  - 3. Bid Form and Proposal;
  - 4. Instruction to Bidders.

##### **1.02 DESCRIPTION**

- A. The following items of work include proposed modifications to, substitutions for, to and/or deletions from the various parts of the Work specified in other Documents of the Specifications. The acceptance or rejection of any of the alternates is strictly at the option of the District subject to District's acceptance of Contractor's stated prices contained in this Proposal.

##### **1.03 GENERAL**

- A. Where an item is omitted, or scope of Work is decreased, all Work pertaining to the item whether specifically stated or not, shall be omitted and where an items is added or modified or where scope of Work is increased, all Work pertaining to that required to render same ready for use on the Project in accordance with intention of Drawings and Specifications shall be included in an agreed upon price amount.

##### **1.04 BASE BID**

- A. The Base Bid includes all work required to construct the Project completely and in accordance with the Contract Documents.

##### **1.05 ALTERNATES**

- A. The below Alternate descriptions are general in nature and for reference purposes only. The Contract Documents, including, without limitation, the Drawings and Specifications, must be referred to for the complete scope of Work.

#### **PART 2 - UNIT PRICING**

##### **2.01 GENERAL**

- A. Contractor shall completely state all required figures based on Unit Prices listed below. Where scope of Work is decreased, all Work pertaining to the item, whether specifically stated or not, shall be omitted and where scope of Work is increased, all work pertaining to that item required to render same ready for use on the Project in

accordance with intention of Drawings and Specifications shall be included in an agreed upon price amount.

## **2.02 UNIT PRICES**

- A. Furnish unit prices for each of the named items included on the bid form on a square foot, lineal foot, or per each basis, as applies. Unit prices shall include all labor, materials, services, profit, overhead, insurance (excluding costs of insurance covered by OCIP), bonds, taxes, and all other incidental costs of Contractor, subcontractors, and supplier(s).

**PART 3 – EXECUTION** Not Used.

END OF DOCUMENT

**SUBSTITUTION PROCEDURES**

**PART 1 - GENERAL**

**1.01 RELATED DOCUMENTS AND PROVISIONS**

All Contract Documents should be reviewed for applicable provisions related to the provisions in this document, including without limitation:

- A. General Conditions, including, without limitation, Substitutions For Specified Items;
- B. Special Conditions.

**1.02 SUBSTITUTIONS OF MATERIALS AND EQUIPMENT**

- A. Catalog numbers and specific brands or trade names followed by the designation "or equal" are used in conjunction with material and equipment required by the Specifications to establish the standards of quality, utility, and appearance required. Substitutions which are equal in quality, utility, and appearance to those specified may be reviewed subject to the provisions of the General Conditions.
- B. Wherever more than one manufacturer's product is specified, the first-named product is the basis for the design used in the work and the use of alternative-named manufacturers' products or substitutes may require modifications in that design. If such alternatives are proposed by Contractor and are approved by the District and-or the Architect, Contractor shall assume all costs required to make necessary revisions and modifications of the design resulting from the substitutions requested by the Contractor.
- C. When materials and equipment are specified by first manufacturer's name and product number, second manufacturer's name and "or approved equal," supporting data for the second product, if proposed by Contractor, shall be submitted in accordance with the requirements for substitutions.
- D. If the District and-or Architect, in reviewing proposed substitute materials and equipment, requires revisions or corrections to be made to previously accepted Shop Drawings and supplemental supporting data to be resubmitted, Contractor shall promptly do so. If any proposed substitution is judged by the District and-or Architect to be unacceptable, the specified material or equipment shall be provided.

- E. Samples may be required. Tests required by the District and-or Architect for the determination of quality and utility shall be made at the expense of Contractor, with acceptance of the test procedure first given by the District.
- F. In reviewing the supporting data submitted for substitutions, the District and-or Architect will use for purposes of comparison all the characteristics of the specified material or equipment as they appear in the manufacturer's published data even though all the characteristics may not have been particularly mentioned in the Contract Documents. If more than two (2) submissions of supporting data are required, the cost of reviewing the additional supporting data shall be borne by Contractor, and the District will deduct the costs from the Contract Price.

### **1.03 SUBMITTALS**

- A. Substitution Request Submittal: Requests for substitution will be considered if received as noted in the contract documents. Requests not received within the timeline established may be considered or rejected at the discretion of the Architect.
  - 1. Submit 3 copies of each request for substitution for consideration. Submit requests in the form and in accordance with procedures required for Change Order proposals.
  - 2. Identify the product, or the fabrication or installation method to be replaced in each request. Include related Specification Document and Drawing numbers. Provide complete documentation showing compliance with the requirements for substitutions, and the following information, as appropriate:
    - a. Product Data, including Drawings and descriptions, or products, fabrication and installation procedures.
    - b. Samples, where applicable or requested.
    - c. A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements such as size, weight, durability, performance and visual effect.
    - d. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by the Owner and separate Contractors that will become necessary to accommodate the proposed substitution.

- e. A statement indicating the substitution's effect on the Contractor's Construction Schedule compared to the schedule without approval of the substitution. Indicate the effect of the proposed substitution on overall Contract Time.
  - f. Cost information, including a proposal of the net change, if any in the Contract Sum.
  - g. Certification by the Contractor that the substitution proposed is equal-to or better in every significant respect to that required by the Contract Documents, and that it will perform adequately in the application indicated. Include the Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of the failure of the substitution to perform adequately.
- B. Architect's Action: Within one week of receipt of the request for substitution, the Architect will request additional information or documentation necessary for evaluation of the request. Within 2 weeks of receipt of the request, or one week of receipt of the additional information or documentation, whichever is later, the Architect will notify the Contractor of acceptance or rejection of the proposed substitution. If a decision on use of a proposed substitute cannot be made or obtained within the time allocated, use the product specified by name.

## **PART 2 – PRODUCTS**

### **2.01 SUBSTITUTIONS**

- A. Conditions: The Contractor's substitution request will be received and considered by the Architect when one or more of the following conditions are satisfied, as determined by the Architect; otherwise, requests will be returned without action except to record noncompliance with these requirements.
1. Extensive revisions to Contract Documents are not required.
  2. Proposed changes are in keeping with the general intent of Contract Documents.
  3. The request is timely, fully documented and properly submitted.
  4. The request is directly related to an "or equal" clause or similar language in the Contract Documents.
  5. The specified product or method of construction cannot be provided within the Contract Time. The request will not be considered if the

product or method cannot be provided as a result of failure to pursue the Work promptly or coordinate activities properly.

6. The specified product or method of construction cannot receive necessary approval by a governing authority, and the requested substitution can be approved.
  7. A substantial advantage is offered the Owner, in terms of cost, time, energy conservation or other considerations of merit, after deducting offsetting responsibilities for the Owner may be required to bear. Additional responsibilities for the Owner may include additional compensation to the Architect for redesign and evaluation services, increased cost of other construction by the Owner or separate Contractors, and similar considerations.
  8. The specified product or method of construction cannot be provided in a manner that is compatible with other materials, and where the Contractor certifies that the substitution will overcome the incompatibility.
  9. The specified product or method of construction cannot be coordinated with other materials, and where the Contractor certifies that the proposed substitution can be coordinated.
  10. The specified product or method of construction cannot provide a warranty required by the Contract Documents and where the Contractor certifies that the proposed substitution provide the required warranty.
- B. The Contractor's submittal and Architect's acceptance of Shop Drawings, Product Data or Samples that relate to construction activities not complying with the Contract Documents does not constitute an acceptable or valid request for substitution, nor does it constitute approval
- C. By making requests for substitutions based on Sub-paragraph above, the Contractor:
1. Represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to the specified.
  2. Represents that the Contractor will provide the same warranty for the substitution that the Contractor would for the specified.
  3. Certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently becomes apparent.

4. Will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be completed in all respects.
- D. If a proposed substitution requires investigation, testing or approval to determine its suitability for incorporation into the work, the testing of the proposed substitution shall be as determined by the Architect. The Contractor shall bear all cost of such investigations or test.
  - E. All Substitutions that affect Structural Safety, Fire and Life Safety, Access Compliance or Energy (as applicable) shall be submitted to the Division of the State Architect for review and approval.

**PART 3 – EXECUTION** Not Used.

END OF DOCUMENT

11/13/13

**SECTION 01 30 00**  
**ADMINISTRATIVE REQUIREMENTS**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. Electronic document submittal service.
- B. Preconstruction meeting.
- C. Site mobilization meeting.
- D. Progress meetings.
- E. Construction progress schedule.
- F. Submittals for review, information, and project closeout.
- G. Submittal procedures.

**1.2 RELATED REQUIREMENTS**

- A. Division 00 - Procurement and Contracting Requirements
- B. Section 01 3216 - Construction Progress Schedule: Form, content, and administration of schedules.
- C. Section 01 7000 - Execution and Closeout Requirements: Additional coordination requirements.
- D. Section 01 7800 - Closeout Submittals: Project record documents.

**1.3 PROJECT COORDINATION**

- A. Project Coordinator: Construction Manager.
- B. Cooperate with the Construction Manager in allocation of mobilization areas of site; staging, Contractor access, traffic, and parking facilities.
- C. Coordinate field engineering and layout work under instructions of the District, CM and Architect.
- D. Make the following types of submittals to Architect through the Construction Manager and I.O.R.:
  - 1. Requests for information.
  - 2. Requests for substitution.
  - 3. Shop drawings, product data, and samples.
  - 4. Test and inspection reports.
  - 5. Applications for payment and change order requests.

6. Progress schedules.
7. Closeout submittals.

## PART 2 PRODUCTS - NOT USED

## PART 3 EXECUTION

### 3.1 ELECTRONIC DOCUMENT SUBMITTAL SERVICE

- A. All documents transmitted for purposes of administration of the contract are to be in electronic (PDF) format and transmitted via email or an Internet-based submittal service as determined by the CM that receives, logs and stores documents, provides electronic stamping and signatures, and notifies addressees via email.
  1. Besides submittals for review, information, and closeout, this procedure applies to requests for information (RFIs), progress documentation, contract modification documents (e.g. supplementary instructions, change proposals, change orders), applications for payment, field reports and meeting minutes, Contractor's correction punchlist, and any other document any participant wishes to make part of the project record.
  2. [ ] All parties are required to use this service.
  3. It is Contractor's responsibility to submit documents in PDF format.
  4. Subcontractors, suppliers, and Architect's consultants will be permitted to use the service at no extra charge.
  5. Users of the service need an email address, Internet access, and PDF review software that includes ability to mark up and apply electronic stamps (such as Adobe Acrobat, [www.adobe.com](http://www.adobe.com), or Bluebeam PDF Revu, [www.bluebeam.com](http://www.bluebeam.com)), unless such software capability is provided by the service provider.
  6. Paper document transmittals will be reviewed if submitted with samples or other similar items only; emailed PDF documents will not be reviewed if an internet service is agreed to.
  7. All other specified submittal and document transmission procedures apply, except that electronic document requirements do not apply to samples or color selection charts.
- B. Submittal Service: The selected service is:
  1. To be approved by the Owner.
- C. Training: One, one-hour, web-based training session will be arranged for all participants, with representatives of Architect and Contractor participating; further training is the responsibility of the user of the service.
  1. Representatives of Owner and Construction Manager will be included in this training as necessary.

- D. Project Closeout: Architect will determine when to terminate the service for the project and is responsible for obtaining archive copies of files for Owner.

### 3.2 CONTRACTOR MEETINGS

- A. Conduct trade preconstruction meeting with each trade to review scope and schedule prior to start of work.
- B. Conduct coordination meetings with multiple trades prior to start of work in cases where more than two trades are working simultaneously in the same work area, or where two or more trades' work intersects, or impacts the other.

### 3.3 PRECONSTRUCTION MEETING

- A. Owner will schedule a meeting after Notice of Award.
- B. Project Coordinator will schedule a meeting after Notice of Award.
- C. Attendance Required:
  - 1. Owner.
  - 2. Architect.
  - 3. Contractor.
  - 4. Construction Manager.
  - 5. [ ].
- D. Agenda:
  - 1. Execution of Owner-Contractor Agreement.
  - 2. Submission of executed bonds and insurance certificates.
  - 3. Distribution of Contract Documents.
  - 4. Submission of list of Subcontractors, list of Products, schedule of values, and progress schedule.
  - 5. Designation of personnel representing the parties to the Contract, Owner, Construction Manager and Architect.
  - 6. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
  - 7. Scheduling.
  - 8. Review site logistics plans, site safety plans and construction sequencing.
- E. The Construction Manager will record minutes and distribute copies within 48 hours after meeting to participants.[ ]

### 3.4 SITE MOBILIZATION MEETING

- A. Construction Manager will schedule meeting at the Project site prior to [ ] occupancy.
- B. Attendance Required:
  - 1. Contractor.
  - 2. Owner.
  - 3. I.O.R..
- C. Agenda:
  - 1. Use of premises by Owner and Contractor.
  - 2. Owner's requirements and occupancy prior to completion.
  - 3. Construction facilities and controls provided by Owner.
  - 4. Temporary utilities provided by Owner.
  - 5. Survey and building layout.
  - 6. Security and housekeeping procedures.
  - 7. Schedules.
  - 8. Application for payment procedures.
  - 9. Procedures for testing.
  - 10. Procedures for maintaining record documents.
  - 11. Requirements for start-up of equipment.
  - 12. Inspection and acceptance of equipment put into service during construction period.
- D. Record minutes and distribute copies within two days after meeting to participants, with two copies to Architect, Owner, participants, and those affected by decisions made.

### 3.5 PROGRESS MEETINGS

- A. Construction Manager will make arrangements for meetings, prepare agenda with copies for participants, preside at meetings.
- B. Attendance Required: Job superintendent, Owner, CM, Architect, I.O.R., subcontractors as appropriate to agenda topics for each meeting.
- C. Agenda:
  - 1. Review minutes of previous meetings.
  - 2. Review of Work progress and three week look-ahead against the original schedule submitted by the contractor prior to initiation of work.
  - 3. Field observations, issues, and decisions.

4. Identification of issues that impede, or will impede, planned progress including open RFIs.
5. Review of submittals schedule and status of submittals.
6. Maintenance of progress schedule.
7. Corrective measures to regain projected schedules.
8. Planned progress during succeeding work period.
9. Maintenance of quality and work standards.
10. Effect of proposed changes on progress schedule and coordination.
11. Other business relating to Work.

D. Record minutes and distribute copies within 48 hours after meeting to participants.

### 3.6 SUBMITTALS FOR REVIEW

A. When the following are specified in individual sections, submit them for review:

1. Product data.
2. Shop drawings.
3. Samples for selection.

B. Submit to Architect for review for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents.

C. Samples will be reviewed only for aesthetic, color, or finish selection.

D. After review, provide copies and distribute in accordance with SUBMITTAL PROCEDURES article below.

### 3.7 SUBMITTALS FOR INFORMATION

A. When the following are specified in individual sections, submit them for information:

1. Design data.
2. Certificates upon completion of installation.
3. Test reports.
4. Inspection reports.
5. Manufacturer's instructions.
6. Manufacturer's field reports.
7. Other types indicated.

B. Submit for Architect's knowledge as contract administrator and to Owner.

### 3.8 SUBMITTALS FOR PROJECT CLOSEOUT

- A. When the following are specified in individual sections, submit them at project closeout:
  - 1. Project record documents with field marked as-built drawings.
  - 2. Operation and maintenance data.
  - 3. Warranties.
  - 4. Bonds.
  - 5. Training Manuals.
  - 6. Other types as indicated.
- B. Submit for Owner's benefit during and after project completion.

### 3.9 NUMBER OF COPIES OF SUBMITTALS

- A. Documents: Submit one electronic copy in PDF format; an electronically-marked up file will be returned. Create PDFs at native size and right-side up; illegible files will be rejected.
- B. Upon review and acceptance of submittals, provide two hard copies, one to the Architect and one to the Owner.
- C. Samples: Submit the number specified in individual specification sections; one of which will be retained by Architect.
  - 1. After review, produce duplicates.
  - 2. Retained samples will not be returned to Contractor unless specifically so stated.

### 3.10 SUBMITTAL PROCEDURES

- A. Shop Drawing Procedures:
  - 1. Prepare accurate, drawn-to-scale, original shop drawing documentation by interpreting the Contract Documents and coordinating related Work.
  - 2. Use of the Construction drawings for shop drawing production will only be allowed if the contractor and specific sub-contractor submit a signed release of liability statement provided by the Architect. [ ].
  - 3. Generic, non-project specific information submitted as shop drawings do not meet the requirements for shop drawings.
- B. Transmit each submittal with a copy of approved submittal form.
- C. Submit complete list of anticipated submittals no later than 10 days after notice to proceed[ ].
- D. Submittals must be submitted and review completed and accepted prior to the start of work.
- E. Submittals are to be complete for all items in each specification section. Partial

submittals may not be reviewed.

- F. Transmit each submittal with a transmittal.
- G. Sequentially number the transmittal form. Revise submittals with original number and a sequential alphabetic suffix.
- H. Identify Project, Contractor, Subcontractor or supplier; pertinent drawing and detail number, and specification section number, as appropriate on each copy.
- I. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of Products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the Work and Contract Documents and date of review.
- J. Deliver submittals to Architect via email or Contractor's website. Provide email notification when submittals are loaded to website.
- K. Schedule submittals to expedite the Project, and coordinate submission of related items.
- L. For each submittal for review, allow 10 business days excluding delivery time to and from the Contractor.
- M. Identify variations from Contract Documents and Product or system limitations that may be detrimental to successful performance of the completed Work. Describe proposed substitutions or equals on the submittal cover. Accepting a submittal that does not identify deviations from the contract does not constitute acceptance of the deviations.
- N. Provide space for Contractor and Architect review stamps.
- O. When revised for resubmission, identify all changes made since previous submission.
- P. Distribute reviewed submittals as appropriate. Instruct parties to promptly report any inability to comply with requirements.
- Q. Submittals not requested will not be recognized or processed.

**END OF SECTION**

**SECTION 01 32 16**  
**CONSTRUCTION PROGRESS SCHEDULE**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. Preliminary schedule.
- B. Construction progress schedule, bar chart type.

**1.2 RELATED SECTIONS**

- A. Section 01 3000 - Administrative Requirements

**1.3 REFERENCES**

- A. AGC (CPSM) - Construction Planning and Scheduling Manual; Associated General Contractors of America; 2004.

**1.4 SUBMITTALS**

- A. Within 10 days after notice to proceed, submit complete, detailed construction schedule.
  - 1. This project will be built in conjunction and concurrently with other projects. Integrate schedule for this project with other projects being performed.
  - 2. Schedules to be maintained in Primavera, P6 Project Planner platform.
  - 3. Submit three copies of the schedule in 11 by 17 format, landscape.
- B. Submit updated schedule with each Application for Payment.

**1.5 SCHEDULE FORMAT**

- A. Listings: In chronological order according to the start date for each activity. Identify each activity with the applicable specification section number.

**PART 2 PRODUCTS**

- 2.1 Software: Primavera P6 Project Planner or approved substitute.**

**PART 3 EXECUTION**

### 3.1 NETWORK ANALYSIS

- A. Prepare network analysis diagrams and supporting mathematical analyses using the Critical Path Method.
- B. Illustrate order and interdependence of activities and sequence of work; how start of a given activity depends on completion of preceding activities, and how completion of the activity may restrain start of subsequent activities.
- C. Mathematical Analysis: Tabulate each activity of detailed network diagrams, using calendar dates, and identify for each activity:
  - 1. Preceding and following event numbers.
  - 2. Activity description.
  - 3. Estimated duration of activity, in maximum 15 day intervals.
  - 4. Earliest start date.
  - 5. Earliest finish date.
  - 6. Actual start date.
  - 7. Actual finish date.
  - 8. Latest start date.
  - 9. Latest finish date.
  - 10. Total and free; float time shall accrue to Owner and to Owner's benefit.

### 3.2 REVIEW AND EVALUATION OF SCHEDULE

- A. Participate in joint review and evaluation of schedule with Architect at each submittal.
- B. Evaluate project status to determine work behind schedule and work ahead of schedule.
- C. After review, revise as necessary as result of review, and resubmit within two business days.

### 3.3 UPDATING SCHEDULE

- A. Maintain schedules to record actual start and finish dates of completed activities.
- B. Indicate progress of each activity to date of revision, with projected completion date

of each activity.

- C. Annotate diagrams to graphically depict current status of Work.
- D. Identify activities modified since previous submittal, major changes in Work, and other identifiable changes.
- E. Indicate changes required to maintain Date of Substantial Completion.

#### 3.4 UPDATE INTERVALS

- A. Provide monthly updates from notice to proceed to start of construction.
- B. Provide updates every other week during construction.

#### 3.5 DISTRIBUTION OF SCHEDULE

- A. Distribute copies of updated schedules to Contractor's project site file, Architect, and Owner.

**END OF SECTION**

**SECTION 01 40 00**  
**QUALITY REQUIREMENTS**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. References and standards.
- B. Quality assurance submittals.
- C. Control of installation.
- D. Tolerances.
- E. Testing and inspection services.

**1.2 RELATED REQUIREMENTS**

- A. Section 01 3000 - Administrative Requirements: Submittal procedures.

**1.3 REFERENCE STANDARDS**

- A. ASTM C1077 - Standard Practice for Laboratories Testing Concrete and Concrete Aggregates for Use in Construction and Criteria for Laboratory Evaluation; 2013a.

**1.4 SUBMITTALS**

- A. Certificates: When specified in individual specification sections, submit certification by the manufacturer and Contractor or installation/application subcontractor to Architect, in quantities specified for Product Data.
  - 1. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- B. Manufacturer's Instructions: When specified in individual specification sections, submit printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, for the Owner's information. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

**1.5 REFERENCES AND STANDARDS**

- A. For products and workmanship specified by reference to a document or documents not included in the Project Manual, also referred to as reference standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard of date of issue current on date of Contract Documents, except where a specific date is established by applicable code.

- C. Obtain copies of standards where required by product specification sections.
- D. Maintain copy at project site during submittals, planning, and progress of the specific work, until Substantial Completion.
- E. Should specified reference standards conflict with Contract Documents, request clarification from Architect before proceeding.
- F. Neither the contractual relationships, duties, or responsibilities of the parties in Contract nor those of Architect shall be altered from the Contract Documents by mention or inference otherwise in any reference document.

## PART 2 PRODUCTS - NOT

## USED PART 3 EXECUTION

### 3.1 CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Architect before proceeding.
- D. Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Have Work performed by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- G. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, and disfigurement.

### 3.2 TOLERANCES

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Architect before proceeding.
- C. Adjust products to appropriate dimensions; position before securing products in place.

### 3.3 TESTING AND INSPECTION

Project Inspector to be approved by DSA and employed by the District.

Testing laboratory is to be employed by owner.

A. Limits on Testing/Inspection Agency Authority:

1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.
2. Agency may not approve or accept any portion of the Work.
3. Agency may not assume any duties of Contractor.
4. Agency has no authority to stop the Work.

B. Contractor Responsibilities:

1. Make available to agency at designated location, adequate samples of materials proposed to be used that require testing, along with proposed mix designs.
2. Cooperate with laboratory personnel, and provide access to the Work and to manufacturers' facilities.
3. Provide incidental labor and facilities:
  - a. To provide access to Work to be tested/inspected.
  - b. To obtain and handle samples at the site or at source of Products to be tested/inspected.
  - c. To facilitate tests/inspections.
  - d. To provide storage and curing of test samples.
4. Notify Architect and laboratory 24 hours prior to expected time for operations requiring testing/inspection services.
5. Employ services of an independent qualified testing laboratory and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
6. Arrange with Owner's agency and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.

C. Re-testing required because of non-conformance to specified requirements shall be performed by the same agency on instructions by Architect.

D. Re-testing, re-inspection, stand-by time, and other cost or time impacts required because of non-conformance to specified requirements shall be paid for by the Contractor.

### 3.4 DIVISION OF THE STATE ARCHITECT TESTING AND INSPECTION FORM

A. Architect shall provide to Contractor DSA Testing and Inspection Form approved for the project and Contractor to cooperate with the testing agency in performing the tests indicated.

### 3.5 DEFECT ASSESSMENT

A. Replace Work or portions of the Work not conforming to specified requirements.

- B. If, in the opinion of Architect, it is not practical to remove and replace the Work, Architect will direct an appropriate remedy or adjust payment.

END OF SECTION

**SECTION 01 50 00**  
**TEMPORARY FACILITIES AND CONTROLS**

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Temporary utilities.
- B. Temporary telecommunications services.
- C. Temporary sanitary facilities.
- D. Temporary Controls: Barriers, enclosures, and fencing.
- E. Security requirements.
- F. Vehicular access and parking.
- G. Waste removal facilities and services.
- H. Field offices.

1.2 TEMPORARY UTILITIES

- A. Contractor may use Owner's existing utilities on the site at no charge.
- B. Contractor to provide equipment and devices to properly tap into existing utilities or to increase capacity of utilities if Owner's capacity is not adequate.
  - 1. Electrical power and metering, consisting of connection to existing facilities.
  - 2. Water supply, consisting of connection to existing facilities.
- C. Use trigger-operated nozzles for water hoses, to avoid waste of water.

1.3 TELECOMMUNICATIONS SERVICES

- 1. N/A

1.4 TEMPORARY SANITARY FACILITIES

- A. Contractor may use the building restrooms

B. Maintain daily in clean and sanitary condition.

## 1.5 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, to prevent access to areas that could be hazardous to workers or the public, to allow for owner's use of site and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- B. Provide barricades and covered walkways required by governing authorities for public rights-of-way and for public access to existing building.
- C. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.

## 1.6 FENCING

A. N/A

## 1.7 EXTERIOR ENCLOSURES

- A. Contractor may place a 20' storage container on site with the prior approval of the Construction Manager

## 1.8 INTERIOR ENCLOSURES

A. N/A

## 1.9 SECURITY

- A. Provide security and facilities to protect Work, existing facilities, and Owner's operations from unauthorized entry, vandalism, or theft. Do not disable Owner's security system without notification.

## 1.10 VEHICULAR ACCESS AND PARKING

- A. Coordinate access and haul routes with governing authorities and Owner.
- B. Provide and maintain access to fire hydrants, free of obstructions.
- C. Limited parking is available on site. Make provisions for contractor parking with the District staff and the Construction Manager.
- D. Manage trade workers parking areas ensuring workers only parked in approved areas.

## 1.11 WASTE REMOVAL

- A. Provide waste removal facilities and services as required to maintain the site in clean and orderly condition.
- B. Provide containers with lids. Remove trash from site weekly.
- C. If materials to be recycled or re-used on the project must be stored on-site, provide suitable non-combustible containers; locate containers holding flammable material outside the structure unless otherwise approved by the authorities having jurisdiction.

1.12 FIELD OFFICES

- A. Field office is not required.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

**END OF SECTION**

**DOCUMENT 01 60 00**

**MATERIALS AND EQUIPMENT**

**PART 1 - GENERAL**

**1.01 RELATED DOCUMENTS AND PROVISIONS**

All Contract Documents should be reviewed for applicable provisions related to the provisions in this document, including without limitation:

- A. General Conditions, including, without limitation, Purchase of Materials and Equipment;
- B. Special Conditions;
- C. Imported Materials Certification.

**1.02 MATERIAL AND EQUIPMENT**

- A. Only items approved by the District and-or Architect shall be used.
- B. Contractor shall submit lists of products and other product information in accordance with the Contract Documents, including, without limitation, the provisions regarding the submittals.

**1.03 MATERIAL AND EQUIPMENT COLORS**

- A. The District and-or Architect will provide a schedule of colors.
- B. No individual color selections will be made until after approval of all pertinent materials and equipment and after receipt of appropriate samples in accordance with the Contract Documents, including, without limitation, the provisions regarding the submittals.
- C. Contractor shall request priority in writing for any item requiring advance ordering to maintain the approved Construction Schedule.

**1.04 DELIVERY, STORAGE, AND HANDLING**

- A. Contractor shall deliver manufactured materials in original packages, containers, or bundles (with seals unbroken), bearing name or identification mark of manufacturer.

- B. Contractor shall deliver fabrications in as large assemblies as practicable; where specified as shop-primed or shop-finished, package or crate as required to preserve such priming or finish intact and free from abrasion.
- C. Contractor shall store materials in such a manner as necessary to properly protect them from damage. Materials or equipment damaged by handling, weather, dirt, or from any other cause will not be accepted.
- D. Materials are not acceptable that have been warehoused for long periods of time, stored or transported in improper environment, improperly packaged, inadequately labeled, poorly protected, excessively shipped, deviated from normal distribution pattern, or reassembled.
- E. Contractor shall store material so as to cause no obstructions of sidewalks, roadways, and underground services. Contractor shall protect material and equipment furnished under Contract.
- F. Contractor may store materials on Site with prior written approval by the District, all material shall remain under Contractor's control and Contractor shall remain liable for any damage to the materials. Should the Project Site not have storage area available, the Contractor shall provide for off-site storage at no cost to District.
- G. When any room in Project is used as a shop or storeroom, the Contractor shall be responsible for any repairs, patching, or cleaning necessary due to that use. Location of storage space shall be subject to prior written approval by District.

## **PART 2 - PRODUCTS**

### **2.01 MANUFACTURERS**

- A. Manufacturers listed in various sections of Contract Documents are names of those manufacturers that are believed to be capable of supplying one or more of items specified therein.
- B. The listing of a manufacturer does not imply that every product of that manufacturer is acceptable as meeting the requirements of the Contract Documents.

### **2.02 FACILITIES AND EQUIPMENT**

- A. Contractor shall provide, install, maintain, and operate a complete and adequate facility for handling, the execution, disposal, and distribution of material and equipment as required for proper and timely performance of Work connected with Contract.

## **2.03 MATERIAL REFERENCE STANDARDS**

- A. Where material is specified solely by reference to “standard specifications” and if requested by District, Contractor shall submit for review data on actual material proposed to be incorporated into Work of Contract listing name and address of vendor, manufacturer, or producer, and trade or brand names of those materials, and data substantiating compliance with standard specifications.

## **PART 3 - EXECUTION**

### **3.01 WORKMANSHIP**

- A. Where not more specifically described in any other Contract Documents, workmanship shall conform to methods and operations of best standards and accepted practices of trade or trades involved and shall include items of fabrication, construction, or installation regularly furnished or required for completion (including finish and for successful operation, as intended).
- B. Work shall be executed by tradepersons skilled in their respective lines of Work. When completed, parts shall have been durably and substantially built and present a neat appearance.

### **3.02 COORDINATION**

- A. Contractor shall coordinate installation of Work so as to not interfere with installation of others. Adjustment or rework because of Contractor’s failure to coordinate will be at no additional cost to District.
- B. Contractor shall examine in-place work for readiness, completeness, fitness to be concealed or to receive other work, and in compliance with Contract Documents. Concealing or covering Work constitutes acceptance of additional cost which will result should in-place Work be found unsuitable for receiving other Work or otherwise deviating from the requirements of the Contract Documents.

### **3.03 COMPLETENESS**

- A. Contractor shall provide all portions of the Work, unless clearly stated otherwise, installed complete and operational with all elements, accessories, anchorages, utility connections, etc., in manner to assure well-balanced performance, in accordance with manufacturer's recommendations and by Contract Documents. For example, electric water coolers require water, electricity, and drain services; roof drains require drain system; sinks fit within countertop, etc. Terms such as "installed complete," "operable condition," "for use intended," "connected to all utilities," "terminate with

proper cap," "adequately anchored," "patch and refinish," "to match similar," should be assumed to apply in all cases, except where completeness of functional or operable condition is specifically stated as not required.

### **3.04 APPROVED INSTALLER OR APPLICATOR**

- A. Installation by a manufacturer's approved installer or applicator is an understood part of Specifications and only approved installer or applicator is to provide on-site Work where specified manufacturer has on-going program of approving (i.e. certifying, bonding, re-warranting) installers or applicators. Newly established relationships between a manufacturer and an installer or applicator who does not have other approved applicator work in progress or completed is not approved for this Project.

### **3.05 MANUFACTURER'S RECOMMENDATIONS**

- A. All installations shall be in accordance with manufacturer's published recommendations and specific written directions of manufacturer's representative. Should Contract Documents differ from recommendations of manufacturer or directions of his representative, Contractor shall analyze differences, make recommendations to the District and the Architect in writing, and shall not proceed until interpretation or clarification has been issued by the District and-or the Architect.

END OF DOCUMENT

11/13/13

**SECTION 01 60 05**  
**PRODUCT REQUIREMENTS**

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. General product requirements.
- B. Transportation, handling, storage and protection.
- C. Product option requirements.
- D. Substitution limitations and procedures.
- E. Maintenance materials, including extra materials, spare parts, tools, and software.

1.2 RELATED REQUIREMENTS

- A. Section 01 4000 - Quality Requirements: Product quality monitoring.

1.3 REFERENCE STANDARDS

- A. NFPA 70 - National Electrical Code; National Fire Protection Association; Most Recent Edition Adopted by Authority Having Jurisdiction, Including All Applicable Amendments and Supplements.

1.4 SUBMITTALS

- A. Product Data Submittals: Submit manufacturer's standard published data and installation instructions. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- B. Shop Drawing Submittals: Prepared specifically for this Project; indicate utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
  - 1. Detail structural assemblies and structural connections to the building components.
- C. Sample Submittals: Illustrate functional and aesthetic characteristics of the product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
  - 1. For selection from standard finishes, submit samples of the full range of the manufacturer's standard colors, textures, and patterns.

## PART 2 PRODUCTS

### 2.1 NEW PRODUCTS

- A. Provide new products only unless noted otherwise on the Drawings.
- B. Where all other criteria are met, Contractor shall give preference to products that:
  - 1. If used on interior, have lower emissions.
  - 2. If wet-applied, have lower VOC content.
  - 3. Have a published GreenScreen Chemical Hazard Analysis.

### 2.2 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Use any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers with a Provision for equal: Equal products are acceptable with Architect's or Owner's review.
- C. If specified product does not come with required options, select alternate manufacturer or customize product to suit.

### 2.3 MAINTENANCE MATERIALS

- A. Furnish extra materials, spare parts, tools, and software of types and in quantities specified in individual specification sections.
- B. Deliver to a site selected by the Owner within the District's boundaries; obtain receipt prior to final payment. Prior to delivery, coordinate delivery with Owner.

## PART 3 EXECUTION

### 3.1 SUBSTITUTION PROCEDURES

- A. Instructions to Bidders specify time restrictions for submitting requests for substitutions.
- B. Architect will consider requests for substitutions only within 15 days after date established in Notice to Proceed.
- C. Document each request with complete data substantiating compliance of proposed substitution with Contract Documents. Organize in side-by-side tabular format with specified product attributes in the left column and proposed substitution in the right column.
- D. A request for substitution constitutes a representation that the submitter:
  - 1. Has investigated proposed product and determined that it meets or exceeds the quality level of the specified product.
  - 2. Will provide the same warranty for the substitution as for the specified product.
  - 3. The installer is qualified or certified to install the proposed substitution.

4. Will coordinate installation and make changes to other Work that may be required for the Work to be complete with no additional cost to Owner.
  5. Waives claims for additional costs or time extension that may subsequently become apparent.
  6. Credit cost savings for substitutions to Owner.
- E. Substitution Submittal Procedure:
1. Submit one copy of request for substitution for consideration. Limit each request to one proposed substitution.
  2. Submit shop drawings, product data, and certified test results attesting to the proposed product equivalence. Burden of proof is on proposer.
  3. The Architect will notify Contractor in writing of decision to accept or reject request.
  4. If the product is accepted as equal, but additional information indicates that the product is not equal in a significant quality or property, the product will be removed and replaced at no cost to the Owner or a credit will be passed on to the Owner for diminished quality.

### 3.2 TRANSPORTATION AND HANDLING

- A. Coordinate schedule of product delivery to designated prepared areas in order to minimize site storage time and potential damage to stored materials.
- B. Transport and handle products in accordance with manufacturer's instructions.
- C. Transport materials in covered trucks to prevent contamination of product and littering of surrounding areas.
- D. Promptly inspect shipments prior to off-loading and stockpiling to ensure that products comply with requirements, quantities are correct, and products are undamaged.
- E. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.
- F. Arrange for the return of packing materials, such as wood pallets, where economically feasible.
- G. Provide traffic control and flagmen for deliveries.

### 3.3 STORAGE AND PROTECTION

- A. Designate receiving/storage areas for incoming products so that they are delivered according to installation schedule and placed convenient to work area in order to minimize waste due to excessive materials handling and misapplication.
- B. Store and protect products in accordance with manufacturers' instructions.
- C. Store with seals and labels intact and legible.

- D. Store sensitive and absorbent products in weather tight, climate controlled, enclosures in an environment favorable to product.
- E. For exterior storage of fabricated products, place on sloped supports above ground and wrap in plastic.
- F. Protect products from damage or deterioration due to construction operations, weather, precipitation, humidity, temperature, sunlight and ultraviolet light, dirt, dust, and other contaminants.
- G. Comply with manufacturer's warranty conditions, if any.
- H. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
- I. Prevent contact with material that may cause corrosion, discoloration, or staining.
- J. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- K. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

**END OF SECTION**

**DOCUMENT 01 61 00**

**DELIVERY, STORAGE AND HANDLING**

**PART 1 - GENERAL**

**1.01 RELATED DOCUMENTS AND PROVISIONS**

All Contract Documents should be reviewed for applicable provisions related to the provisions in this document, including without limitation:

- A. General Conditions, including, without limitation, Site Access, Conditions and Requirements;
- B. Special Conditions.

**1.02 PRODUCTS**

- A. Products are as defined in the General Conditions.
- B. Contractor shall not use and-or reuse materials and-or equipment removed from existing Premises, except as specifically permitted by the Contract Documents.
- C. Contractor shall provide interchangeable components of the same manufacturer, for similar components.

**1.03 TRANSPORTATION AND HANDLING**

- A. Contractor shall transport and handle Products in accordance with manufacturer's instructions.
- B. Contractor shall promptly inspect shipments to confirm that Products comply with requirements, quantities are correct, and products are undamaged.
- C. Contractor shall provide equipment and personnel to handle Products by methods to prevent soiling, disfigurement, or damage.

**1.04 STORAGE AND PROTECTION**

- A. Contractor shall store and protect Products in accordance with manufacturer's instructions, with seals and labels intact and legible. Contractor shall store sensitive products in weather-tight, climate controlled enclosures.

- B. For exterior storage of fabricated Products, Contractor shall place on sloped supports, above ground.
- C. Contractor shall provide off-site storage and protection when Site does not permit on-site storage or protection.
- D. Contractor shall cover products subject to deterioration with impervious sheet covering and provide ventilation to avoid condensation.
- E. Contractor shall store loose granular materials on solid flat surfaces in a well-drained area and prevent mixing with foreign matter.
- F. Contractor shall provide equipment and personnel to store Products by methods to prevent soiling, disfigurement, or damage.
- G. Contractor shall arrange storage of Products to permit access for inspection and periodically inspect to assure Products are undamaged and are maintained under specified conditions.

**PART 2 – PRODUCTS** Not Used.

**PART 3 - EXECUTION** Not Used.

END OF DOCUMENT

**SECTION 01 70 00**  
**EXECUTION AND CLOSEOUT REQUIREMENTS**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. Examination, preparation, and general installation procedures.
- B. Requirements for alterations work, except removal, disposal, and/or remediation of hazardous materials and toxic substances.
- C. Surveying for laying out the work.
- D. Cleaning and protection.
- E. Closeout procedures, except payment procedures.

**1.2 RELATED REQUIREMENTS**

- A. Section 01 1000 - Summary: Limitations on working in existing building; continued occupancy; work sequence; identification of salvaged and relocated materials.
- B. Section 01 3000 - Administrative Requirements: Submittals procedures.
- C. Section 01 4000 - Quality Requirements: Testing and inspection procedures.
- D. Section 01 7800 - Closeout Submittals: Project record documents, operation and maintenance data, warranties and bonds.
- E. Section 02 4050 - Cutting and Patching

**1.3 REFERENCE STANDARDS**

- A. NFPA 241 - Standard for Safeguarding Construction, Alteration, and Demolition Operations; 2013.

**1.4 QUALIFICATIONS**

- A. For survey work, employ a land surveyor registered in the State in which the Project is located and acceptable to Architect. Submit evidence of Surveyor's Errors and Omissions insurance coverage in the form of an Insurance Certificate.

**1.5 PROJECT CONDITIONS**

- A. Ventilate enclosed areas to assist cure of materials, to dissipate humidity, and to prevent accumulation of dust, fumes, vapors, or gases.
- B. Dust Control: Execute work by methods to minimize raising dust from construction operations. Provide positive means to prevent air-borne dust from dispersing into atmosphere and over adjacent property.

- C. Noise Control: Provide methods, means, and facilities to minimize noise produced by construction operations.
  - 1. Indoors: Limit conduct of especially noisy interior work to times when the building is not occupied by the owner.
  - 2. Provide sound attenuation systems to prevent disruption of staff and students (if occupied by them), neighboring residents and to meet City noise ordinance requirements.

## 1.6 COORDINATION

- A. Coordinate scheduling, submittals, and work of the various sections of the Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- B. Notify affected utility companies and comply with their requirements.
- C. Verify that utility requirements and characteristics of new operating equipment are compatible with building utilities. Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
- D. Coordinate space requirements, supports, and installation of mechanical and electrical work that are indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit, as closely as practicable; place runs parallel with lines of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- E. In finished areas, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements. Exposed piping or ducts will not be allowed unless specifically noted as such on the Drawings.
- F. Coordinate completion and clean-up of work of separate sections.
- G. After Owner occupancy of premises, coordinate access to site for correction of defective work and work not in accordance with Contract Documents, to minimize disruption of Owner's activities.

## PART 2 PRODUCTS

### 2.1 PATCHING MATERIALS

- A. New Materials: As specified in product sections; match existing products and work for patching and extending work.
- B. Type and Quality of Existing Products: Determine by inspecting and testing products where necessary, referring to existing work as a standard.
- C. See 02 4050 Cutting and Patching for additional information.

## PART 3 EXECUTION

### 3.1 EXAMINATION

- A. Verify that existing site conditions and substrate surfaces are acceptable for subsequent work. Start of work means acceptance of existing conditions.
- B. Verify that existing substrate is capable of structural support or attachment of new work being applied or attached.
- C. Examine and verify specific conditions described in individual specification sections.
- D. Take field measurements before confirming product orders or beginning fabrication, to minimize waste due to over-ordering or misfabrication.
- E. Verify that utility services are available, of the correct characteristics, and in the correct locations.
- F. Prior to Cutting: Examine existing conditions prior to commencing work, including elements subject to damage or movement during cutting and patching. After uncovering existing work, assess conditions affecting performance of work. Beginning of cutting or patching means acceptance of existing conditions.
- G. Verify Drawings are coordinated and match existing conditions prior to start of work.

### 3.2 PREPARATION

- A. Clean substrate surfaces prior to applying next material or substance.
- B. Seal cracks or openings of substrate prior to applying next material or substance.
- C. Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond.

### 3.3 LAYING OUT THE WORK

- A. Verify locations of survey control points prior to starting work.
- B. Promptly notify Architect of any discrepancies discovered.
- C. Contractor shall locate and protect survey control and reference points.
- D. Protect survey control points prior to starting site work; preserve permanent reference points during construction.
- E. Promptly report to Architect the loss or destruction of any reference point or relocation required because of changes in grades or other reasons.
- F. Replace dislocated survey control points based on original survey control. Make no changes without prior written notice to Architect.
- G. Utilize recognized engineering survey practices.
- H. Establish elevations, lines and levels. Locate and lay out by instrumentation and similar appropriate means:

1. Site improvements including pavements; stakes for grading, fill and topsoil placement; utility locations, slopes, and invert elevations; and control or expansion joints.
  2. Grid or axis for structures.
  3. Building foundation, column locations, ground floor elevations, and Eave heights.
- I. Periodically verify layouts by same means.
  - J. Maintain a complete and accurate log of control and survey work as it progresses.

### 3.4 GENERAL INSTALLATION REQUIREMENTS

- A. Install products as specified in individual sections, in accordance with manufacturer's instructions and recommendations, and so as to avoid waste due to necessity for replacement.
- B. Make vertical elements plumb and horizontal elements level, unless otherwise indicated.
- C. Install equipment and fittings plumb and level, neatly aligned with adjacent vertical and horizontal lines, unless otherwise indicated.
- D. Make consistent texture on surfaces, with seamless transitions, unless otherwise indicated.
- E. Make neat transitions between different surfaces, maintaining texture and appearance.

### 3.5 ALTERATIONS

- A. Drawings showing existing construction and utilities are based on casual field observation and existing record documents only.
  1. Verify that construction and utility arrangements are as shown.
  2. Report discrepancies to Architect before disturbing existing installation.
  3. Beginning of alterations work constitutes acceptance of existing conditions.
- B. Remove existing work as indicated and as required to accomplish new work.
  1. Remove items indicated on drawings.
  2. Relocate items indicated on drawings.
  3. Where new surface finishes are to be applied to existing work, perform removals, patch, and prepare existing surfaces as required to receive new finish; remove existing finish if necessary for successful application of new finish.
  4. Where new surface finishes are not specified or indicated, patch holes and damaged surfaces to match adjacent finished surfaces as closely as possible.
- C. Services (Including but not limited to HVAC, Plumbing, Fire Protection, Electrical, Telecommunications, and Fire Alarm): Remove, relocate, and extend existing systems to accommodate new construction.
  1. Maintain existing active systems that are to remain in operation; maintain access to equipment and operational components; if necessary, modify installation to allow

- access or provide access panel.
- 2. Where existing systems or equipment are not active and Contract Documents require reactivation, put back into operational condition; repair supply, distribution, and equipment as required.
- 3. Where existing active systems serve occupied facilities but are to be replaced with new services, maintain existing systems in service until new systems are complete and ready for service.
  - a. Disable existing systems only to make switchovers and connections; minimize duration of outages.
  - b. Provide temporary connections as required to maintain existing systems in service.
- 4. Verify that services serve only abandoned facilities.
- 5. Remove abandoned pipe, ducts, conduits, and equipment, including those above accessible ceilings; remove back to source of supply where possible, otherwise cap stub and tag with identification; patch holes left by removal using materials specified for new construction.
- D. Protect existing work to remain.
  - 1. Prevent movement of structure; provide shoring and bracing if necessary.
  - 2. Perform cutting to accomplish removals neatly and as specified for cutting new work.
  - 3. Repair adjacent construction and finishes damaged during removal work.
- E. Adapt existing work to fit new work: Make as neat and smooth transition as possible.
- F. Patching: Where the existing surface is not indicated to be refinished, patch to match the surface finish that existed prior to cutting. Where the surface is indicated to be refinished, patch so that the substrate is ready for the new finish.
- G. Refinish existing surfaces as indicated:
  - 1. Where rooms or spaces are indicated to be refinished, refinish all visible existing surfaces to remain to the specified condition for each material, with a neat transition to adjacent finishes.
  - 2. If mechanical or electrical work is exposed accidentally during the work, re-cover and refinish to match.
- H. Clean existing systems and equipment.
- I. Remove demolition debris and abandoned items from alterations areas and dispose of off-site; do not burn or bury.
- J. Do not begin new construction in alterations areas before demolition is complete.
- K. Comply with all other applicable requirements of this section.

### 3.6 CUTTING AND PATCHING

- A. Whenever possible, execute the work by methods that avoid cutting or patching.
- B. See Alterations article above for additional requirements.
- C. Perform whatever cutting and patching is necessary to:
  - 1. Complete the work.
  - 2. Replace curb cuts of insufficient size to provide
  - 3. Fit products together to integrate with other work.
  - 4. Provide openings for penetration of mechanical, electrical, and other services.
  - 5. Match work that has been cut to adjacent work.
  - 6. Repair areas adjacent to cuts to required condition.
  - 7. Repair new work damaged by subsequent work.
  - 8. Remove samples of installed work for testing when requested.
  - 9. Remove and replace defective and non-conforming work.
- D. Execute work by methods that avoid damage to other work and that will provide appropriate surfaces to receive patching and finishing. In existing work, minimize damage and restore to original condition.
- E. Employ original installer to perform cutting for weather exposed and moisture resistant elements, and sight exposed surfaces.
- F. Cut rigid materials using masonry saw or core drill. Pneumatic tools not allowed without prior approval.
- G. Restore work with new products in accordance with requirements of Contract Documents.
- H. Fit work air tight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.
- I. Patching:
  - 1. Finish patched surfaces to match finish that existed prior to patching. On continuous surfaces, refinish to nearest intersection or natural break. For an assembly, refinish entire unit.
  - 2. Match color, texture, and appearance.
  - 3. Repair patched surfaces that are damaged, lifted, discolored, or showing other imperfections due to patching work. If defects are due to condition of substrate, repair substrate prior to repairing finish.

### 3.7 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition. Broom sweep work areas at the end of each day.

- B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, prior to enclosing the space.
- C. Broom and vacuum clean interior areas prior to start of surface finishing, and continue cleaning to eliminate dust.
- D. Clean parking areas daily, including street parking used by workers.
- E. Sweep parking areas, driveways and streets used for the work. Removal of oil and other stains left by equipment or worker vehicles.
- F. Collect and remove waste materials, debris, and trash/rubbish from work area daily and dispose off-site weekly; do not burn or bury.

### 3.8 PROTECTION OF INSTALLED WORK

- A. Protect installed work from damage by construction operations.
- B. Provide special protection where specified in individual specification sections.
- C. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.
- D. Provide protective coverings at walls, projections, jambs, sills, and soffits of openings.
- E. Protect finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.
- F. Prohibit traffic or storage upon waterproofed or roofed surfaces. If traffic or activity is necessary, obtain recommendations for protection from waterproofing or roofing material manufacturer.
- G. Remove protective coverings when no longer needed; reuse or recycle plastic coverings if possible.

### 3.9 ADJUSTING

- A. Adjust operating products and equipment to ensure smooth and unhindered operation.
- B. Test and balance HVAC systems affected by the work.

### 3.10 FINAL CLEANING

- A. Use cleaning materials that are nonhazardous.
- B. Clean interior and exterior glass, surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
- C. Remove all labels that are not permanent. Do not paint or otherwise cover fire test labels or nameplates on mechanical and electrical equipment.
- D. Clean equipment and fixtures to a sanitary condition with cleaning materials appropriate to the surface and material being cleaned.
- E. Clean filters of operating equipment.

- F. Remove waste, surplus materials, trash/rubbish, and construction facilities from the site; dispose of in legal manner; do not burn or bury.

### 3.11 CLOSEOUT PROCEDURES

- A. Make submittals that are required by Division of the State Architect or other authorities.
  - 1. Complete DSA Form 155 at each phase of the work indicated on the DSA Inspection Card, Form 152.
- B. Notify Architect when work is considered ready for Substantial Completion.
- C. Submit written certification that Contract Documents have been reviewed, work has been inspected, and that work is complete in accordance with Contract Documents and ready for Architect's review.
- D. Correct items of work listed in executed Certificates of Substantial Completion and comply with requirements for access to Owner-occupied areas.
- E. Notify Architect when work is considered finally complete.
- F. Complete items of work determined by Architect's final inspection.

**END OF SECTION**

**DOCUMENT 01 72 00**

**FIELD ENGINEERING**

**PART 1 - GENERAL**

**1.01 RELATED DOCUMENTS AND PROVISIONS**

All Contract Documents should be reviewed for applicable provisions related to the provisions in this document, including without limitation:

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and Division-1 Specification Documents, apply to work of this document.

**1.02 SUMMARY**

- A. General: This Document specifies administrative and procedural requirements for field engineering services, including, but not necessarily limited to, the following:
  - 1. Layout of the Project
  - 2. Land Survey Work
  - 3. Shoring and Bracing Engineering
  - 4. Construction Equipment
  - 5. Support from Structure
  - 6. Stormwater Runoff Protection Plan
  - 7. Other Field Engineering
- B. Except for engineering work to be provided by the owner relative to existing conditions, all grade lines, levels and bench marks shall be established and maintained by the Contractor.

**1.03 SUBMITTALS**

- A. Certificates: Submit a certificate signed by the Land Surveyor or Professional Engineer certifying that the location and elevation of improvements comply with the Contract Documents.
- B. Final Property Survey: Submit 10 copies of the final property survey.
- C. Project Record Documents: Submit a record of Work performed and record survey data as required under provisions of Documents "Submittals" and "Project Closeout."

## 1.04 QUALITY ASSURANCE

- A. Surveyor: Engage a Registered Land Surveyor registered with the State of California and approved by the Architect to perform land surveying and layout services required.

## PART 2 -PRODUCTS Not Used

## PART 3 -EXECUTION

### 3.01 EXAMINATION

- A. The Owner will identify existing control points and property line corner stakes.
- B. Verify layout information shown on the Drawings, in relation to the property survey and existing benchmarks before proceeding to layout the Work. Locate and protect existing benchmarks and control points. Preserve permanent reference points during construction.
- C. Do not change or relocate benchmarks or control points without prior written approval. Promptly report lost or destroyed reference points, or requirements to relocate reference points because of necessary changes in grades or locations.
- D. Promptly replace lost or destroyed project control points. Base replacements on the original survey control points.
- E. Establish and maintain a minimum of two permanent benchmarks on the site, referenced to data established by survey control points.
- F. Record benchmark locations, with horizontal and vertical data, on Project Record Documents.
- G. Existing Utilities and Equipment: The existence and location of underground and other utilities and construction indicated as existing are not guaranteed. Before beginning sitework, investigate and verify the existence and location of underground utilities and other construction. Contact utility companies, including USA, for on-site location services.
- H. Prior to construction, verify the location and invert elevation at points of connection of sanitary sewer, storm sewer, water service piping and gas. Verify locations of underground electrical line. It is the responsibility of the Contractor to use all means possible to locate underground utilities.

### 3.02 PERFORMANCE

- A. Working from lines and levels established by the property survey, establish benchmarks and markers to set lines and levels at each story of construction and elsewhere as needed to properly locate each element of the Project. Calculate and measure required dimensions within indicated or recognized tolerances. Do not scale Drawings to determine dimensions.
- B. Advise entities engaged in construction activities, of marked lines and levels provided for their use.
- C. As construction proceeds, check every major element for line, level and plumb.
- D. Surveyor's Log: Maintain a surveyor's log of control and other survey Work. Make this log available for reference.
  - 1. Record deviations from required lines and levels, and advise the Architect when deviations that exceed indicated or recognized tolerances are detected. On Project Record Drawings, record deviations that are accepted and not corrected.
  - 2. On completion of major site improvements, and other Work requiring field engineering services, prepare a certified survey showing dimensions, locations, angles and elevations of construction and sitework.
- E. Site Improvements: Locate and lay out site improvements, including pavements, stakes for grading, fill and topsoil placement, utility slopes and invert elevations by instrumentation and similar appropriate means.
- F. Existing Utilities: Furnish information necessary to adjust, move or relocate existing structures, utility poles, lines, services or other appurtenances located in, or affected by construction. Coordinate with local authorities having jurisdiction.
- G. Final Property Survey: Before Substantial Completion, prepare a final property survey showing significant features (real property) for the Project. Include on the survey a certification, signed by the Surveyor, to the effect that principal metes, bounds, lines and levels of the Project are accurately positioned as shown on the survey.
  - 1. Provide survey both on reproducible Mylar and an electronic copy compatible with AutoCAD V-14.
- H. Shoring and Bracing:

1. Design of Shoring and Bracing for support of formwork, scaffolding, or other temporary construction supports, shall be the responsibility of the Contractor. If requested, supply engineering calculations and data regarding proposed shoring and bracing.
- I. Construction Equipment: Engineering for cranes, temporary hoists, or other hoisting equipment requiring structural loading during construction shall be the responsibility of the Contractor. If requested, supply engineering calculations and data regarding proposed construction equipment. The structural system of the building is not intended to support hoisting systems unless specifically noted, and all such equipment shall be designed to be structurally independent of the building.
- J. Storm water Runoff Protection Plan (SWRPP)
1. It shall be the responsibility of the Contractor to obtain all permits required by the EPA or their designated authority regarding control of Storm water at construction sites. It shall also be the responsibility of the Contractor to bring the construction activities for this project into compliance with the requirements of the State Water Resources Control Board General Construction Activity Storm Water Permit of April 17, 1997, to discharge storm water associated with construction activities, to be in full compliance with the San Jose Environmental Services Department Standards, and the National Pollutant Discharge Elimination (NPDES) Permit.
  2. The Contractor shall engage a Civil Engineer as necessary to prepare an Erosion Control and SWRPP, and shall fully implement the recommendations of the Plan on the Project Site, including a Post-Construction Storm Water Management Plan.
  3. 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. 92-08-DWQ). The Notice of Intent must be sent to the following address along with the appropriate payment (warrant to be furnished by the Owner upon request by the Contractor, allow normal warrant processing time) California State Water Resources Control Board, Division of Water Quality Storm Water Permit Unit, P.O. Box 1977, 901 "P" Street, Sacramento, California 95812-1977; (916) 657-0919. The Notice of Intent shall be filed prior to the start of any construction activity.
- K. Other Field Engineering: Other field engineering affecting means and methods of construction, or engineering of specific building components as required by Specification, or demolition shall be the responsibility of the Contractor.

END OF DOCUMENT

03/01/18

**DOCUMENT 01 77 00**  
**CLOSE OUT PROCEDURES**

**PART 1 GENERAL**

**1.1 SUMMARY**

A. Document Includes:

1. Description of Contract closeout procedures including:
  - a. Removal of Temporary Construction Facilities
  - b. Substantial Completion
  - c. Final Completion
  - d. Project Record Documents
  - e. Project Guarantee
  - f. Warranties
  - g. Turn-In
  - h. Release of Claims
  - i. Fire Inspection Coordination
  - j. Building Inspection Coordination

**1.2 REMOVAL OF TEMPORARY CONSTRUCTION FACILITIES**

- A. Remove temporary materials, equipment, services, and construction prior to Substantial Completion inspection.
- B. Clean and repair damage caused by installation or use of temporary facilities.
- C. Restore permanent facilities used during construction to specified condition.
- D. Comply with Document 01 50 00 (Temporary Facilities and Controls).

**1.3 SUBSTANTIAL COMPLETION**

- A. When Contractor considers Work or designated portion of the Work as Substantially Complete, submit written notice to District, with list of items remaining to be completed or corrected.
- B. Within reasonable time, District will inspect to determine status of completion.
- C. Should District determine that Work is not Substantially Complete, District will promptly notify Contractor in writing, listing all defects and omissions.

- D. Remedy deficiencies and send a second written notice of Substantial Completion. District will re-inspect the Work. If deficiencies previously noted are not corrected on re-inspection, then pay the cost of the re-inspection.
- E. When District concurs that Work is Substantially Complete, District will issue a Certificate of Substantial Completion, accompanied by Contractor's list of items to be completed or corrected as verified by District.
- F. Manufactured units, equipment and systems that require startup must have been started up and run for periods prescribed by District before a Certificate of Substantial Completion will be issued.
- G. A punch list examination will be performed upon Substantial Completion. One follow-up review of punch list items for each discipline will be provided. If further Site visits are required to review punch list items due to incompleteness of the Work by Contractor, Contractor will reimburse District for costs associated with these visits.

#### **1.4 FINAL COMPLETION**

- A. Final Completion occurs when Work meets requirements for District's Final Acceptance. When Contractor considers Work is Finally Complete, submit written certification that:
  - 1. Contractor has inspected Work for compliance with Contract Documents, and all requirements for Final Acceptance have been met.
  - 2. Except for Contractor maintenance after Final Acceptance, Work has been completed in accordance with Contract Documents and deficiencies listed with Certificate of Substantial Completion have been corrected. Equipment and systems have been tested in the presence of District, and are operative.
  - 3. Work is complete and ready for final inspection.
- B. In addition to submittals required by Contract Documents, provide submittals required by governing authorities and submit final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
- C. When District finds Work is acceptable and final closeout submittals are complete, District will issue final Change Order reflecting approved adjustments to Contract Sum not previously made by Change Order. Should District determine that Work is incomplete or Defective:
  - 1. District promptly will so notify Contractor, in writing, listing the incomplete or Defective items.

2. Promptly remedy the deficiencies and notify the District when it is ready for re-inspection.
3. When District determines that the Work is acceptable under the Contract Documents, District will request Contractor to make closeout submittals.

D. Final adjustments of accounts:

1. Submit a final statement of accounting to District, showing all adjustments to the Contract Sum and complete and execute Document 00 88 00 (Agreement and Release of Any and All Claims).
2. If so required, District shall prepare a final Change Order for submittal to Contractor, showing adjustments to the Contract Sum that were not previously made into a Contract Modification.

## 1.5 PROJECT RECORD DOCUMENTS

- A. Contract Documents will not be closed out and final payment will not be made until completion and submittal of Project Record Documents described in Document 01 78 39 (Project Record Documents).

## 1.6 PROJECT GUARANTEE

- A. Requirements for Contractor's guarantee of completed Work are included in Document 00 72 00 (General Conditions). Guarantee Work done under Contract against failures, leaks, or breaks or other unsatisfactory conditions due to defective equipment, materials, or workmanship, and perform repair work or replacement required, at Contractor's sole expense, for period of one year from date of Final Acceptance.
- B. Neither recordation of Final Acceptance nor final certificate for payment nor provision of the Contract nor partial or entire use or occupancy of premises by District shall constitute acceptance of Work not done in accordance with Contract Documents nor relieve Contractor of liability in respect to express warranties or responsibility for faulty materials or workmanship.
- C. District may make repairs to Defective Work as set forth in Document 00 72 00 (General Conditions).
- D. If, after installation, operation, or use of materials or equipment to be provided under Contract proves to be unsatisfactory to District, District shall have right to operate and use materials or equipment until said materials and equipment can, without damage to District, be taken out of service for correction or replacement. Period of use of Defective materials or equipment pending correction or replacement shall in no way decrease guarantee period required for acceptable corrected or replaced items of materials or equipment.

- E. Nothing in this Document 01 77 00 shall be construed to limit, relieve, or release Contractor's, Subcontractors', and equipment suppliers' liability to District for damages sustained as result of latent defects in equipment caused by negligence of suppliers' agents, employees, or Subcontractors. Stated in another manner, warranty contained in the Contract Documents shall not amount to, nor shall it be deemed to be, waiver by District of any rights or remedies (or time limits in which to enforce such rights or remedies) it may have for Defective workmanship or Defective materials under laws of this State pertaining to acts of negligence.

## 1.7 WARRANTIES

- A. Execute Contractor's Submittals and assemble warranty documents, and Installation, Operation, and Maintenance Manuals described in Document 01 33 00 (Submittal Procedures), executed or supplied by Subcontractors, suppliers, and manufacturers.
  - 1. Provide table of contents and assemble in 8½ inches by 11 inches three-ring binder with durable plastic cover, appropriately separated and organized.
  - 2. Assemble in Specification Document order.
- B. Submit material prior to final Application for Payment.
  - 1. For equipment put into use with District's permission during construction, submit within 14 Days after first operation.
  - 2. For items of Work delayed materially beyond Date of Substantial Completion, provide updated Submittal within 14 Days after acceptance, listing date of acceptance as start of warranty period.
- C. Warranties are intended to protect District against failure of Work and against deficient, Defective, and faulty materials and workmanship, regardless of sources.
- D. Limitations: Warranties are not intended to cover failures that result from the following:
  - 1. Unusual or abnormal phenomena of the elements
  - 2. Vandalism after Substantial Completion
  - 3. Insurrection or acts of aggression including war
- E. Related Damages and Losses: Remove and replace Work which is damaged as result of Defective Work, or which must be removed and replaced to provide access for correction of warranted Work.

- F. Warranty Reinstatement: After correction of warranted Work, reinstate warranty for corrected Work to date of original warranty expiration or to a date not less than one year after corrected Work was done, whichever is later.
- G. Replacement Cost: Replace or restore failing warranted items without regard to anticipated useful service lives.
- H. Warranty Forms: Submit drafts to District for approval prior to execution. Forms shall not detract from or confuse requirements or interpretations of Contract Documents.
1. Warranty shall be countersigned by manufacturers.
  2. Where specified, warranty shall be countersigned by Subcontractors and installers.
- I. Rejection of Warranties: District reserves right to reject unsolicited and coincidental product warranties that detract from or confuse requirements or interpretations of Contract Documents.
- J. Term of Warranties: For materials, equipment, systems, and workmanship, warranty period shall be one year minimum from date of Final Completion of entire Work except where:
1. Detailed Specifications for certain materials, equipment or systems require longer warranty periods.
  2. Materials, equipment or systems are put into beneficial use of District prior to Final Completion as agreed to in writing by District.
- K. Warranty of Title: No material, supplies, or equipment for Work under Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver premises, together with improvements and appurtenances constructed or placed thereon by Contractor, to District free from any claim, liens, security interest, or charges, and further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any Work covered by Contract shall have right to lien upon premises or improvement or appurtenances thereon. Nothing contained in this paragraph, however, shall defeat or impair right of persons furnishing materials or labor under bond given by Contractor for their protection or any rights under law permitting persons to look to funds due Contractor in hands of District.

**1.8 TURN-IN**

A. Contract Documents will not be closed out and final payment will not be made until all keys issued to Contractor during prosecution of Work and letters from property owners are turned in to District.

**1.9 RELEASE OF CLAIMS**

A. Contract Documents will not be closed out and final payment will not be made until Document 00 88 00 (Agreement and Release of Any and All Claims) is completed and executed by Contractor and District.

**1.10 FIRE INSPECTION COORDINATION**

A. Coordinate fire inspection and secure sufficient notice to District to permit convenient scheduling (if applicable).

**1.11 BUILDING INSPECTION COORDINATION**

A. Coordinate with District a final inspection for the purpose of obtaining an occupancy certificate (if applicable).

**PART 2 PRODUCTS – NOT USED**

**PART 3 EXECUTION – NOT USED**

END OF DOCUMENT

**SECTION 01 78 00  
CLOSEOUT SUBMITTALS**

**PART 1 GENERAL**

**1.1 SECTION INCLUDES**

- A. Project Record Documents.
- B. Operation and Maintenance Data.
- C. Warranties and bonds.
- D. DSA forms

**1.2 RELATED REQUIREMENTS**

- A. Section 01 3000 - Administrative Requirements: Submittals procedures, shop drawings, product data, and samples.
- B. Section 01 7000 - Execution and Closeout Requirements: Contract closeout procedures.
- C. Individual Product Sections: Specific requirements for operation and maintenance data.
- D. Individual Product Sections: Warranties required for specific products or Work.

**1.3 SUBMITTALS**

- A. Project Record Documents: Submit documents to Architect with claim for final Application for Payment.
- B. Operation and Maintenance Data:
  - 1. For equipment, or component parts of equipment put into service during construction and operated by Owner, submit completed documents within ten days after acceptance.
  - 2. Submit one copy of completed documents 15 days prior to final inspection. This copy will be reviewed and returned after final inspection, with Architect comments. Revise content of all document sets as required prior to final submission.
  - 3. Submit one set of revised final documents in electronic form within 10 days after final inspection.
- C. Warranties and Bonds:
  - 1. For equipment or component parts of equipment put into service during construction with Owner's permission, submit documents within 10 days after acceptance.
  - 2. Make other submittals within 10 days after Date of Substantial Completion, prior to final Application for Payment.
  - 3. For items of Work for which acceptance is delayed beyond Date of Substantial Completion, submit within 10 days after acceptance, listing the date of acceptance as

the beginning of the warranty period.

D. DSA Forms

1. N/A

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.1 PROJECT RECORD DOCUMENTS

- A. Maintain on site one set of the following record documents; record actual revisions to the Work:
  1. Drawings.
  2. Addenda.
  3. Change Orders and other modifications to the Contract.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress.
- E. Record Drawings : Legibly mark each item to record actual construction including:
  1. Field changes of dimension and detail.
  2. Details not on original Contract drawings.

3.2 OPERATION AND MAINTENANCE DATA

- A. Source Data: For each product or system, list names, addresses and telephone numbers of Subcontractors and suppliers, including local source of supplies and replacement parts.
- B. Product Data: Mark each sheet to clearly identify specific products and component parts, and data applicable to installation. Delete inapplicable information.
- C. Drawings: Supplement product data to illustrate relations of component parts of equipment and systems, to show control and flow diagrams. Do not use Project Record Documents as maintenance drawings.
- D. Typed Text: As required to supplement product data. Provide logical sequence of instructions for each procedure, incorporating manufacturer's instructions.

3.3 WARRANTIES AND BONDS

- A. Obtain warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within 10 days after completion of the applicable item of work. Except for items put into use with Owner's permission, leave date of beginning of time of warranty until the Date of Substantial completion is determined.
- B. Verify that documents are in proper form, contain full information, and are notarized.

- C. Co-execute submittals when required.
- D. Retain warranties and bonds until time specified for submittal.

END OF SECTION

**DISTRICT OFFICE- TI  
BERRYESSA UNION SCHOOL DISTRICT**

1375 Piedmont Road  
San Jose, CA 95132

**BERRYESSA UNION HIGH SCHOOL DISTRICT**

**-TECHNICAL SPECIFICATIONS-**

July 2022  
MDG #2203

ARCHITECT

*McKim Design Group*

4595 Cherry Ave. 1<sup>st</sup> Floor  
San Jose, CA 95118  
(408) 927.8110

**SPECIFICATIONS**

MDG JOB #2203

DSA File No. 43-7

DSA Application No.01-120361

**BERRYESSA UNION SCHOOL DISTRICT**  
DISTRICT OFFICE TI

Berryessa Union School District  
San Jose, CA

**McKim Design Group**

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Division of the State Architect  
Office of Regulation Services



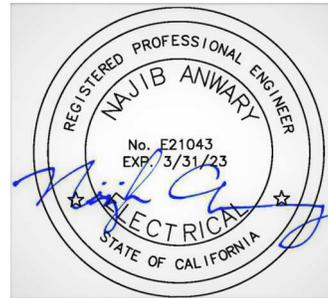
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Architect



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Mechanical



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Electrical

**SECTION 09 65 13  
TOP-SET RESILIENT BASE****1 PART 1 GENERAL****1.1 SECTION INCLUDES**

- A. Resilient base – wall

**1.2 REFERENCES**

- A. ASTM E84 and NFPA 255 – Surface Burning Characteristics of Building Materials.
- B. FS-SS-W40a – Wall Base, Rubber and Vinyl Plastic.
- C. CBC 806.6 – Wall base <=6” shall be tested per CBC 804.2 and shall be not less than Class II. Where Class I floor finish is required, the floor wall base shall be Class I. Tests shall be in accordance with NFPA 253, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.

**1.3 FIRE CLASSIFICATION REQUIREMENTS**

- A. ASTM E84, NFPA 255: Flame spread less than 25, smoke density less than 450.

**1.4 SUBMITTALS FOR REVIEW**

- A. Submit product data under provisions of the contracts.
- B. Provide product data on specified products and colors available.
- C. Submit samples under provisions of the contract.
- D. Submit three 6 inch long samples of base material for each color selected.
- E. Submit manufacturer’s installation instructions under provisions of the contract.

**1.5 OPERATION AND MAINTENANCE DATA**

- A. Submit maintenance procedures and recommended maintenance materials.

**1.6 ENVIRONMENTAL REQUIREMENTS**

- A. Store materials for three days prior to installation in area of installation to achieve temperature stability.
- B. Maintain minimum 70 degrees F temperature three days prior to, during and 24 hours after installation of materials.
- C. Provide adequate ventilation to carry off volatile fumes.

**1.7 REPLACEMENT MATERIALS**

- A. Provide minimum three percent of all materials furnished for each color and size of materials installed.

**2 PART 2 PRODUCTS****2.1 MANUFACTURERS, RUBBER**

- A. Burke / Mannington Flooring Products, Calhoun, GA.
- B. Nora Flooring Systems, Lawrence, MA.
- C. Flexco Co., Tuscumbia, GA.
- D. Azrock Industries, Inc., San Antonio, TX.
- E. Endura Co., Waltham, MA.
- F. Jason Industrial, Inc., Vernon, CA.
- G. Musson Rubber Co., Akron, OH.
- H. Pirelli Industrial Products, Inc., Teaneck, NJ.
- I. Roppe Corp., Fostoria, OH.
- J. Forbo Flooring, Hazleton, PA
- K. Or equal.

**2.2 MANUFACTURERS, VINYL**

- A. Flexco Co., Tuscumbia, GA.
- B. Armstrong World Industries, Fullerton, CA.
- C. Kentile Floors, Inc., Scottsdale, AZ.
- D. Mercer Products Co., Orlando, FL.
- E. National Floor Products Co., Florence, AL.
- F. Roppe Corp., Fostoria, OH.
- G. VPI Floor Products, Sheboygan, WI.
- H. Or equal.

### 2.3 BASE MATERIALS

- A. Base: Rubber or vinyl, 1/8 inch gage, standard toe, heights as indicated on drawings or selected by architect (either 4" or 6" height) include in base bid the cost for 6" height, color as selected by the Architect from manufacturer's standard list of colors. Base shall be a continuous roll. Provide base at wall locations.
- B. Base material shall meet FS-SS-W-40a Type I for rubber, Type II for vinyl.
- C. Base Accessories: Premolded end stops, internal and external corners of same material, size and color as base.
- D. Adhesive: As recommended by the manufacturer.

## 3 PART 3 EXECUTION

### 3.1 EXAMINATION

- A. Verify that surfaces are smooth and flat with maximum variation of 1/8 inch in 10 ft, and are ready to receive work.
- B. Verify that surfaces are finished, ready to receive base installation.
- C. Beginning of installation means acceptance of existing substrate and site conditions.

### 3.2 INSTALLATION – BASE MATERIAL

- A. Fit joints tight and vertical. Maintain minimum measurement of 18 inches between joints.
- B. All 90 degree external corners use premolded units only. At corners more or less than 90 degrees, shave a vertical strip down the back side of the material, ¼ inch wide and not more than ½ the thickness at the point of bend. Bend coved toe to required angle. Bond material firmly to wall on both sides of joint to ensure a tight fit with no open void at top.
- C. At 90 degree internal corners use premolded units or as an alternate, miter material to exact angle.
- D. Install base on solid backing. Bond tight to wall and floor surfaces.
- E. Scribe and fit to door frames and other interruptions.
- F. Install base along toe kicks of ALL casework and into all open cabinets (including under sink cabinets, and under all counters).

### 3.3 CLEANING

- A. Remove excess adhesive from floor, base, and wall surfaces without damage.
- B. Protection: Protect work until completion. Repair or make good any damage to this work and other materials damaged during installation of base material.

END OF SECTION

09 68 13  
CARPET TILE

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and all provisions of the contract.

1.2 SUMMARY

- A. This section includes the following:
  - 1. Tufted carpet tile.
- B. Related sections:
  - 1. All other sections and the contract

1.3 SUBMITTALS

- A. Manufacturer's Data - Submit two (2) copies of manufacturer's specifications and installation instructions for carpet tile and related items specified. Manufacturer shall also submit a plan for recycling the specified carpet tile and related items at the end of useful life of the carpet.
- B. Fiber verification - Certification from the fiber producer verifying use of the branded fiber in the submitted carpet product. Certification should include the % recycled content by weight for fibers, describing the source of this recycled content. If virgin nylon is used the manufacturer shall include as part of the fiber certification, the precise method that will be used to recapture the nylon at the end of the useful life of the carpet tile. State whether it will be returned to nylon carpet yarn production, downcycled to an end use other than carpet yarn, or disposed of in a specified manner.
- C. Shop Drawings - Submit shop drawings for areas to be carpeted showing installation of carpeting, seam diagram, pattern direction, necessary installation accessories, and provisions for work of other trades. Show location of different patterns or styles of carpet. Also, show locations of any threshold conditions. If mixed fiber types are used on the areas shown the fiber type must be clearly identified to facilitate future recycling
  - 1. The construction manager will supply reproducible prints on request, to facilitate shop drawing preparation.
- D. Samples - Submit standard size carpet samples of each type of carpet, in each specified pattern, color and construction.
  - 1. Any alternates to specified products) must be submitted for approval by a representative of the end user at least ten (10) working days prior to bid or proposal.
  - 2. Final Sample Submittal - Submit two (2) sets of samples for each carpet type.
  - 3. No carpet shipments are permitted until acceptance of final samples by representative of the end user or architect/design firm, certifying that samples are the approved color, pattern, and texture. No carpet shipments are permitted until the fiber certifications and recycling plans are approved by the end user or architect/design firm.
  - 4. Custom Color Only - Quality color samples shall be signed by a representative of the end user or architect/design firm, certifying that samples are the approved color, pattern, and texture.
  - 5. Samples submitted will be assumed to be the manufacturer's best obtainable match to the carpet described under Materials section.
- E. Maintenance Instructions - Submit to the Construction Manager two (2) copies of the manufacturer's carpet maintenance instructions, including information needed for the removal of common stains from each type of carpet required.

- F. Recycling Instructions - Submit to the Construction Manager two (2) copies of the manufacturer's instructions on post-consumer recycling of the specified carpet tile and related items
  - 1. A representative from the carpet manufacturer shall meet with the Construction Manager in the presence of a representative of the end user and architect/design firm to review the recommended procedures, prior to occupancy of the finished spaces.

#### 1.4 QUALITY ASSURANCE

- A. Manufacturer - Carpet manufacturer shall have no less than three years of production experience with recyclable carpet tile similar to type specified in this document; and whose published product literature clearly indicates compliance of products with requirements of this section.
  - 1. Single source responsibility - provide product material by a single manufacturer for each recyclable carpet type specified.
  - 2. Commitment to sustainability - carpet manufacturer must practice environmental responsibility through programs of source reduction, recycling, reuse, and conservation.
- B. Trade Contractor - firm with not less than five years of successful carpet tile experience similar to work of this Section and recommended and approved by the carpet manufacturer. Upon request, submit letter from carpet manufacturer stating certification qualifications and acceptance of all environmental requirements.
  - 1. Participant in environmental program including responsible carpet removal, recycling and installation
- C. Substitutes - Where a selected manufacturer or product has been specified, an equal or superior product may be accepted only upon review and written acceptance by the architect. It is mandatory that such review and approval be obtained prior to bidding, or the substitution will not be considered. All such proposed substitutions shall be submitted to the architect with appropriate manufacturer's specifications, literature, environmental compliance assurance, and independent laboratory testing data. The architect's decision as to whether a product is equal or superior to the one specified shall be final. This section applies to any "or equal" noted in the specification.

#### 1.5 PRODUCT DELIVERY AND STORAGE

- A. Deliver carpeting materials in sealed protective cartons for carpet tile and sealed containers for related materials. Carpet materials shall be bound with secure protective wrapping. Consideration should be given to bulk packaging of carpet tile when delivery is made to the jobsite for immediate installation to reduce packaging waste. Alternative, environmentally friendly, packaging must protect the carpet tile as securely as normal packaging.
- B. Storage and staging area at the site must be coordinated with the Construction Manager.
- C. Provide 3% overage of calculated yardage for each type of carpet (calculated yardage shall include carpet needed for complete installation plus waste and usable scraps). Waste, unusable scrap and carpet tile damaged during the life of the carpet tile installation must be recycled through the manufacturer's environmental program by the qualified installer.
  - 1. Elevator Carpet - Provide extra stock for elevator carpet for two complete carpet changes for each elevator cab.
  - 2. Deliver specified overrun and usable scraps of packages to owner's designated storage space, properly packaged (boxed) and identified. (Redirect small pieces of waste carpet to be appropriately recycled.)

- D. Materials shall be stored in an enclosed and dry area protected from damage and soiling.

1.6 PRE-INSTALLATION MEETING

- A. The manufacturer shall meet at the project site with representatives of end user, Construction Manager and the Trade Contractor to review the carpet installation procedure and coordination with other trades. The Trade Contractor must have available at this meeting the carpet manufacturer's installation procedures ,instructions for the carpet types specified in the various applications required, and recycling procedures outlined in the manufacturer's environmental program.
- B. Store carpet in working areas which have been enclosed and have maintained environmental conditions as those planned for occupancy. Carpet shall be allowed to reach room temperature or minimum temperature recommended by manufacturer before installation.

1.7 WARRANTY

- A. Provide warranties by Carpet Manufacturer and Trade Contractor agreeing to replace defective materials and workmanship of carpet work during one (1) year warranty period following substantial completion. Also, submit carpet manufacturer's warranties as follows:
  - 1. Wear - Surface wear shall not be more than 10% by weight throughout the life of the product.
  - 2. Static - Carpet will maintain static generation at less than 2.5 KV at 70 degrees F, and 20% R.H. throughout the life of the product.
  - 3. No delamination throughout the life of the product.
  - 4. No edge ravel throughout the life of the product.
  - 5. No dimensional instability, I.e. shrinkage, curling, and doming which adversely affect the ability of the tile to lay flat throughout the life of the product (per installation instructions). See Aachen test.
  - 6. Environmental warranty for recycling.
- B. Submit manufacturer's certified independent test results to show that carpet meets or exceeds product performance specification criteria for carpet testing requirements (i.e. see section 2.3 flame, smoke, Aachen test, etc.).
- C. Lifetime Commercial Limited Warranty (Owner's Option) - Owner will be completely satisfied with the performance of the carpet product when installed in accordance with the manufacturer's current installation specifications and is maintained in accordance with the current carpet care recommendations and such maintenance continues throughout the duration of the original installation when owned and maintained by the original end user. Further, owner will be satisfied with the recycling of the product at the end of its useful life as outlined in the manufacturer's environmental program.

PART 2 - PRODUCTS

2.1 MANUFACTURER - CT-1

- A. Subject to the minimum requirements listed above and below, provide carpeting as specified.
  - 1. Colors and patterns of carpet shall match samples.
  - 2. A preference will be given to manufacturers recycling 100% of the reclaimed carpet tile back into carpet tile with recycled content.
  - 3. The product must be capable of disassembly with nylon returned to nylon carpet yarn production and the backing returned to carpet backing production
  - 4. The product must meet the guidelines of Presidential Executive Order 13101 and meet the spirit of section 6002 of the Resource and Recovery Act (RCRA).

2.2 CARPET TILE

- A. Package Marking - Mark each carpet package according to style, color, pattern, dye lot, run number and quantity. Within each continuous carpet area, install carpet from same dye lot and run.
- B. Carpet Construction Specification - All yarn and carpet shall be manufacturer's first quality and 100% recyclable or downcyclable

2.3 Carpet shall meet the following performance standards:

- A. Carpet flammability
  - 1. Pill Test (ASTM D2859 or CPSC FF-1-70): Passes
  - 2. Radiant Panel Test (ASTM E648): > .45 watts/cm2, Class I
- B. Smoke Density (ASTM E662): < 450 Flaming Mode
- C. Dimensional Stability (Aachen Method DIN 54318): < 0.1% change
- D. Static Generation at 700 F. (AATCC 134 w/neolite): < 2.5 KV at 20% R.H.
- E. Lightfastness (AATCC 16E): 4.0 after 60 hours
- F. Crocking (AATCC 165): 4.0 wet, dry
- G. Cold Water Bleed (AATCC 107): 4.0
- H. Sublimation (AATCC 117): 4.0
- I. Gas Fade (AATCC 23): 4.0
- J. Ozone Fade (AATCC 109): 4.0
- K. Antimicrobial (AATCC 174, part II): > 95.0% reduction
- L. Fungicidal (AATCC 174, part III): No growth
- M. Soil/Stain Protection (AATCC 175-1991): > 8.0 on the Red 40 Stain Scale
- N. Appearance Retention Rating (ASTM D-5252 or ASTM D-5417): Heavy use classification
- O. CRI Green Label Air Quality Certification Passes

2.4 PRODUCT SPECIFICATIONS

- A. Product (100% recyclable) 24" Modular Tile  
 RADIANCE EW24 – 59361 / color to be determined  
 Shaw Contract Group, Div of Shaw Industries, or an approved equal.  
 Phone: 1-800-257-7429
- B. Construction Type Pattern loop
- C. Face Fiber EcoSolution Q® Premium  
 Branded Nylon
- D. Yarn Treatment Florsept, Antistatic
- E. Gauge 1/12
- F. Stitches 9
- G. Pile Density (UM 44D) 9,076 oz/yd3
- H. Weight Density 272,280 sq oz/yd5
- I. Yarn Weight 30 oz/sq yd
- J. Pile Thickness (ASTM D-418) .119 inches
- K. Backing Structure EcoWorx®
- L. Total Weight 106.5 oz.
- M. Total Thickness .277 inches
- N. Size 24 in. x 24 in.
- O. Base Color Method 100% Solution Dyed
- P. Antimicrobial Antimicrobial Treatment (inhibits fungi, gram positive and gram negative bacteria)

2.5 MINIMUM CONSTRUCTION STANDARDS IN ADDITION TO PRODUCT SPECIFICATIONS

- A. Nylon Specification - All nylon fiber shall be branded nylon containing post-consumer recycled content.
- B. Carpet average density shall be 6000 minimum. Average pile thickness as determined by ASTM D418.
- C. Appearance Retention Rating (see product specifications)
- D. Antimicrobial with broad spectrum efficacy against bacteria and fungus for the life of the product (see product specification). Minimizes likelihood of Building Related Illness, Sick Building Syndrome, and assists in improving Indoor Air Quality.
- E. Carpet tile backing shall be 100% recyclable.

2.6 RELATED CARPET MATERIALS

- A. Leveling Compound - Latex type as recommended by carpet manufacturer and is compatible with carpet adhesive and curing/sealing compound on concrete.
- B. Releasable pressure sensitive type adhesive - Use the following as recommended by the carpet manufacturer which will allow removal of carpet at any time without damage or adherence to carpet: N5000 low VOC (no solvents) carpet tile adhesive.
- C. Multi-purpose Adhesive - Provide the following adhesive as recommended by carpet manufacturer for direct glue-down of carpet on steps.
- D. Carpet Edge Guard, Nonmetallic - Extruded or molded heavy duty vinyl or rubber carpet edge guard of size and profile indicated and with minimum 2 inch wide anchorage flange; colors selected by architect/designer from among standard colors available within the industry.
- E. Miscellaneous Materials - As recommended by manufacturer of carpet, cushion and other carpeting products and selected by Trade Contractor to meet project circumstance and requirements.

PART 3 - EXECUTION

3.1 PRE-INSTALLATION REQUIREMENTS AND PREPARATORY WORK

- A. The Trade Contractor shall measure carefully and check all dimensions and other conditions in the field to insure proper fit in the areas designated. Trade Contractor shall be totally responsible for the accuracy of his measurements on total yardage requirements, individual floor yardage requirements and dye lot yardage requirements. No request for carpet or installation extras from the owner will be considered due to measurement or takeoff errors by the Trade Contractor. The Trade Contractor shall confirm total yardage required, including 3% attic stock along with bid.
- B. The Trade Contractor shall coordinate all installation activities with the Construction Manager.
- C. Removal of carpet to be replaced (if applicable) should be handled according to preapproved plan for reuse and/or recycling.
- D. Sequence carpeting with other work so as to minimize possibility of damage and soiling of carpet during remainder of construction period. Carpet installation must not commence until painting and finishing work is complete and ceiling and other overhead work has been tested, approved and completed, unless specifically approved by owner's Project Manager, in writing.
- E. Trade Contractor and manufacturer's representative must examine substrates for conditions over which carpeting is to be installed.
  - 1. New concrete shall be allowed to cure for ninety (90) days before carpet installation.
  - 2. Trade Contractor shall perform moisture content testing as required in manufacturer's instructions to ensure pH readings of no more than 9. Moisture transmission of 5.5 pounds per sqm per 24 hours is acceptable.

If values exceed this level manufacturer's recommendations must be followed for moisture transmission mitigation. Do not proceed until unsatisfactory conditions are corrected. Provide manufacturer's recommended moisture remediation material to existing concrete slab prior to installation of finish material. Cost of moisture remediation to be included in base bid, with credit to be provided back to owner if not required. Credit will be determined based on industry standard labor costs and actual material costs provided by manufacturer/distributor.

3. Cracks 1/16 inch or more, holes, unevenness and roughness must be filled, leveled and made smooth with a compatible latex floor patching compound. Prior to filling, the floor must be swept clean of all loose granular debris. After filling, allow filler to dry. Then damp mop the floor with warm water and allow to dry. Vacuum after mopping, to ensure all loose granular debris is removed and provide a proper substrate to install carpet.
- F. All surfaces to receive carpet shall be clean and dry, and in a condition satisfactory to the Trade Contractor. Trade Contractor shall notify Construction Manager in writing of any conditions which will prevent him from producing satisfactory finish work after above specified preparatory work is completed.
- G. Trade Contractor shall vacuum floors again immediately before installation of carpeting.
- H. Confirm compatibility of adhesive with curing compounds on concrete floors. All adhesives and curing compounds shall comply with the CRI Green Label Certification program for low VOC's.
- I. Environmental Conditions - Areas to be carpeted must be pre-heated at a minimum of 68° F. for 72 hours prior to installation with the relative humidity not more than 65%. A minimum temperature of 50° F. shall be maintained thereafter. Carpet and adhesive must be stored at a minimum temperature of 68° F. for 72 hours prior to installation.
- J. Once the Trade Contractor commences installation work under this contract, it shall be assumed that the condition of the floor has been accepted and any repairs or further corrections in the floor surface shall become the responsibility of the Trade Contractor.

### 3.2 INSTALLATION

#### A. General

1. Comply with manufacturer's instructions and recommendations for uniformity of direction of carpet installation.
2. Install carpet under open-bottom obstructions and under removable flanges and furnishings, and into alcoves and closets of each space.
3. Provide cut outs where required. Conceal cut edges with protective edge guards or overlapping flanges.
4. Run carpet under open-bottom items such as heating convectors and install tight against walls, columns and cabinets so that the entire floor area is covered with carpet. Cover over all floor type door closures.
5. Install edging guard at all openings and doors wherever carpet terminates, unless indicated otherwise. Prior to installation, report to the Construction Manager all other obstructions which may occur.
6. Cutting shall be done in accordance with the manufacturer's recommendation, using the tools designed for the carpet being installed. Scraps shall be retained or disposed of per the manufacturer's environmental program.
7. Edges shall be butted together with the proper pressure to produce the tightest joint possible without distortion.

8. All carpet shall be installed with pile-lay in the same direction except when directed to use a quarter turned method as specified in the drawings.
9. Use leveling compound where necessary. Any floor filling or leveling shall have a minimum of 4'0" of feather.
10. Expansion joints - Do not bridge building expansion joints with continuous carpeting. Provide for movements.

B. Installation

1. Install carpet according to carpet manufacturer's printed instructions.
2. Measuring - Divide the room into four quadrants and snap a chalk line. Make sure quadrants meet at right angles (offset the center line, if necessary, to ensure that perimeter tiles will be cut no less than half size (9 inches).
3. Apply environmentally approved adhesive as per instructions in the area to be carpeted first.
4. Note carefully if the product is designed to be installed "quarter turned" only. Arrows should point in the same direction every other tile and diagonally. Arrows on alternating tiles should be turned 90° in either direction, consistently.
5. Begin installing by laying an anchor row of tiles on one side of the center chalk line. Ensure straight lines and square corners. Repeat anchor rows in each quadrant, extending out from center. Fill in each quadrant with tiles using a stair step technique.
6. Tip individual tiles into place to avoid catching pile in the joint. Frequently check tile joints for proper alignment and firm abutment.
7. Although tiles are nominally 24 inches by 24 inches square, there will be slight gain due to joints. To check, measure 10 installed tiles from edge to edge, spanning 10 joints. This measurement should be no greater than 240 and 1/8 inches for tufted product. If more gain is measured, tiles are not butted tightly enough. Reposition and check again. Use this method to continually check for excessive gain. See manufacturer's instructions for 24" x 24" modular tiles.
8. Fixtures, architectural elements, and perimeters will require tile cutting. Cut tiles from the back. Secure cut or partial tiles with adhesive.
9. Electrical floor outlets are usually wired after tile installation. Install tile over electrical boxes and mark locations with a piece of tape. Tiles can be lifted for cut-outs later.
10. Center trench headers directly under a full tile row.
11. In open perimeter designs, use a fixed reducer strip to secure the tile area.
12. Use an environmentally acceptable permanent adhesive for tiles installed on stairs. Compatible edge trim and nosing products may also be required.

3.3 CLEANING AND PROTECTION

- A. On completion of the installation in each area, all dirt, carpet scraps, etc., must be removed from the surface of the carpet. Any soiling spots or excessive adhesive on the carpet shall be removed with the proper spot remover. (See Section 1.3.7)
- B. Construction traffic other than as may be required to fit up specific carpeted area will not be allowed to traverse the completed work.
- C. Remove debris, and sort pieces to be saved from scraps to be redirected and recycled.
- D. Protect carpeting against damage during construction. Cover with 6-mil thick

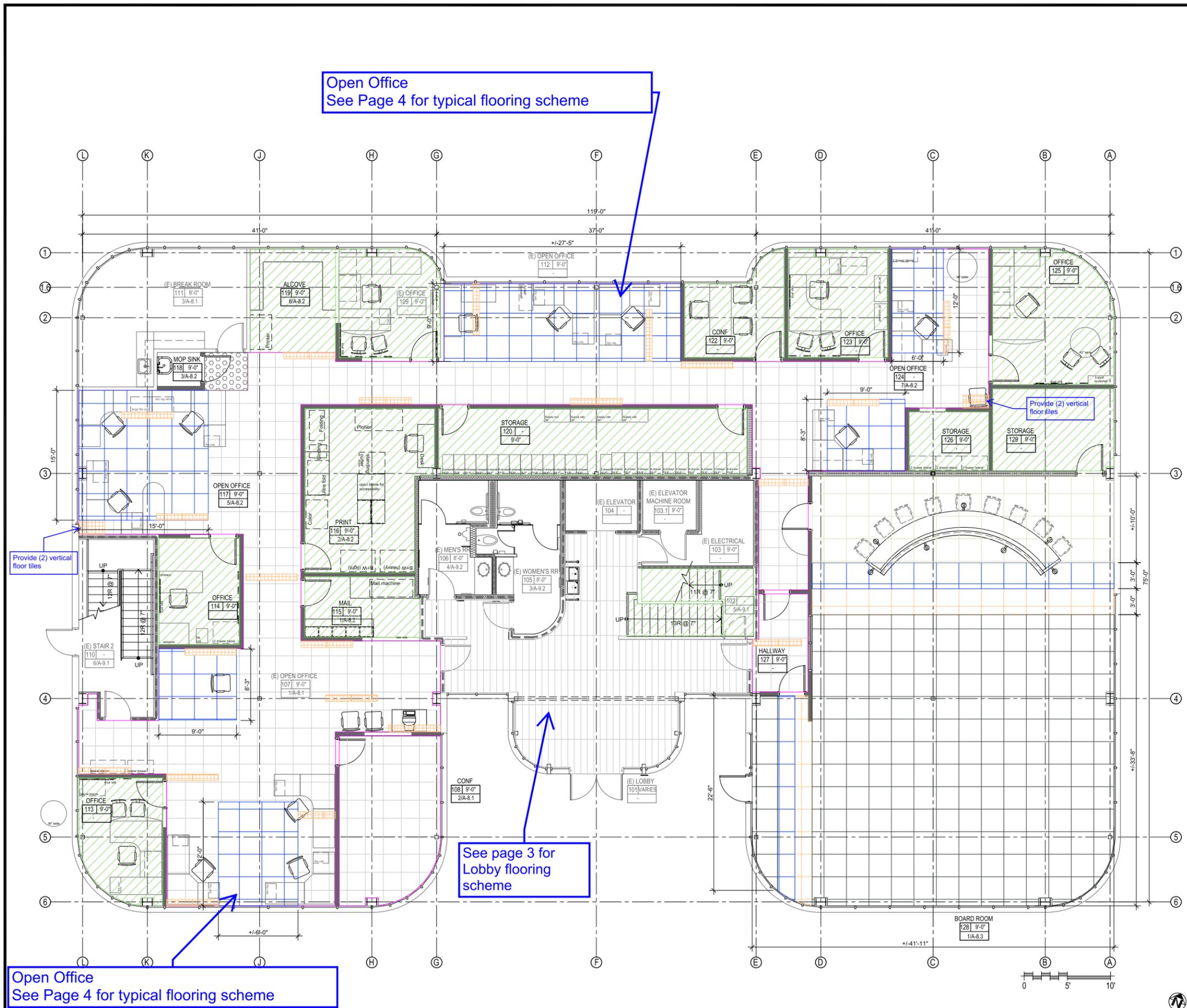
polyethylene covering with taped joints during the construction period, wherever protection is required, so that carpet will be without any indication of deterioration, wear, or damage at the time of acceptance. Damaged carpeting will be rejected and recycled. As the carpet is laid, remove all trimmings, excess pieces of carpet and laying materials.

- E. At the completion of the work and when directed by the Construction Manager, vacuum carpet using commercial dual motor vacuum of type recommended by carpet manufacturer. Remove spots and replace carpet where spots cannot be removed. Remove rejected carpeting and replace with new carpeting. Remove any protruding yarns with shears or sharp scissors.
- F. Protection of carpeting shall be maintained on each floor or area until accepted.

#### 3.4 INSPECTION

- A. Preliminary Acceptance - Upon completion of the carpet installation of each floor, it shall be inspected by Owner, the Construction Manager and Trade Contractor.
- B. Upon completion of the installation, verify that work is complete, properly installed and acceptable. Remove and replace all work not found acceptable to the owner at the installer's expense.
- C. Upon completion of the installation the manufacturer shall deliver a certificate of recycling describing the method by which the uplifted carpet was recycled (see Section 01350 Special Project Procedures- Carpet Reclamation), and shall provide a promise of recycling specifying the method of recycling of the newly installed carpet tile at the end of its useful life.

END OF SECTION



**LEGEND**

Lees Faculty  
Greatest Charcoal carpet

LVT

Carpet tile  
(see attached sheets for tile information)

Note: Provide (2) 9x36 floor tiles horizontally as shown, unless otherwise noted, typ.

VCT

Open Office  
See Page 4 for typical flooring scheme

See page 3 for  
Lobby flooring  
scheme

1 FLOOR PLAN- FIRST FLOOR

Flooring  
Page 1 of 6

3/16" = 1'-0"

Regulatory Agency Approval

DSA: 01 -120361 / File: 43-7

McKim Design Group  
4595 Cherry Avenue, First Floor, San Jose, CA 95118  
ph: (408) 927-8110 fax: (408) 927-8112

Engineer Seal

Architect Seal

Project Title

**DISTRICT OFFICE TI**  
981 RIDDER PARK DR  
SAN JOSE, CA 95131

Client

BERRYESSA UNION SCHOOL DISTRICT  
1376 PIEDMONT RD.  
SAN JOSE, CA 95132

No	Revisions/Submissions	Date
△	DSA Submittal_V1	July 19, 2022
△	District/ CM Comments	Oct. 6, 2022
△	Addendum No. 3	Oct. 21, 2022
△	Addendum No. 4	Oct. 26, 2022

Drawing Title

**FLOOR PLAN  
FIRST FLOOR  
(FLOORING FINISH)**

Project No. 2203	Date July 19, 2022
---------------------	-----------------------

Drawing Number

**CD A-3.3**



Engineer Seal

Architect Seal



Project Title

DISTRICT OFFICE TI  
981 RIDDER PARK DR  
SAN JOSE, CA 95131

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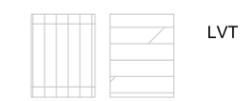
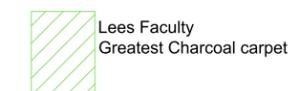
Drawing Title

FLOOR PLAN  
SECOND FLOOR  
(FLOORING FINISH)

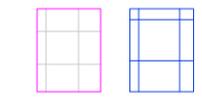
Project No. 2203 Date July 19, 2022

Drawing Number  
CD A-3.4

LEGEND



Carpet tile (see attached sheets for tile information)



See page 6 for Break Room flooring scheme

Open Office  
See Page 4 for typical flooring scheme

This is (1) 9x36 tile

This is (1) 9x36 tile

This is (1) 9x36 tile

Open Office  
See Page 4 for typical flooring scheme

This is (1) 9x36 tile

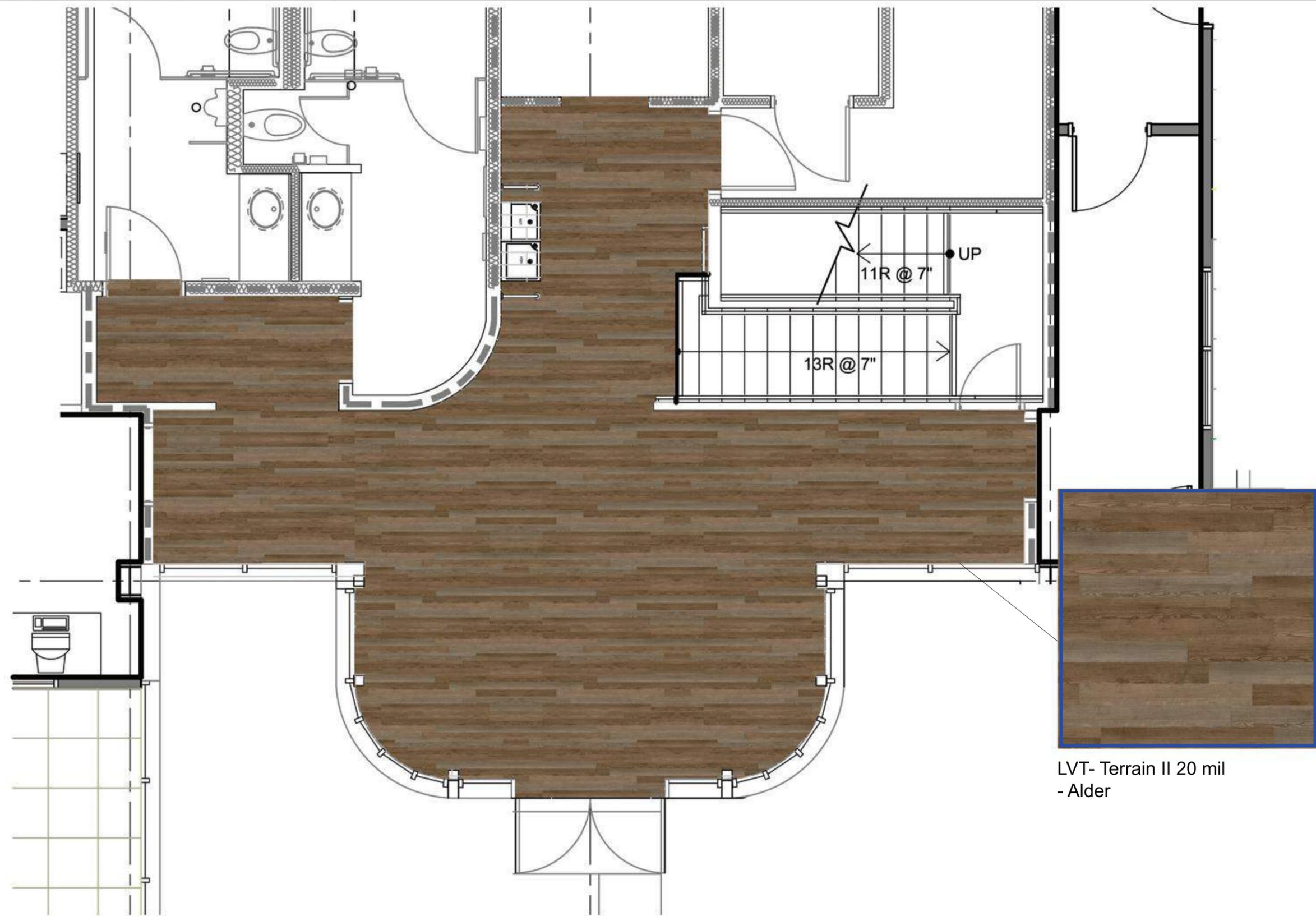
See page 3 for Lobby flooring scheme

Open Office  
See Page 4 for typical flooring scheme

1 FLOOR PLAN- SECOND FLOOR

3/16" = 1'-0"

Flooring  
Page 2 of 6



LVT- Terrain II 20 mil  
- Alder

LVT-Terrain II 20 mil  
- Nest



**McKim Design Group**  
 Planning - Design - Architecture  
 MDG: 2203, 11x8.5, 8.30.22

\* Selected from Shaw Contract LVT

Open Office



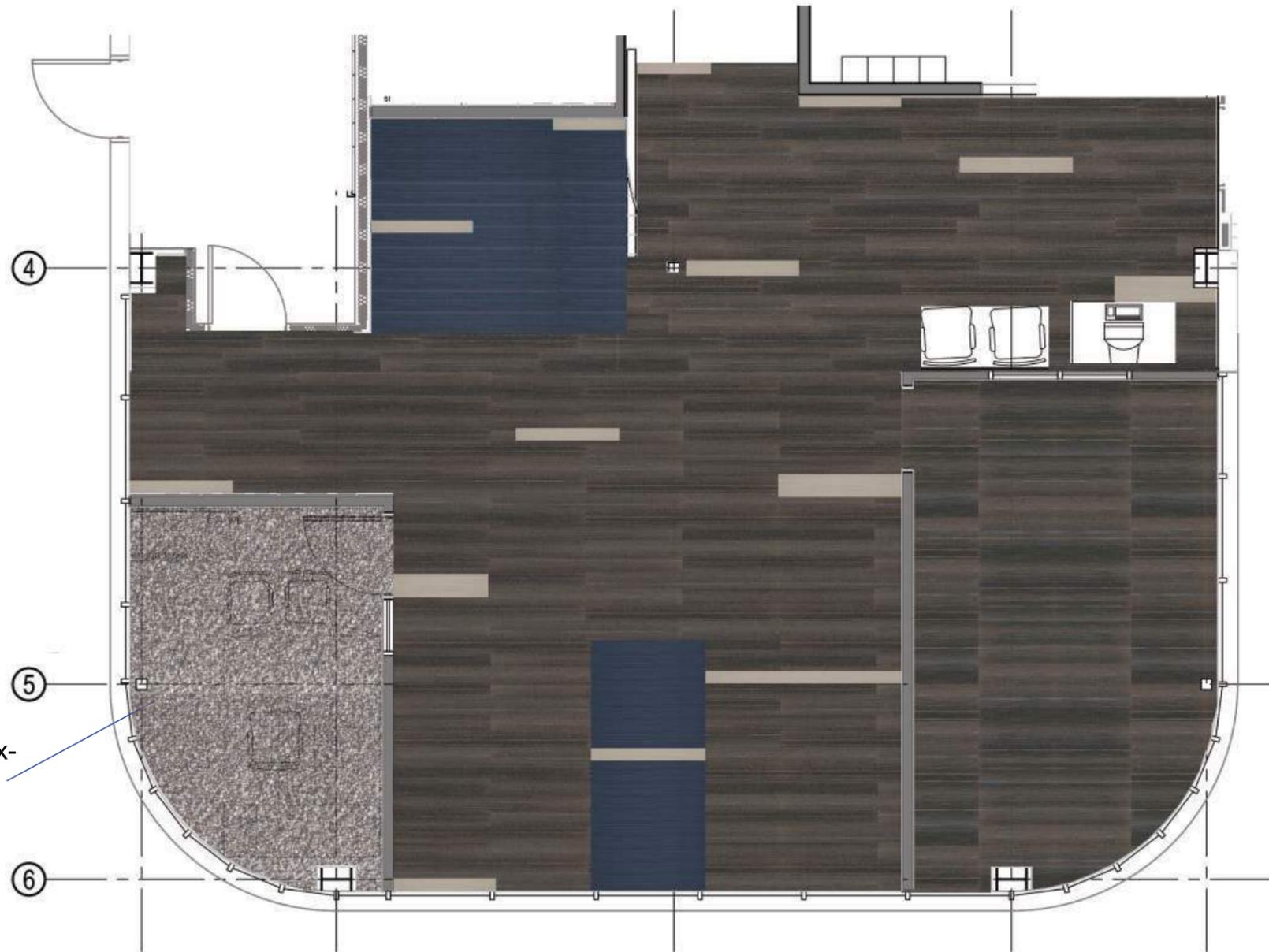
Carpet Tile 9x36  
- Central Line  
- Color-Skyline Cyan

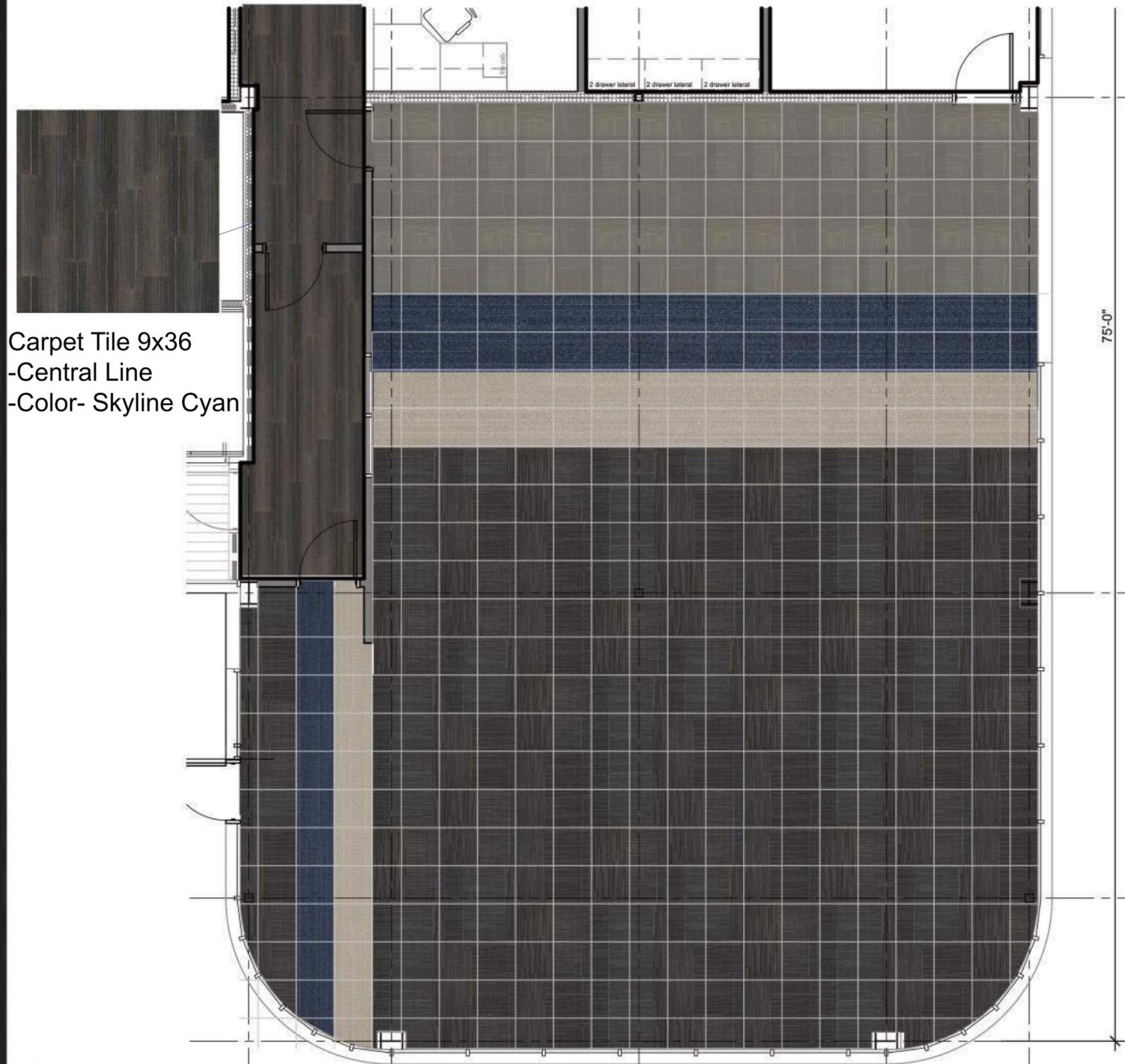


Carpet Tile 9x36  
- Color Form Tile  
- Color-Imply



Carpet Tile 9x36  
- Color Form Tile  
-Color-Duplicity





Carpet Tile 9x36  
 -Central Line  
 -Color- Skyline Cyan



Carpet Tile 24x24  
 -Infinite  
 -Endless



Carpet Tile 9x36  
 -Color Form  
 -Duplcty (same accent color  
 proposed in open office areas)



Carpet Tile 9x36  
 -Color Form  
 -Imply (same accent color  
 proposed in open office areas)

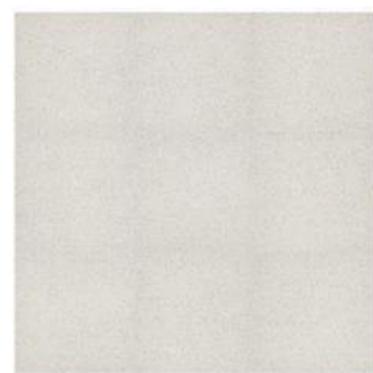


Carpet Tile 24x24  
 -Infinite  
 -Encompass

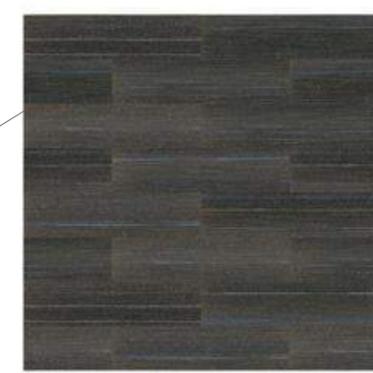
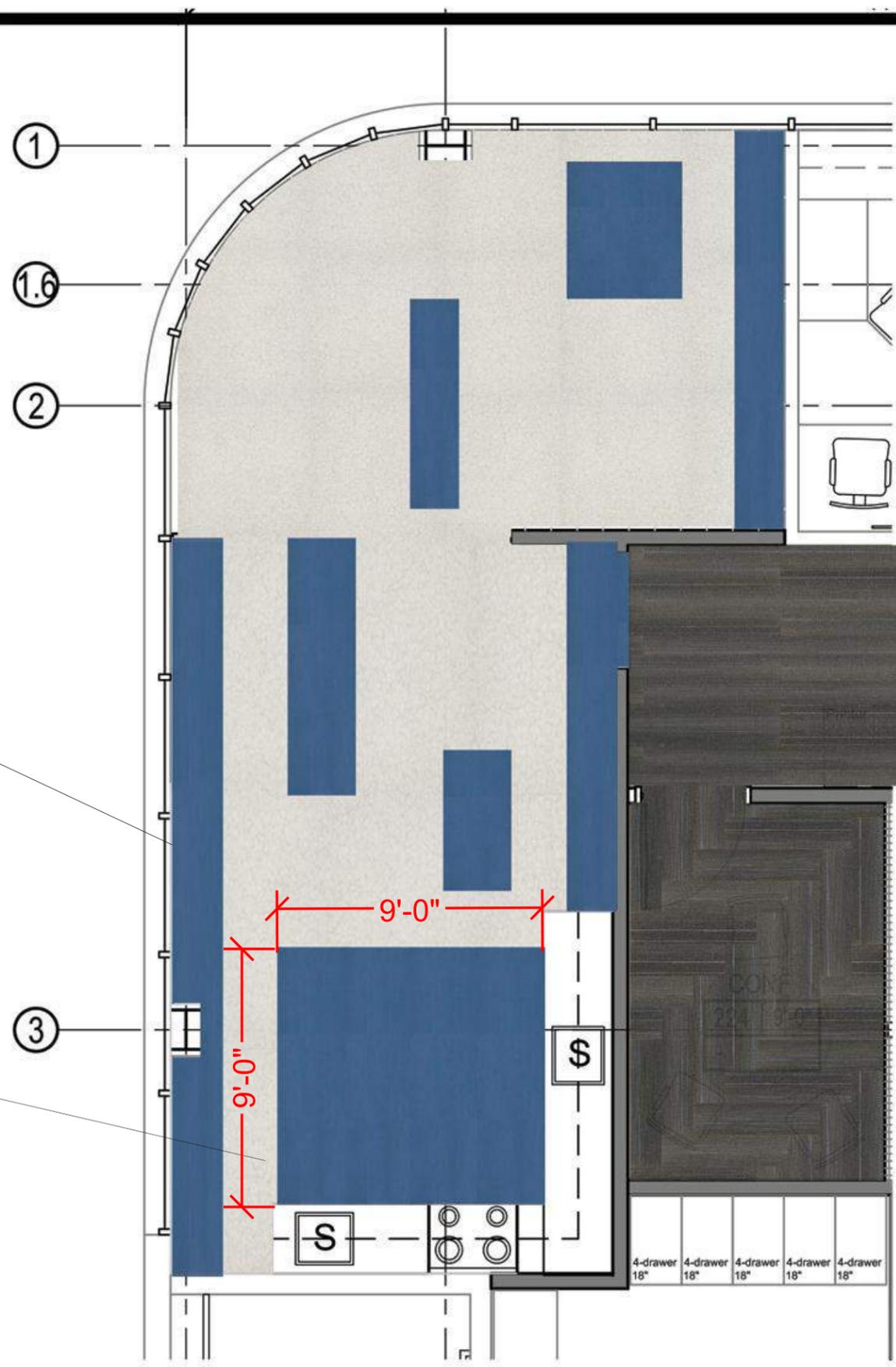




LVT 24x24  
-Joy Square  
-Color: Snooze



LVT 24x24  
-Joy Square  
-Color: Snow Day



Carpet tile 9x36  
-Central Line  
-Color Skyline Cyan

