STEFAN BEAN, Ed.D.
County Superintendent of Schools

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS

BID NUMBER: 26-05

BID TITLE:	**ESPLANADE BUILDING 4 AND KALMUS BUILDING A INTERIOR IMPROVEMENTS**
MANDATORY JOB CONFERENCE:	**November 4, 2026, 8:00:00 A.M. PST SHARP!** **Orange County Department of Education** **200 Kalmus Drive, Quad Area, Costa Mesa, CA 92626**
BIDDER'S QUESTIONS:	**All Bidders are required to send in any Request for Information (RFI), questions or clarifications in writing regarding this Project by email to Kristin Lange at klange@ocde.us no later than 10:00:00 A.M. PST November 10, 2026**
BID DUE DATE:	**November 18, 2026 at 10:00:00 A.M. PST SHARP!** **Orange County Department of Education** **Purchasing Department** **200 Kalmus Drive, Building A** **Costa Mesa, California 92626**

The Orange County Superintendent of Schools is requesting bids for Esplanade Building 4 and Kalmus Building A Interior Improvements Project. Questions and/or concerns related to the Bid requirements should be directed to Kristin Lange, Purchasing & Contracts Manager, by email klange@ocde.us by the deadline noted above.

TABLE OF CONTENTS
BID NUMBER: 26-05 ESPLANADE BUILDING 4 AND KALMUS BUILDING A INTERIOR IMPROVEMENTS

		PAGE
1.	Public Notice - Invitation to Bid.....	3
2.	Mandatory Return Documents Checklist.....	4
3.	Instruction to Bidders	5 - 21
4.	Bid Bond Form	22 - 23
5.	Bid Form …….....	24 - 29
6.	Designation of Subcontractors	30 - 31
7.	Information Required of Bidder ……..……	32 - 38
8.	Equipment/Material Source Information.....	39
9.	Non-Collusion Declaration…….	40
10.	Workers' Compensation Certificate.....	41
11.	Payment Bond…….....	42 - 44
12.	Faithful Performance Bond…….....	45 - 47
13.	Agreement	48 - 55
14.	Escrow Agreement	56 - 58
15.	Guarantee …….....	59
16.	Shop Drawing Transmittal …….....	60 - 61
17.	Drug-Free Workplace Certification.....	62 - 63
18.	Change Order (Additive).....	64 - 65
19.	Change Order (Deductive).....	66 - 67
20.	Criminal Record Check Overview…….……..	68
21.	Notice to Contractors Regarding Criminal Records Check & Certification.....	69 - 70
22.	Contractor's Certificate Regarding Non-Asbestos Containing Materials……	71
23.	Disabled Veterans Business Enterprises Certification…..	72
24	Equal Opportunity Certification……..	73
25.	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion……..	74
26.	Iran Contracting Act Certification …….	75
27.	Ukraine-Russia Contracting Certification ……	76
28.	General Conditions……..	77 - 134
29.	Request for Interpretation Form……..…….	135
30.	Contractor's Certificate Regarding Alcoholic Beverage and Tobacco-Free Campus Policy	136
31.	Request for Substitution Form……	137 - 138

PUBLIC NOTICE - INVITATION TO BID

BID NO. 26-05 ESPLANADE BUILDING 4 AND KALMUS BUILDING A INTERIOR IMPROVEMENTS

NOTICE IS HEREBY GIVEN that the Orange County Superintendent of Schools, hereinafter referred to as SUPERINTENDENT, will receive sealed bids for Bid No. 26-05, Esplanade Building 4 and Kalmus Building A Interior Improvements, until November 18, 2026, at 10:00:00 a.m. PST. Bids must be received at the Orange County Superintendent of Schools, Purchasing Department, 200 Kalmus Drive, Building A, Costa Mesa, CA 92626. Bids will be publicly opened and read aloud at that time and place. Late bids will be returned unopened.

Bid documents, plans, and required bid forms are available at https://www.ocde.us/divisions/administrative-services/purchasing-and-contracts/bids-and-rfps. Bids must be submitted on the forms provided by the SUPERINTENDENT and comply with the bid documents.

A mandatory job walk will begin November 4, 2026, at 8:00:00 a.m. PST sharp at 200 Kalmus Drive, Quad Area, Costa Mesa, CA 92626. Bidders must attend the entire job walk; late arrival or failure to attend will make a bid nonresponsive. Written questions must be emailed to Kristin Lange at klange@ocde.us by November 10, 2026, at 10:00:00 a.m. PST.

Pursuant to Public Contract Code section 3300, the successful contractor must hold a valid, active **Class B** California contractor license at the time of award and throughout the project. Subcontractors must hold the licenses required for their respective trades.

This is a public works project subject to prevailing wages. The applicable prevailing wage rates are available on request and at www.dir.ca.gov. Bidders and subcontractors must be registered and qualified to perform public work with the Department of Industrial Relations (DIR) as required by Labor Code sections 1725.5 and 1771.1. The project is subject to DIR compliance monitoring and enforcement under Labor Code section 1771.4.

Each bid must include bid security of at least ten percent (10%) of the maximum bid amount, in a form permitted by the bid documents. The successful bidder must provide the required performance and payment bonds. Pursuant to Public Contract Code section 22300, the contract will permit the substitution of securities for money withheld by the SUPERINTENDENT to ensure performance, as provided in the bid documents.

The SUPERINTENDENT reserves the right to reject any or all bids and waive irregularities or informalities in the bidding. No bidder may withdraw a bid for ninety (90) calendar days after the bid opening date. All other terms and requirements are stated in the bid documents.

By: Kristin Lange
Purchasing & Contracts Manager

Date Published: October 20, 2026
Date Published: October 27, 2026

MANDATORY RETURN DOCUMENTS CHECKLIST

The following sections of this Bid Number: 26-05 Esplanade Building 4 and Kalmus Building A Interior Improvements Project, must be returned with your bid response prior to the bid closing deadline **on or before 10:00:00 A.M. PST on November 18, 2026** to be considered responsive to the bid specifications. Additional documents may be required so bidders should carefully review all Bid Documents.

- ❑ Bid Bond
- ❑ Bid Form
- ❑ Designation of Subcontractors
- ❑ Information Required of Bidder
- ❑ Request for Substitution Form (If Substitution Request Form is not submitted than NO substitutions will be allowed after the bids are opened)
- ❑ Equipment/Material Source Information
- ❑ Non-Collusion Declaration
- ❑ Contractor's Certificate Regarding Workers Compensation
- ❑ Request for Interpretation (RFI) Form (If interpretation requested)
- ❑ Equal Opportunity Certification
- ❑ Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- ❑ Iran Contracting Act Certification
- ❑ Ukraine-Russia Contracting Certification

INSTRUCTIONS TO BIDDERS

1. Preparation of Bid Form. Proposals under these specifications shall be submitted on the blank forms furnished herewith at the time and place stated in the Notice Inviting Bids. All blanks in the bid form must be appropriately filled in and all proposed prices must be stated clearly and legibly in both words and numerals. All bids must be submitted as a paper copy under sealed cover. SUPERINTENDENT will not accept any bids or bid modifications submitted by facsimile or electronic mail transmission. All bids must be signed by the bidder and submitted in sealed envelopes, bearing on the outside, the bidder's name, address, telephone number, and California Contractor's License number, and the name of the Project for which the bid is submitted. The SUPERINTENDENT reserves the right to reject any bid if not all of the above information is not furnished. It is each bidder's sole responsibility to ensure its bid is delivered timely and received at the location designated as specified above. Any bid received at the designated location after the scheduled closing time for receipt of bids shall be returned to the bidder unopened in accordance with Government Code Section 53068. At the time and place set forth for the opening of bids, the sealed bids will be opened and publicly read aloud.

2. Mandatory Job Walk. A mandatory job walk is scheduled to start promptly at **8:00:00 a.m. PST on November 4, 2026**, at the Orange County Department of Education, 200 Kalmus Drive, Quad Area, Costa Mesa, California 92626. Any contractor bidding on this project who fails to attend the entire mandatory job walk or is tardy to the mandatory job walk will be deemed a non-responsive bidder and will have its bid returned unopened. The goal of the job walk is to provide perspective bidders an opportunity to walk the facilities and familiarize themselves with conditions relating to the Orange County Superintendent of Schools and its operations.

3. Bidder's Request for Interpretation (RFI). All Bidders are required to send in any questions or comments in writing using the Request for Interpretation (RFI) form regarding this Project by email to Kristin Lange at klange@ocde.us no later than **10:00:00 a.m.PST, November 10, 2026**.

4. Bid Security. Each bid must be accompanied by a bid security in the form of a certified or cashier's check or bid bond (executed by the Bidder as principal and surety as obligor), in the amount of not less than **ten percent (10%)** of the total bid price made payable to the SUPERINTENDENT. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The surety insurer must, unless otherwise agreed to by District 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. The SUPERINTENDENT reserves the right to approve or reject the surety insurer selected by the Bidder and to require the Bidder to obtain a bond from a surety satisfactory to the SUPERINTENDENT.

The check or bid bond shall be given as a guarantee that the Bidder, if awarded the contract, will execute the contract within **five (5)** calendar days after notice of award of the contract, and will furnish, on the prescribed forms, a satisfactory Faithful Performance Bond in an amount not less than one hundred percent (100%) of the total bid price and separate Payment (labor and material) Bond in an amount not less than one hundred percent (100%) of the total bid price, furnish certificates and endorsements evidencing that the required insurance is in effect, the Workers' Compensation Certificate, Drug-Free Work Place Certification, the Criminal Records Check Certification, Contractor's Certificate

Regarding Non-Asbestos Containing Materials, and the Disabled Veteran Business Enterprises Certification, if applicable, all within **five (5)** working days of the notice of award of the contract or as otherwise requested in writing by the SUPERINTENDENT. It is understood and agreed that should Bidder fail or refuse to return these documents as required by the SUPERINTENDENT, the bid security shall be forfeited to the SUPERINTENDENT. If the Bidder elects to furnish a bid bond as its Bid Security, the Bidder shall use the bid bond form included in the Project Documents.

5. Signature. All bids submitted shall be executed by the Bidder or its authorized representative. Any signature required in the bid Documents must be signed in the name of the Bidder and must bear the signature in longhand of the person or persons duly authorized to sign the bid documents. Where indicated, if Bidder is a corporation, the legal name of the corporation shall first be set forth, together with two signatures: one from among the chairman of the board, president or vice president and one from among the secretary, chief financial officer, or treasurer. Bidder may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

Alternatively, the signature of other authorized officers or agents may be affixed, if duly authorized by the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal. Where indicated, in the event that the Bidder is a joint venture or partnership, there shall be submitted with the bid certifications signed by authorized officers of each of the parties to the joint venture or partnership, naming the individual who shall sign all necessary documents for the joint venture or partnership and, should the joint venture or partnership be the successful Bidder, who shall act in all matters relative to the Project for the joint venture or partnership. If Bidder is an individual, his/her signature shall be placed on such documents.

6. Modifications. Changes in or additions to any of the bid documents, summary of the work bid upon, alternative proposals, or any other modifications which are not specifically called for by the SUPERINTENDENT may result in the SUPERINTENDENT'S rejection of the bid as being nonresponsive. No oral, telephonic, facsimile or electronic modification of any of the bid documents will be considered.

7. Erasures, Inconsistent or Illegible Bids. The bid submitted must not contain any erasures, interlineations, or other corrections unless each such correction is authenticated by affixing the signature of signatures of the person(s) signing the bid in the margin immediately adjacent to the correction. In the event of inconsistency between words and numbers in the bid, words shall control numbers. In the event that SUPERINTENDENT determines that any bid is unintelligible, inconsistent, illegible or ambiguous, the SUPERINTENDENT may reject such bid as being nonresponsive.

8. Examination of Site and Project Documents. At its own expense and prior to submitting its bid, each Bidder shall examine all documents relating to the Project; visit the site and determine the local conditions which may in any way affect the performance of the work, including the general prevailing rates of per diem wages and other relevant cost factors; familiarize itself with all Federal, State and Local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work; make such surveys and investigations, including investigation of subsurface or latent physical conditions at the site or where work is to be

performed, as it may deem necessary for performance of the work at its bid price; determine the character, quality, and quantities of the work to be performed and the materials and equipment to be provided; and correlate its observations, investigations, and determinations with all requirements of the Project. The bid documents show and describe the existing conditions as they are believed to have been used in the design of the work and are only provided as information for the Bidder. The SUPERINTENDENT is not making any warranties regarding said information. The SUPERINTENDENT shall not be liable for any loss sustained by the successful Bidder resulting from any variance between the conditions and design data given in the bid documents and the actual conditions revealed during the Bidder's pre-bid examination or during the progress of the work. **Bidder agrees that the submission of a bid shall be taken as prima facie evidence of compliance that the Bidder has complied with all the requirements of this provision of the Information for Bidders.**

9. Withdrawal of Bids. Any bid may be withdrawn, either personally or by written request signed by the Bidder, at any time prior to the scheduled closing time for receipt of bids. The bid security for a bid withdrawn prior to the scheduled closing time for receipt of bids, in accordance with this paragraph, shall be returned upon demand thereof.

No Bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for the opening of bids.

10. Agreement and Bonds. The Agreement which the successful Bidder will be required to execute and the payment bond required in accordance with Civil Code Section 3247, are included in the Project Documents. The payment bond shall be in the amount not less than one hundred percent (100%) of the amount of the contract in accordance with Civil Code Section 3248. The successful Bidder will also be required to furnish a separate faithful performance bond in the amount of one hundred percent (100%) of the contract and in the form included in the Project Documents, which shall remain in full force and effect through the guarantee period as specified in the General Conditions. All bond premiums shall be at Bidder’s cost.

11. Interpretation of Plans and Project Documents/Pre-Bid Clarification. If any prospective Bidder is in doubt as to the true meaning of any part of the Project Documents or finds discrepancies in or omissions from the Project Documents, or finds discrepancies in, or omissions, a written request for an interpretation or correction thereof must be submitted to the SUPERINTENDENT by 10:00:00 a.m. PST, November 10, 2026. No requests shall be considered after this time. The Bidder submitting the written request shall be responsible for its prompt delivery. Any interpretation or correction of the Project Documents will be made solely at SUPERINTENDENT’S discretion and only by written addendum duly issued by the SUPERINTENDENT, and a copy of such addendum will be hand delivered or mailed or faxed to each Bidder known to have received a set of the Project Documents. No person is authorized to make any oral interpretation of any provision in the Project Documents, nor shall any oral interpretation of Project Documents be binding on the SUPERINTENDENT. If there are discrepancies of any kind in the Project Documents, the interpretation of the SUPERINTENDENT shall prevail. SUBMITTAL OF A BID WITHOUT A REQUEST FOR CLARIFICATIONS SHALL BE INCONTROVERTIBLE EVIDENCE THAT THE BIDDER HAS DETERMINED THAT THE PROJECT DOCUMENTS ARE ACCEPTABLE AND SUFFICIENT FOR BIDDING AND COMPLETING THE WORK; THAT BIDDER IS CAPABLE OF READING, FOLLOWING AND COMPLETING THE WORK IN ACCORDANCE WITH THE PROJECT

DOCUMENTS; AND THAT BIDDER AGREES THAT THE PROJECT CAN AND WILL BE COMPLETED ACCORDING TO THE SUPERINTENDENT'S TIMELINES AND ACCORDING TO THE PROGRESS SCHEDULE TO BE SUBMITTED BY THE SUCCESSFUL BIDDER INCORPORATING THE SUPERINTENDENT'S TIMELINES FOR COMPLETION OF THE PROJECT.

12. Bidders Interested in More Than One Bid. No person, firm or corporation shall be allowed to make, or file, or be interested in more than one bid for the same work unless alternate bids are specifically called for by the SUPERINTENDENT. A person, firm, or corporation that has submitted a proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a proposal or quoting prices to other Bidders or submitting a bid on the Project.

13. Identical Bids. Pursuant to Public Contracts Code 20117 notwithstanding any other provision of law, in the event there are two or more identical lowest or highest bids, as the case may be, submitted to a school district for the purchase, sale, or lease of real property, supplies, materials, equipment, services, bonds or the awarding of any contract, pursuant to a provision requiring competitive bidding, the governing board of any school district may determine by lot which bid shall be accepted.

14. Award of Contract. The SUPERINTENDENT reserves the right to reject any or all bids, or to waive any minor irregularities or informalities in any bid or in the bidding process. Each bid must conform and be responsive to the Bid Documents as defined in the General Conditions. Submission of the lowest bid price does not, by itself, guarantee an award. The contract, if awarded, shall be awarded to the lowest responsive and responsible Bidder, as determined by the SUPERINTENDENT in accordance with the requirements of the Bid Documents.

If the selected Bidder fails or refuses to execute the Agreement and provide all required documents within five (5) calendar days after notice of award, the SUPERINTENDENT may award the contract to the next lowest responsive and responsible Bidder or reject all bids.

15. Bid Protest Procedure. Any Bidder may file a bid protest. The protest shall be filed in writing with the SUPERINTENDENT's Executive Director, Business Operations, not less more than five (5) business days after the date of the bid opening. An e-mail address shall be provided and by filing the protest, 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.

a. 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 SUPERINTENDENT, an informal hearing will be held. SUPERINTENDENT will issue a written decision within fifteen (15) calendar days of receipt of the protest, unless factors beyond the SUPERINTENDENT's reasonable control prevent such resolution. The decision on the bid protest will be copied to all parties involved in the protest.

b. Appeal: If the protesting bidder or the apparent low bidder is not satisfied with the decision, the matter may be appealed to the Superintendent, or their designee, within three (3) business days after receipt of the SUPERINTENDENT'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:

Orange County Superintendent of Schools
Office of the County Superintendent
200 Kalmus Drive, Costa Mesa, CA 92626

c. Appeal Review: The Superintendent or his designee shall review the decision on the bid protest from the Director, Business Operations and issue a written response to the appeal. The written decision of the Superintendent or his designee 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.

d. 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.

16. Alternate Bids. This section IS NOT applicable to this Project. If the SUPERINTENDENT intends to call for alternate bids (Public Contract Code Section 20103.8), then the SUPERINTENDENT intends to award the contract to the lowest responsive and responsible Bidder on the base bid without consideration of any of the additive and/or deductive items, unless the other three (3) below optional clause apply as usual by SUPERINTENDENT.

___ OPTIONAL: The SUPERINTENDENT intends to call for alternate bids. The SUPERINTENDENT intends to award the contract to the lowest responsive and responsible Bidder on the lowest total on the base bid and the following additive and/or deductive items.

___ OPTIONAL: The SUPERINTENDENT intends to call for alternate bids. The SUPERINTENDENT intends to award the contract to the lowest responsive and responsible Bidder on the lowest total of the base bid and the additive and/or deductive items taken in order from the specifically identified list of items in the Special Conditions depending on available funds.

___ OPTIONAL: The SUPERINTENDENT intends to call for alternate bids. The SUPERINTENDENT intends to award the contract to the lowest responsive and responsible Bidder in a manner that prevents any information that would identify any of the Bidders from being revealed to the SUPERINTENDENT before the ranking of all Bidders from lowest to highest has been determined.

17. Competency of Bidders. In selecting the lowest responsive and responsible Bidder, consideration will be given not only to the financial standing but also to the general competency of the Bidder for the performance of the Project. By submitting a bid, each Bidder agrees that the SUPERINTENDENT, in determining the successful Bidder and its eligibility for the award, may consider the Bidder's experience and facilities, conduct and performance under other contracts, financial condition, reputation in the industry, and

other factors which could affect the Bidder's performance of the Project. To this end, each bid shall be supported by a statement of the Bidder's experience on the form entitled "INFORMATION REQUIRED OF BIDDER."

The SUPERINTENDENT may also consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the work. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by the SUPERINTENDENT. In this regard, the SUPERINTENDENT may conduct such investigations as the SUPERINTENDENT deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the Bidder, proposed subcontractors, and other persons and organizations to do the work to the SUPERINTENDENT'S satisfaction within the prescribed time. The SUPERINTENDENT reserves the right to reject the bid of any Bidder who does not pass any such evaluation to the satisfaction of the SUPERINTENDENT.

18. Listing Subcontractors. Each Bidder shall submit, on the form furnished with the Project Documents, a list of the proposed subcontractors on this Project as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100, et seq.) including a list of names, license numbers, scopes of work, locations of the places of business, contact information and the Department of Industrial Relations (DIR) registration numbers of each subcontractor who will perform work or labor or render service to the Bidder in or about the Project, or a subcontractor who under subcontract to the Bidder, specially fabricates and installs a portion of the work in an amount in excess of one half (1/2) of one percent (1%) of the Bidder's total bid as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100, et. Seq.). Pursuant to Labor Code section 1725.5, all subcontractors (of any tier) performing work on this Project must be properly registered under DIR. If alternate bids are called for and the Bidder intends to use different or additional subcontractors, a separate list of subcontractors must be submitted for each such alternate bid. If the Bidder fails to specify a subcontractor for any portion of the work in excess of one half (1/2) of one percent (1%) of the Bidder's total bid, the Bidder agrees that he/she is fully qualified to perform that work and agrees to perform that portion of the work. Violation of this requirement (including the procurement of a subcontractor for the Project if no subcontractor is specified) can result in the SUPERINTENDENT invoking the remedies of Public Contract Code Sections 4110 and 4111.

19. Workers' Compensation. In accordance with the provisions of Section 3700 of the Labor Code, the successful Bidder shall secure the payment of compensation to all employees. The successful Bidder who has been awarded the contract shall sign and file with SUPERINTENDENT prior to performing the work, the Workers' Compensation Certificate included as a part of the Project Documents. Labor Code Section 1861.

The successful Bidder shall be required to furnish certificates and endorsements evidencing that the required insurance is in effect. SUPERINTENDENT may request that such certificates and endorsements be completed on SUPERINTENDENT provided forms.

20. Contractor's License. If, at the time and date of the bid award, Bidder is not properly licensed to perform the Project in accordance with Division 3, Chapter 9, of the Business

and Professions Code and the Project Documents, such bid will be rejected as nonresponsive. (Public Contract Code Section 3300) Pursuant to Business and Professions Code Section 7028.15, no payment shall be made for work or materials under the contract unless and until the Registrar of Contractors verifies to the SUPERINTENDENT that the Bidder was properly licensed at the time the bid was awarded. Any Bidder not so licensed is subject to penalties under the law and the contract will be considered void and SUPERINTENDENT shall have the right to bring an action against the unlicensed Bidder awarded the contract for recovery of all compensation paid under the contract. (Business and Professions Code Section 7031(b)) If the license classification specified hereinafter is that of a "specialty contractor" as defined in Section 7058 of the Business and Professions Code, the specialty contractor awarded the contract for this work shall construct a majority of the work, in accordance with the provisions of Business and Professions Code Section 7059. The Bidder may not use the contractor license of a third party for this bid. Bidder must possess the license throughout the duration of the contract.

21. Anti-Discrimination. It is the policy of the SUPERINTENDENT that in connection with all work performed under this Project, there shall be no unlawful discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, marital status, physical disability, mental disability, or medical condition. The successful Bidder agrees to comply with applicable Federal and State laws including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the successful Bidder agrees to require like compliance by any subcontractors employed on the Project by such Bidder.

22. Hold Harmless and Indemnification. The successful Bidder awarded the Contract agrees to and does hereby indemnify and hold harmless, the SUPERINTENDENT including but not limited to any of its governing board members, officers, employees and agents, from and against every claim or demand made, and every liability, loss damage, or expense, of any nature whatsoever, which may arise out of, or result from or be incurred by reason of: any and all claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, anticipated losses of revenues, and expenses, including any fees of accountants, attorneys or other professionals, arising out of, in connection with, resulting from or related to, or claimed to be arising out of, in connection with, resulting from or related to any act or omission by the Bidder or any of its officers, agents, employees, subcontractors, any person performing any of the work pursuant to a direct or indirect contract with the Bidder or individual entities comprising the Bidder, in connection with or relating to, or claimed to be in connection with or relating to the work, this Agreement, or the Project, including but not limited to any costs or liabilities arising out of or in connection with:

(a) failure to comply with any applicable law, statute, code, ordinance, regulation, permit or orders;

(b) any misrepresentation, misstatement or omission with respect to any statement made in the Project Documents or any document furnished by the Bidder in connection therewith;

(c) any breach of duty, obligation or requirement under the Project Documents;

(d) any failure to coordinate the work of other contractors;

(e) any failure to provide notice to any party as required under the Project Documents;

(f) any failure to act in such a manner as to protect the SUPERINTENDENT and the Project from loss, cost, expense or liability; or

(g) any failure to protect the property of any utility company or property owner.

The Bidder, at Bidder's own expense, cost, and risk shall defend any and all actions. This indemnity shall survive termination of the contract or final payment thereunder. This indemnity is in addition to any other rights or remedies which the SUPERINTENDENT may have under the law or under the Project Documents. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, the SUPERINTENDENT may in its sole discretion reserve, retain or apply any monies due to the Bidder under the Project Documents for the purpose of resolving such claims; provided, however, that the SUPERINTENDENT may release such funds if the Bidder provides the SUPERINTENDENT with reasonable assurance of protection of the SUPERINTENDENT'S interests. The SUPERINTENDENT shall in its sole discretion determine whether such assurances are reasonable.

23. Surety Qualifications for Bonds. Bidders shall ensure all surety companies have a minimum rating of "A-VIII," as rated by the current edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey 08858. Only California admitted surety insurers will be acceptable for the issuance of bonds. (Code of Civil Procedure Section 995.311) SUPERINTENDENT shall verify the status of the surety by one of the following ways: (1) printing out information from the website of the California Department of Insurance confirming the surety is an admitted surety insurer and attaching it to the bond, or (2) obtaining a certificate from the county clerk for the county in which the SUPERINTENDENT is located that confirms the surety is an admitted surety insurer and attaching it to the bond. Any admitted surety insurer who cannot satisfy the minimum rating specified above, but who satisfies the following requirements set forth in Code of Civil Procedure Section 995.660 shall be accepted and approved for the issuance of bonds:

(a) There must be on file in the office of the county clerk, for the county in which the SUPERINTENDENT is located, an unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer authorizing the person who executed the bond to do so for and on behalf of the insurer within ten (10) calendar days of the insurer's receipt of a request to submit such document from the SUPERINTENDENT, and an original or certified copy of the document must be submitted to the SUPERINTENDENT.

(b) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner must be submitted to the SUPERINTENDENT within ten (10) calendar days of the insurer's receipt of a request to submit such document from the SUPERINTENDENT.

(c) A certificate from the clerk of the county that the certificate of authority of the insurer has not been surrendered, revoked, cancelled, annulled, or suspended, and in the event it has, whether renewed authority has been granted must be submitted to SUPERINTENDENT within ten (10) calendar days of the insurer's receipt of a request to submit such document from the SUPERINTENDENT.

(d) Copies of the insurer's most recent annual statement and quarterly statement filed with the California Department of Insurance must be submitted to the SUPERINTENDENT within ten (10) calendar days of the insurer's receipt of a request to submit the statements.

24. Escrow Agreement. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of the successful Bidder awarded the contract, securities equivalent to the amount withheld as retention shall be deposited with the SUPERINTENDENT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the successful Bidder. The SUPERINTENDENT retains the sole discretion to approve the bank selected by the successful Bidder to serve as escrow agent. Upon satisfactory completion of the contract, the securities shall be returned to the successful Bidder. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The successful Bidder shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the successful Bidder may request SUPERINTENDENT to make payment of earned retentions directly to the escrow agent at the expense of the successful Bidder. Also, at the successful Bidder's expense, the successful Bidder may direct investment of the payments into securities, and the successful Bidder shall receive interest earned on such investment upon the same conditions as provided for securities deposited by successful Bidder. Upon satisfactory completion of the contract, successful Bidder shall receive from the escrow agent all securities, interest and payments received by escrow agent from SUPERINTENDENT pursuant to the terms of Section 22300.

The successful Bidder who elects to receive interest on monies withheld in retention by the SUPERINTENDENT shall, at the request of any subcontractor performing more than five percent (5%) of the successful Bidder's total bid, make that option available to the subcontractor regarding any monies withheld in retention by the successful Bidder from the subcontractor. If the successful Bidder elects to receive interest on any monies withheld in retention by the SUPERINTENDENT, then the subcontractor shall receive the identical rate of interest received by the successful Bidder on any retention monies withheld from the subcontractor by the successful Bidder, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the successful Bidder elects to substitute securities in lieu of retention, then, by mutual consent of the successful Bidder and subcontractor, the subcontractor may substitute securities in exchange for the release of monies held in retention by the successful Bidder. Public Contract Code Section 22300(d)(1).

The successful Bidder wishing to utilize Public Contract Code Section 22300 and enter into an Escrow Agreement shall complete and execute the form Escrow Agreement included in the Project Documents and submit it to the SUPERINTENDENT.

25. Liquidated Damages. All work must be completed within the time limits set forth in the Project Documents. It is agreed that damages for the failure to complete the Project

described herein within the time limits required are impossible to ascertain. Should the work not be completed within the specified time for completion, the successful Bidder awarded the contract shall be liable for liquidated damages, payable to the SUPERINTENDENT, in an amount of **One Thousand Five Hundred Dollars ($1,500.00)** for each consecutive calendar day of delay until completion of the work is achieved. Such damages shall be deducted from any payments due or to become due to the successful Bidder. Government Code Section 53069.85, Civil Code Section 1671.

26. Drug-Free Workplace Certification. Pursuant to Government Code Sections 8350, et seq., the successful Bidder will be required to execute a Drug-Free Workplace Certification upon execution of the Agreement. The Bidder will be required to take positive measures outlined in the certification in order to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act could result in penalties including termination of the Agreement or suspension of payment thereunder.

27. Noncollusion Declaration. In accordance with the provisions of Section 7106 of the Public Contract Code, each bid must be accompanied by a noncollusion declaration. This form is included in the bid documents and must be signed and dated under penalty of perjury.

28. Change Orders. All change order requests must be submitted in the form set forth in the Project Documents and pursuant to Article 59 of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under Article 59 of the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized under Article 59 of the General Conditions will not be allowed.

29. Quality. All workmanship, materials, equipment, supplies, and articles incorporated in the items covered by the specifications shall be of the best available grade of their respective kinds of the purpose for which the items are to be used. All equipment, supplies, and materials shall be new unless otherwise specified.

30. Warranty. The Contractor warrants to the SUPERINTENDENT and Architect that material and equipment furnished under the Contract will be of the highest quality and new unless otherwise required or permitted by the Project 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 Project Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

Contractor's warranty to SUPERINTENDENT includes, but is not limited to, the following representations:

> In addition to any other warranties provided elsewhere, Contractor shall, and hereby does, warrant all Work after the date of Notice of Completion of Work by SUPERINTENDENT and shall repair or replace any or all such Work, together with any other Work, which may be displaced in so doing that may prove defective in workmanship or materials within a one (1) year period from date of Final Completion which shall be no later than the final date of Punch List) without expense

whatsoever to SUPERINTENDENT, ordinary wear and tear, unusual abuse or neglect excepted. SUPERINTENDENT will give notice of observed defects with reasonable promptness. Contractor shall notify SUPERINTENDENT upon completion of repairs.

In the event of failure of Contractor to comply with above mentioned conditions within one(1) week after being notified in writing, SUPERINTENDENT is hereby authorized to proceed to have defects repaired and made good at expense of Contractor who hereby agrees to pay costs and charges therefore immediately on demand.

If, in the opinion of the SUPERINTENDENT, defective Work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the SUPERINTENDENT, the SUPERINTENDENT will attempt to give the notice required by this Article. If the Contractor cannot be contacted or does not comply with the SUPERINTENDENT's requirements for correction within a reasonable time as determined by the SUPERINTENDENT, the SUPERINTENDENT may, notwithstanding the provisions of this article, proceed to make such correction or attention which shall be charged against Contractor. Such action by the SUPERINTENDENT will not relieve the Contractor of the guarantee provided in this Article or elsewhere in this Contract.

This Article does not in any way limit the guarantee on any items for which a longer warranty is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish SUPERINTENDENT all appropriate guarantee or warranty certificates upon completion of the project.

31. Wage Rates, Travel and Subsistence.

a. The Contractor and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, Chapter 1 of the Labor Code. Pursuant to Labor Code section 1770 et seq., the SUPERINTENDENT has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies are available from the SUPERINTENDENT to any interested party on request and are also available from the Director of the Department of Industrial Relations. The Contractor shall obtain copies of the above-referenced prevailing wage sheets and post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

b. Any worker employed to perform work on the Project and such work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.

c. Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the Contract Documents or authorized by law.

d. These per diem rates, including holiday and overtime work, and employer payments for health and welfare, pension, vacation, and similar purposes, are on file at the administrative office of the SUPERINTENDENT, located as noted above and are also available from the Director of the Department of Industrial Relations. It is the Contractor's responsibility to ensure the appropriate prevailing rates of per diem wages are paid for each classification. It shall be mandatory upon the Contractor to whom the contract is awarded, and upon any subcontractor under such Contractor, to pay not less than the said specified rates to all workers employed by them in the execution of the contract.

32. Contractor/Subcontractor Registration and Labor Compliance Monitoring and Enforcement. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

This Project is a public works project as defined in Labor Code section 1720. Each contractor bidding on this Project and all subcontractors (of any tier) performing any portion of the Work must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with DIR and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project. For more information and up to date requirements, contractors are recommended to periodically review the DI's website at www.dir.ca.gov. Contractor shall be solely responsible for ensuring compliance with Labor Code section 1725.5 as well as any requirements implemented by DIR applicable to its services or its subcontractors throughout the term of the Agreement and in no event shall contractor be granted increased payment from the District or any time extensions to complete the Project as a result of contractor's efforts to maintain compliance with the Labor Code or any requirements implemented by the DIR. Failure to comply with these requirements shall be deemed a material breach of this Agreement and grounds for termination for cause. The contractor and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. The District reserves the right to withhold contract payments if the District is notified, or determines as the result of its own investigation, that contractor is in violation of any of the requirements set forth in Labor Code section 1720 et seq. at no penalty or cost to the District. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).

33. Employment of Apprentices. The awarded Bidder and all subcontractors shall comply with the provisions of California Labor Code including, but not limited to sections 1777.5, 1777.6, and 1777.7 concerning the employment of apprentices. The awarded Bidder and any subcontractor under him/her shall comply with the requirements of said sections, including applicable portions of all subsequent amendments in the employment of apprentices; however, the awarded Bidder shall have full responsibility for compliance

with said Labor Code sections, for all apprenticeable occupations, regardless of any other contractual or employment relationships alleged to exist.

34. Tobacco-Free Policy. The successful Bidder shall agree to enforce a tobacco-free work site.

35. Addenda. Clarification or any other notice of a change in the bid documents will be issued only by the SUPERINTENDENT and only in the form of a written Addendum, transmitted by fax, e-mail, or available for pick up to all who are known by the issuing office to have received a complete set of bidding documents. Any other purported Addenda are void and unenforceable.

BIDDER is responsible for ascertaining the disposition of all Addenda issued regardless of SUPERINTENDENT notification and to acknowledge all Addenda in the submitted sealed bid prior to the bid opening. Copies of Addenda will be made available for inspection wherever bidding documents are on file for inspection. Each Addendum will be numbered, dated, and identified with the Project number. Oral statements or any instructions in any form, other than Addendum as described above, shall be void and unenforceable. Addenda issued by the SUPERINTENDENT and not noted as being acknowledged by the Bidder as required in the Bid Form, may result in the bid being deemed non-responsive.

36. Debarment. Bidder may also be subject to debarment, in addition to seeking remedies for False Claims under Government Code section 12650 et seq. and Penal Code section 72, the SUPERINTENDENT may debar a Contractor if the SUPERINTENDENT finds the Contractor has done any of the following:

a. Intentionally or with reckless disregard, violated any term of a contract with the SUPERINTENDENT;

b. Committed an act or omission which reflects on the Contractor's quality, fitness or capacity to perform work for the SUPERINTENDENT;

c. Committed an act or offense which indicates a lack of business integrity or business honesty; or,

d. Made or submitted a false claim against the SUPERINTENDENT or any other public entity (See Government Code section 12650, et seq., and Penal Code section 72).

37. Criminal Records Check. The successful Bidder, when applicable will be required to comply with the applicable requirements of Education Code Section 45125.1 with respect to fingerprinting of employees and must complete the SUPERINTENDENT's Criminal Records Check Certification.

38. Lead. Pursuant to the Lead-Safe Schools Protection Act (Education Code Sections 32240, et seq.) and other applicable law, the successful Bidder shall not use lead-based paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or the modernization or renovation of any existing school facility.

39. Disabled Veteran Business Enterprises. If applicable, each Bidder must meet goals and requirements relating to three percent (3%) participation by Disabled Veteran

Business Enterprises established by the SUPERINTENDENT and the State Allocation Board (SAB), or make a good faith effort with respect thereto, in accordance with the SUPERINTENDENT'S policies and procedures. Bidders may obtain information from the Office of Small Business Certification and Resources (OSBCR) at http://www.dgs.ca.gov/osbcr or (916) 323-5478. The successful Bidder shall be required to submit to the SUPERINTENDENT the DVBE Certification which is included in the Project Documents. Prior to, and as a condition precedent for final payment on the Project, the successful Bidder shall provide appropriate documentation to the SUPERINTENDENT so that the SUPERINTENDENT can assess its success at meeting the DVBE participation goal.

40. Work Hours. Standard work hours in accordance with local ordinances for Noise and Construction: The hours of operation allowed by the City of Costa Mesa. It is the responsibility of the contractor to determine the hours of operation allowed by the City of Costa Mesa. The contractor shall observe the hours of operation allowed by the City of Costa Mesa and schedule the work within these timeframes. The contractor is expected to work weekends and holiday, as necessary, to complete the Work within the specified time of completion without any additional cost to the SUPERINTENDENT. If other working hours are desired by the Bidder, approval shall be obtained in advance from the SUPERINTENDENT.

41. Work Site Damages. Any damage, including damages to any part of SUPERINTENDENT's property resulting from the Bidder's or any of its subcontractors or agents performance under this Project shall be repaired immediately to the SUPERINTENDENT'S satisfaction by Bidder at Bidder's sole cost and expense.

42. Tax. Please include sales tax on your bid. Do not include federal excise tax in your bid, as the SUPERINTENDENT is exempt from such tax.

43. Safety. All services and materials which the Bidder proposed to furnish to the SUPERINTENDENT must comply in all respects with the appropriate equipment and safety regulations of all regulatory commissions of the Federal Government and the State of California, whether such safety features and/or items of equipment have been specifically outlined in these specifications or not.

44. Substitutions. Use of patent or proprietary names of manufacturers in these specifications shall be deemed to be used for the purpose of facilitating a description and shall be deemed to be followed by the words "or equal" unless the bid specifically requires no substitutions. Should the Bidder wish to request any substitution for the materials, process, service, or equipment specified the Bidder shall be required to comply with Article 30 of the General Conditions.

45. Debarment, Suspension, and Other Responsibility Matters. As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part, 85, Sections 85, 105 and 85.110— The Bidder certifies that it and its principles: Are not presently debarred, suspended, proposed for debarment, declared intelligible, or voluntarily excluded from covered transactions by any Federal department or agency; Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or

local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery bribery, falsification or destruction of records, making false statements or receiving stolen property; Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of the certification; and Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this.

46. Compliance with Laws. The Bidder agrees to comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, policies, and procedures in the conduct of the projects as specified herein.

47. Immigration Reform and Control Act. The Bidder hereby certifies that he or she or it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform Act of 1986 ("IRCA") in hiring of its employees and the Bidder shall indemnify, hold harmless and defend the SUPERINTENDENT, the Orange County Board of Education and its officer's, agents, and employees against any and all actions, proceedings, penalties or claims arising out of Bidder's failure to comply strictly with the IRCA.

48. Iran Contracting Act Certification. Prior to bidding on, or submitting a proposal or executing a contract or renewal for a SUPERINTENDENT contract for goods or services over $1,000,000 or more, a bidder must either: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (DGS) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person, for 45 days or more, if that other person 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; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

49. Ukraine-Russia Contracting Certification. On February 21, 2022, President Biden issued Executive Order 14065 ("Federal Order") imposing economic sanctions and prohibiting many activities including, but not limited to, investing, importing, exporting, and contracting, in areas of Ukraine and in Russia. On March 4, 2022, California Governor Newsom issued Order N-6-22 requiring state agencies to take steps to ensure any agency and entity under contract with state agencies comply with the Federal Order ("State Order").

If awarded a contract with the SUPERINTENDENT, Bidder must comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including the orders and sanctions identified on the U.S. Department of the Treasury website (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions).

50. Davis-Bacon Act (as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "AntiKickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. Pursuant to Federal Rules above, when federal funds are expended by the SUPERINTENDENT, contractor, and its consultants, are subject to the requirements of the federal Davis-Bacon Act (40 U.S.C. 3141 et seq.) as well as the applicable California prevailing wage laws and requirements. Contractor understands and acknowledges that the provisions of the Davis Bacon Act set forth specific requirements regarding the wage rates payable to laborers employed on the Project. Contractor further acknowledges that certain California Labor Code sections are applicable to the Project in conjunction with the Davis-Bacon Act. Contractor certifies that it understands the requirements of the Davis-Bacon Act and will assure compliance with all applicable Federal, State, County, City and local wage laws for all Project activities. Contractor shall be solely responsible for complying with any prevailing wage requirements applicable to the services to be provided by the Contractor pursuant to this Agreement. Contractor shall defend, indemnify and hold District harmless from and against any and all claims, liabilities, losses, damages, including without limitation, any and all reasonable attorney's fees, costs, awards, fines, penalties or judgments, arising from Contractor's failure or alleged failure, to comply with any applicable Federal, State, County, City or local prevailing wage laws, including any claims or allegations made or brought by any governmental agency or instrumentality.

51. Contract Work Hours and Safety Standards Act Requirements (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. When federal funds are expended by the

SUPERINTENDENT, the Contractor agrees to comply with all applicable requirements as referenced in Federal Rules above.

52. Equal Opportunity**.** A statement that the Respondent is an equal opportunity employer and will certify compliance with the Civil Rights Act of 1964, and all applicable Federal and State laws and regulations relating to equal employment opportunity.

53. Public Records. All documents included in the bids become the exclusive property of the SUPERINTENDENT upon submittal to the SUPERINTENDENT. All Bids and other documents submitted in response to the Notice to Contractors Calling for Bids become a matter of public record, except for information contained in such bids deemed to be trade secrets, as defined in California Civil Code Section 3426.1. A Bidder that indiscriminately marks all or most of its Bid as exempt from disclosure as a public record, whether by the notations of "Trade Secret," "Confidential," "Proprietary," or otherwise, may render the Bid non-responsive and rejected. The SUPERINTENDENT is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law by an order of court, or which occurs through inadvertence, mistake or negligence on the part of the SUPERINTENDENT or its officers, employees or agents. At such time as Bids are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded access for inspection and/or copying of such bids, by request made to the SUPERINTENDENT in conformity with the California Public Records Act, Government Code § 6250 et seq.

54. Bid Submission. The number of executed copies of the contract, the Bid Bond, Faithful Performance Bond, and the Payment Bond required is three (3).

55. Notices. All notices or demands to be given under this contract by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third (3rd) day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this Project, the address of the SUPERINTENDENT is as follows:

Orange County Superintendent of Schools
200 Kalmus Drive
P.O. Box 9050
Costa Mesa, California 92626-9050
Attn: Patricia McCaughey

Bidder Name: _____
Bid Bond No.: _____

BID BOND

KNOW ALL PERSONS BY THESE PRESENT, that we_____ _____, as Principal, and _____ as Surety, a California admitted surety insurer, are held and firmly bound unto the _____ ORANGE COUNTY SUPERINTENDENT OF SCHOOLS, hereinafter called the SUPERINTENDENT, in the sum of **TEN PERCENT (10%)** OF THE TOTAL AMOUNT OF THE BID of the Principal submitted to the said SUPERINTENDENT for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of this obligation is such that whereas the Principal has submitted the accompanying bid dated _____, 20__, for _____ _____ _____

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within **ninety (90)** days after said opening; and if the Principal is awarded the contract, and shall within the period specified therefore, or, if no period be specified, within **five (5)** working days after the notice of award of the contract, or as otherwise requested in writing by the SUPERINTENDENT, enter into a written contract with the SUPERINTENDENT, in accordance with the bid as accepted and give bonds with good and sufficient surety or sureties, as may be required for the faithful performance and proper fulfillment of such contract and for the payment for labor and materials used for the performance of the contract, furnish certificates and endorsements evidencing the required insurance is in effect and furnish and deliver to the SUPERINTENDENT the Workers' Compensation Certificate, Drug-Free Work Place Certification, the Criminal Records Check Certification, Contractor's Certificate Regarding Non-Asbestos Containing Materials, and the Disabled Veteran Business Enterprises Certification, if applicable, then the above obligation shall be void and of no effect, otherwise the bond amount shall be forfeited to the SUPERINTENDENT.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or the call for bids, or to the work to be performed thereunder 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 the event suit is brought upon this bond by the SUPERINTENDENT and judgment is recovered, the Surety shall pay all costs incurred by the SUPERINTENDENT in such suit, including reasonable attorney's fees to be fixed by the court.

IN WITNESS HEREOF, the parties have executed this bond under their several seals this ___day of _____, 20__, the name and corporate seal of each corporate party being hereto affixed and duly signed by its undersigned authorized representative.

(Corporate Seal of Principal, if Corporation)

_____
Principal (Proper Name of Bidder)

By: _____
Signature

_____
Print Name

_____
Title

(Corporate Seal of Surety)

_____
Surety

(Attach Attorney-in-Fact Certificate and Required Acknowledgements)

By: _____
Signature

_____
Print Name

_____
Title

_____
Address

_____
Telephone No.

_____
Facsimile No.

Bidder Name: _____
Telephone Number:_____
Fax Number:_____

BID FORM

Name of Bidder: _____

To: Orange County Superintendent, herein called the "SUPERINTENDENT."

1. The undersigned Bidder, having become familiarized with all the following documents including but not limited to the Notice Calling for Bids, Information for Bidders, Bid Form, Bid Security, Designation of Subcontractors Form, Information Required of Bidder, all prequalification forms pursuant to Public Contract Code Section 20111.5, if any, Noncollusion Declaration, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Agreement, Escrow Agreement, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Order Forms, Shop Drawing Transmittal Form, all insurance requirements, Guarantee forms, Contractor's Certificate Regarding Non-Asbestos Containing Materials, Disabled Veteran Business Enterprises Certification, if applicable, General Conditions and Supplemental Conditions, if any, Special Conditions, if any, drawings, specifications, and all modifications, addenda and amendments, attachments, if any (hereinafter Project Documents), the local conditions affecting the performance of the work and the cost of the work at the place where the work is to be done, hereby proposes and agrees to be bound by all the terms and conditions of the Project Documents and agrees to perform, within the time stipulated, the work, including all of its component parts, and everything required to be performed, and to provide and furnish and pay for any and all of the labor, materials, tools, expendable equipment, and all applicable taxes, utility and transportation services necessary to perform the work and complete in a good workmanlike manner all of the work required in accordance with laws, codes, regulations, ordinances and any other legal requirements governing the work, in connection with the following:

   Project: ESPLANADE BUILDING 4 AND KALMUS BUILDING A INTERIOR IMPROVEMENTS

   Project No.: Bid Number: 26-05

   all in strict conformity with the Project Documents on file at the office of the Director, Business Operations of said SUPERINTENDENT.

2. Total Bid Amount, words and numbers:
   _____DOLLARS ($_____).
   INCLUDE A $150,000.00 CASH ALLOWANCE IN YOUR BASE BID PER ARTICLE 74 OF THE GENERAL CONDITIONS.

Each individual bid term shall be determined from visiting the work site, reviewing the drawings and specifications and all portions of the Project Documents, and shall include all items necessary to complete the work, including the assumption of all obligations,

duties, and responsibilities necessary to the successful completion of the Project, and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work, and the furnishing of tools, equipment, supplies, transportation, facilities, labor, superintendence, and services required to perform and complete the work, all as per the requirements of the Project Documents, whether or not expressly listed or designated.

3. BIDDER ACKNOWLEDGEMENT OF ADDENDA:

Bidder acknowledges that it is Bidder's responsibility to ascertain whether any Addenda has been issued and if so, to obtain copies of such Addenda from SUPERINTENDENT as stated in the Instructions to Bidders. Bidder therefore agrees to be bound by all Addenda that have been issued for this Bid.

BIDDER ACKNOWLEDGES THE FOLLOWING ADDENDUM(S):

Number		Number		Number		Number		Number		Number		Number		Number

Acknowledge the inclusion of all addenda issued prior to bid in the blanks provided above. Your failure to do so may render your bid non-responsive.

4. It is understood that the SUPERINTENDENT reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process. Bidder agrees that this bid shall remain open and not be withdrawn for the period specified in the Information for Bidders.

5. The bidder declares that he/she has carefully examined the locations of the proposed Project, that he/she has examined the Bid Documents, including the Plans, General Conditions, Supplemental Conditions, Addenda, and Specifications, all others documents and requirements that are attached to and/or contained in the Bid Documents, all other documents issued to bidders and read the accompanying instructions to bidders, and hereby proposes and agrees, if this proposal is accepted, to furnish all materials and do all the work required to complete the said work in accordance with the Bid Documents, in the time and manner therein prescribed for the total bid price set forth in this Bid Form.

6. The required bid security in an amount of **Ten Percent (10%)** of the total base bid is attached.

7. The required list(s) of proposed subcontractors is attached hereto, and the undersigned represents and warrants that such list(s) is complete and in compliance with the Subletting and Subcontracting Fair Practices Act. Public Contract Code Sections 4100, et seq.

8. It is understood and agreed that if written notice of the award of a contract is mailed, faxed, or delivered to the Bidder, the Bidder will execute and deliver to the SUPERINTENDENT the Agreement and will also furnish and deliver to the SUPERINTENDENT the Faithful Performance Bond and a separate Payment Bond as specified, and certificates and endorsements of insurance, the Workers' Compensation Certificate, Drug-Free Work Place Certification, the Criminal

Records Check Certification, Contractor's Certificate Regarding Non-Asbestos Containing Materials, and the Disabled Veteran Business Enterprises Certification, if applicable, within **five (5)** working days of the notice of award of the contract, or as otherwise requested in writing by the SUPERINTENDENT. It is understood that should Bidder fail or refuse to return these documents as required by the SUPERINTENDENT, the bid security shall be forfeited to the SUPERINTENDENT. The Bidder further agrees that the work shall be commenced by the Bidder, if awarded the contract, on or before the **fifth (5th)** day after receiving the SUPERINTENDENT'S Notice to Proceed, and shall be completed by the Bidder in the time specified by the SUPERINTENDENT.

9. It is understood and agreed that in accordance Senate Bill 854 and the California Department of Industrial Relations (DIR) requirements, effective April 1, 2015 unless registered with the California Department of Industrial Relations, no contractor or subcontractor may be awarded a contract for public work on a public works project. Bidder and its subcontractors should carefully review the DIR website http://www.dir.ca.gov for all applicable requirements to be eligible to bid on this Project.

10. Communications conveying notice of award of the contract, requests for additional information or other correspondence should be addressed to the Bidder at the address stated below.

_____
_____
_____

11. The name(s) of all persons interested in the bid as principals are as follows:

_____
_____
_____

12. In submitting this bid, the Bidder offers and agrees that if the bid is accepted, it will assign to SUPERINTENDENT 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. Section 15) or under the Cartwright Act (Business & Professions Code Section 16700, et seq.) arising from purchases of goods, materials, or services by the Bidder for sale to the SUPERINTENDENT pursuant to the bid. Such assignment shall be made and become effective at the time the SUPERINTENDENT tenders final payment under the contract. (Public Contract Code Section 7103.5; Government Code Section 4450, 4451 and 4552).

13. The undersigned hereby warrants that the Bidder has an appropriate license, License No. _____, at the time of the bid award, that such license entitles Bidder to provide the work that such license will be in full force and effect throughout the duration of performance of this Project. Bidder shall be nonresponsive if the Bidder is not licensed as required by the SUPERINTENDENT at the time of the bid award. Any and all subcontractors to be employed by the undersigned shall have appropriate licenses at the time of the bid award.

14. The Bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the Bidder shall indemnify, hold harmless and defend the SUPERINTENDENT against any and all actions, proceedings, penalties or claims arising out of the Bidder's failure to comply strictly with the IRCA.

15. It is understood and agreed that if requested by the SUPERINTENDENT, the Bidder shall furnish a notarized financial statement, references, and other information required by the SUPERINTENDENT sufficiently comprehensive to permit an appraisal of Bidder's ability to perform the Project.

16. The undersigned hereby warrants that all work shall be completed within **ONE HUNDRED TWENTY (120) CONSECUTIVE CALENDAR DAYS** from the date specified on the Notice to Proceed issued by the SUPERINTENDENT. Time is of the essence. The undersigned agrees that failure to complete the work within the time set forth herein will result in the imposition of liquidated damages for each consecutive calendar day of delay in the amount of **One Thousand Five Hundred Dollars ($1,500.00)**. (Government Code Section 53069.85)

17. The required noncollusion declaration is attached as required by Public Contract Code Section 7106.

18. PROTEST PROCEDURES. If there is a bid protest, the grounds shall be submitted as set forth in the Instructions to Bidders.

19. The undersigned bidder shall be licensed and shall provide the following California Contractor's license information:

License Number: _____

License Expiration Date: _____

Name on License: _____

Class of License: _____

DIR Registration Number: _____

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

Individual Name: _____

Signed by: _____

Print Name: _____

Date: _____

Business Address: _____

_____

Telephone:_____

****

Partnership Name:_____

Signed by: _____

Print Name:_____

Title: _____

Date: _____

Business Address: _____

_____

Telephone: _____

Other Partner(s): _____

****

Corporation Name: _____

(a _____ Corporation[1])

Business Address: _____

_____

Telephone: _____

Signed by: _____, President, Date: _____

Print Name: _____, President

Signed by: _____, Secretary, Date: _____

Print Name: _____, Secretary

[Seal]

Joint Venturer Name: _____

Signed by:_____, Joint Venturer

Print Name:_____

Title: _____

Date:_____

Business Address:_____

_____

[1] A corporation awarded the contract shall furnish evidence of its corporate existence and evidence that the officer signing the Agreement and bonds is duly authorized to do so.

Telephone: _____

Other Parties to Joint Venture:

If an individual: _____
(Name)

Signed by:_____

Print Name:_____

Date: _____

Doing Business as: _____;

Business Address:_____

_____

Telephone: _____

If a Partnership: _____
(Name)

Signed by: _____, Partner

Print Name:_____

Date: _____

Business Address:_____

_____

Telephone: _____

If a Corporation: _____
(a _____ Corporation)

Signed By: _____ Date: _____

Print Name: _____

Title: _____

Date: _____

Business Address:_____

_____

Telephone: _____

DESIGNATION OF SUBCONTRACTORS

In compliance with the Subletting and Subcontracting Fair Practices Act (California Public Contract Code section 4100 et seq.,) and any amendments thereof, each Bidder shall set forth below: (a) the name, license number, and location of the place of business of each subcontractor who will perform work or labor or render service to the Contractor, who will perform work or labor or work or improvement to be performed under this Contract, or a subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the work or improvements according to detailed Drawings contained in the Plans and Specifications in an amount in excess of one-half of one percent of the Contractor's total bid; and (b) the portion and description of the work which will be done by each subcontractor under this Act. The Contractor shall list only one subcontractor for each such portion as is defined by the Contractor in this bid. All subcontractors shall be properly licensed by the California State Licensing Board.

If a Contractor fails to specify a subcontractor, or if a Contractor specifies more than one subcontractor for the same portion of work to be performed under the Contract in excess of one-half of one percent of the Contractor's total bid, the Contractor shall be deemed to have agreed that the Contractor is fully qualified to perform that portion, and that the Contractor alone shall perform that portion.

No Contractor whose bid is accepted shall (a) substitute any subcontractor, (b) permit any subcontractor to be voluntarily assigned or transferred or allow the relevant portion of the work to be performed by anyone other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the Contractor's total bid where the original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act.

Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the Contractor's total bid where 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 authority awarding this Contract setting forth the facts constituting the emergency or necessity.

All subcontractors (of any tier) performing any portion of the Work must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project.

NOTE: If alternate bids are called for and bidder intends to use different or additional subcontractors on the alternates, a separate list of subcontractors must be provided for each such Alternate.

SUBCONTRACTOR LISTING

Type of trade, labor, or service	Name, License #, & DIR# of Subcontractor License Expiration Date (Indicate if a Disabled Veteran Business Enterprise)	**Complete Address (Name of City and Telephone No.**
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: _____

_____
Name of Bidder

By: _____
(Signature of Bidder)

Print Name: _____

Address:_____

_____

_____

Telephone: _____

Fax: _____

Email:_____

INFORMATION REQUIRED OF BIDDER

The Bidder shall furnish all the following information accurately and completely. Failure to comply with this requirement may cause rejection of the bid. Additional sheets may be attached as necessary.

"You" or "your" as used herein refers to the Bidder's firm and/or any of its owners, officers, directors, shareholders, parties or principals.

Please be advised that the SUPERINTENDENT may request additional information or an interview or presentation at any time.

SECTION A – GENERAL INFORMATION

1. Firm name, complete address and contact information:

   _____

   _____

   _____

   _____

2. Telephone: _____ Facsimile: _____

   Electronic Mail: _____

3. Type of Firm: (check one)

   Individual ____ Partnership ____ Corporation ____

   Subsidiary ____ Government Entity ____

4. Firm's License No. _____ Class: _____

   License Expiration Date _____

   Name of License holder _____

5. Have you ever been licensed under a different name or different license number?

   Yes ____ No ____ If "Yes," give name and license number.

   _____

   _____

   _____

6. Firm's Department of Industrial Relations Registration Number:

   _____.

7. Names, titles and telephone numbers of all your officers/principals of the firm:

Name	Title	Telephone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Number of years experience as a contractor in this type of work: _____. Bidder must have a minimum of ten (10) years' experience.

9. How many years has your firm been in business under its present business name? Firm must be in business a minimum of ten (10) years._____

10. Person who inspected work site:

    Name and Title:_____

    Date of Inspection:_____

11. How many years experience have you had in school construction work?

    a) as a general contractor? _____

    b) as a subcontractor? _____

12. How many years experience have you had in public construction work?

    a) as a general contractor? _____

    b) as a subcontractor? _____

13. Have you provided similar services to school districts? _____ Yes or No

    How Many? _____

14. Please list the school districts that your firm has provided similar services within the last three (3) years.

    _____
    _____
    _____

SECTION B – LEGAL

15. Have you ever been terminated from a school or any public construction project in the prior five (5) years? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

_____
_____
_____
_____
_____

16. Have you ever been barred from bidding on any school or public construction project? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

_____
_____
_____
_____
_____

17. Have you ever defaulted on any school or public construction project in the prior five (5) years that resulted in a claim to a surety? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

_____
_____
_____
_____
_____

18. Have you been assessed damages (i.e., liquidated damages) for any public or school construction project in the past five (5) years? Yes ____ No ____ If the answer is "Yes," give dates, names, and addresses of public agency and details.

_____
_____
_____
_____
_____

19. Have you ever brought any claim(s) against a public agency? Yes ____ No ____ If the answer is "Yes," please explain in detail name of public agency, nature of the claim and outcome.

_____
_____
_____
_____
_____

20. Have you ever failed to complete a school or public construction project in the last five (5) years? Yes ____ No ____ If the answer is "Yes," provide name of public agency and details.

_____

_____

_____

_____

_____

21. Have you or any of your principals been in litigation or arbitration or dispute of any kind on a question or questions relating to similar services during the past five (5) years? Yes ____ No ____ If the answer is "Yes," provide name of public agency and details.

_____

_____

_____

22. Do you now or have you ever had any direct or indirect business, financial or other connection with any official or employee of the SUPERINTENDENT?
Yes ____ No ____ If so, please elaborate.

_____

_____

_____

_____

23. Will your firm comply with all SUPERINTENDENT, local, State and Federal legal requirements, policies, rules and regulations and laws? ____Yes No _____

24. Please attach a copy of your firm's most recent financial statement or other financial instruments that would establish your firm's ability to complete its obligations under any agreement resulting from this bid.

SECTION C – ADDITIONAL INFORMATION

25. Are you currently under contract for another project? Yes ____ No ____ If the answer is "Yes," please provide the following information:

(a) Project Number 1:

Name of Project: _____

Detailed Description: _____

_____

Name of Project Owner:_____

Contract Amount: _____

Completion Date: _____

(b) Project Number 2:

Name of Project: _____

Detailed Description: _____

_____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(c) Project Number 3:

Name of Project: _____

Detailed Description: _____

_____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

26. Please provide any other information that may assist the SUPERINTENDENT in ascertaining your qualifications, capability and customer service under any resultant agreement.

REFERENCES

27. List the names, address, telephone number, project description, project timeframe, project contact person, and contract amount of five (5) customers whom you provided substantially the same type of work specified herein in Orange County, California within the past three (3) years. Information obtained through the references will be evaluated by the SUPERINTENDENT.

1. Name : _____

Address and Telephone: _____

_____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

_____

Contract Amount: _____

2. Name : _____

Address and Telephone: _____

_____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

_____

Contract Amount: _____

3. Name : _____

Address and Telephone: _____

_____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

_____

Contract Amount: _____

4. Name : _____

Address and Telephone: _____

_____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

_____

Contract Amount: _____

5. Name: _____

Address and Telephone: _____

_____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

_____

Contract Amount: _____

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing Information Required of Bidder is true and correct. Executed this ____ day of _____, 20__ at _____ State of _____.
City, County

_____
Signature

_____
Print Name

_____
Title

EQUIPMENT/MATERIAL SOURCE INFORMATION

The name of the manufacturer of each piece of equipment that will be installed in this Project shall be set forth below. Only one manufacturer of each piece of equipment shall be listed. Bidder agrees that in the event any listed manufacturer is not specifically named in the Project Documents, it will, prior to award, submit complete information satisfactory to the Architect that such manufacturer's equipment complies with all requirements of the Project Documents. If, in the opinion of the Architect, the listed manufacturer's equipment does not comply with the Project Documents, the bid may be rejected unless, prior to award, the Bidder agrees in writing to supply approved equipment without a change in the bid price.

Equipment/Material	Manufacturer
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NONCOLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

(Public Contract Code section 7106)

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 _____[date], at _____[city], _____[state].

_____
Signature

_____
Print Name

WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700.

"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, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

(c) For any county, city, city and county, municipal corporation, public district, public agency or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of 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.

_____
Name of the Contractor

By:_____
Signature

_____
Print Name

_____
Title

_____
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.)

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENT:

WHEREAS, the _____ Orange County Superintendent of Schools of Orange County, California ("hereinafter referred to as SUPERINTENDENT"), has awarded to _____, hereinafter referred to as the "Contractor/Principal" a contract for the work described as:

Project: Esplanade Building 4 and Kalmus Building A Interior Improvements

Project No.: Bid Number: 26-05

WHEREAS, said Contractor/Principal is required by Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code to furnish a bond in connection with said contract;

NOW, THEREFORE, we, the Contractor/Principal and _____, as Surety, **a California admitted surety insurer**, are held firmly bound unto the SUPERINTENDENT for **One hundred percent (100%)** of the total amount payable by the SUPERINTENDENT under the terms of the contract awarded by the SUPERINTENDENT to the Contractor/Principal lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 3181 or fail to pay for any materials, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind, or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount hereinabove set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court, awarded and taxed as provided in Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such person or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment

therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the SUPERINTENDENT and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 and 3112 of the California Civil Code, and has not been paid the full amount of his/her or its claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

Any claims under this bond may be addressed to:

_____(Name and address of Surety)

_____(Name and address of agent or representative in California, if different from above)

_____

_____

_____

_____

_____

(Telephone and facsimile number of Surety or agent or representative in California)

IN WITNESS HEREOF, we have hereto set our hands and seals on this ____ day of _____, 20__.

CORPORATE SEAL, IF APPLICABLE, AND NOTARIAL ACKNOWLEDGEMENT OF CONTRACTOR

_____

_____
Contractor/Principal

By:

Signature

_____
Print Name and Title

SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY

_____

_____

_____

(Mailing Address, Telephone and Facsimile No. of Surety)

_____

_____

_____

(Attach Attorney-in-Fact Certificate and Required Acknowledgement)

_____
Surety

By: _____
Signature

_____
Print Name and Title

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENT:

WHEREAS, the Orange County Superintendent of Schools, of Orange County, California (hereinafter referred to as "SUPERINTENDENT"), awarded to _____ (hereinafter referred to as the "Contractor/Principal") the contract for the work described as:

Project: Esplanade Building 4 and Kalmus Building A Interior Improvements

Project No.: Bid Number: 25-06

WHEREAS, said Contractor/Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract which contract is incorporated herein by reference;

NOW, THEREFORE, we the undersigned Contractor, as Principal, and Surety, a California admitted surety insurer are held and firmly bound to the SUPERINTENDENT for **One hundred percent (100%)** of the total amount payable by the SUPERINTENDENT under the terms of the contract awarded by the SUPERINTENDENT to the Contractor/Principal, lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bonded Contractor/Principal, its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions, and agreements in the said contract which is attached hereto and incorporated herein by reference and any alteration and/or amendments thereof, made as therein provided, including, but not limited to, the provisions regarding contract duration and liquidated damages, all within the time and in the manner therein designated in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the contract, the above obligation shall hold good for a period of **one (1) year** after the acceptance of the work by SUPERINTENDENT, during which time if Contractor/Principal shall fail to make full, complete, and satisfactory repair and replacements and totally protect the SUPERINTENDENT from loss or damage made evident during the period of **one (1) year** from the date of completion of the work, and resulting from or caused by defective materials or faulty workmanship, the above obligation in penal sum thereof shall remain in full force and effect. The obligation of Surety hereunder shall continue so long as any obligation of Contractor remains.

Whenever Contractor/Principal shall be, and is declared by the SUPERINTENDENT to be, in default under the contract, the SUPERINTENDENT having performed the

SUPERINTENDENT'S obligations thereunder, the Surety shall promptly remedy the default, or shall promptly:

1. Complete the contract in accordance with its terms and conditions; or
2. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder and the SUPERINTENDENT, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth above The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor/Principal by the SUPERINTENDENT under the contract and any modifications thereto, less the amount previously properly paid by the SUPERINTENDENT to the Contractor/Principal.

Surety expressly agrees that the SUPERINTENDENT may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Surety shall not utilize Contractor/Principal in completing the contract nor shall Surety accept a bid from Contractor/Principal for completion of the work if the SUPERINTENDENT, when declaring the Contractor/Principal in default, notifies Surety of the SUPERINTENDENT'S objection to Contractor's/Principal's further participation in the completion of the work.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the SUPERINTENDENT named herein or the successors or assigns of the SUPERINTENDENT. Any suit under this bond must be instituted within the applicable statute of limitations period.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Project documents, or of the work to be performed thereunder, shall in any way affect its obligations on this bond; and it does hereby waive notice of any change, extension of time, alteration or modification of the Project documents or of work to be performed thereunder.

Contractor/Principal and Surety agree that if the SUPERINTENDENT is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay SUPERINTENDENT's reasonable attorney's fees and costs incurred, with or without suit, in addition to the above amount.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

CORPORATE SEAL, IF APPLICABLE, AND NOTARIAL ACKNOWLEDGEMENT OF CONTRACTOR

_____
Contractor/Principal

By: _____
Signature

_____
Print Name and Title

SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY

_____

_____

_____

(Mailing Address, Telephone No. and Facsimile No. of Surety)

_____
Surety

By: _____
Signature

_____
Print Name and Title

_____

_____

_____

(Attach Attorney-in-Fact Certificate and Required Acknowledgement)

SAMPLE AGREEMENT

THIS AGREEMENT, entered into this____ day of_____, 20__ in the County of Orange of the State of California, by and between the Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92626, hereinafter called the "SUPERINTENDENT", and _____, hereinafter called the "Contractor", _____.

WITNESSETH that the SUPERINTENDENT and the Contractor for the consideration stated herein agree as follows:

ARTICLE 1 - CONTRACT COMPONENTS: The work to be performed by the Contractor shall conform to Bid Number: 25-06 Esplanade Building 4 and Kalmus Building A Interior Improvements Project contract and project documents such as, but not limited to, the requirements of Division 0, Division 1, Notice Calling For Bids, Instruction to Bidders, Bid Form, Bid Security, Designation of Subcontractors, Information Required of Bidder, Noncollusion Declaration, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Escrow Agreement, if applicable, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Orders, Shop Drawing Transmittals, Insurance Certificates and Endorsements, Guarantees, Contractor's Certificate Regarding Non-Asbestos Containing Materials, Disabled Veteran Business Enterprises Certification, if applicable, General Conditions, Supplemental Conditions, if any, Special Conditions, if any, Drawings, Technical Specifications, this Agreement, and all modifications, addenda, sheets and amendments thereto contained within the Project Documents and other related documents and shall include the furnishing of all layout, supervision, labor, services, materials, installation, cartage, craning, hoisting, supplies, insurance, equipment, scaffolding, tools, and other facilities of every kind and description required for the prompt and efficient execution of the Work described herein and to perform work necessary or incidental to complete the Bid Number: 25-06 Esplanade Building 4 and Kalmus Building A Interior Improvements Project in strict accordance with the Project Documents, by this reference incorporated herein.

ARTICLE 2 - SCOPE OF WORK: The Contractor shall furnish all labor, materials, equipment, tools, and utility and transportation services, and perform and complete all work required in connection with this Bid Number: 25-06 Esplanade Building 4 and Kalmus Building A Interior Improvements Project Bid Documents. The Contractor shall be liable to the SUPERINTENDENT for any damages arising as a result of a failure to comply with that obligation, and the Contractor shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, or representative of any of them, unless such act or omission actually prevents the Contractor from fully complying with the Project Documents and the Contractor protests, in accordance with the Project Documents, that the act or omission is preventing the Contractor from fully complying with the Contract Documents. Such protest shall not be effective unless reduced to writing and filed with the SUPERINTENDENT office within seven (7) calendar days of the date of

occurrence of such act or omission preventing the Contractor from fully complying with the Project Documents.

ARTICLE 3 - COMMENCEMENT OF WORK: The Contractor will commence providing services under this Agreement on or before the fifth (5^{th}) calendar day after receiving the SUPERINTENDENT's Notice to Proceed and shall be completed within One hundred twenty (120) consecutive calendar days from the date specified in the Notice to Proceed.

ARTICLE 4 - TIME OF COMPLETION: The SUPERINTENDENT may give notice to proceed within fifteen (15) days of the award of the bid by the SUPERINTENDENT. Once the Contractor has received a notice to proceed, the Contractor shall reach Substantial Completion of the Work within **One hundred twenty (120) consecutive calendar days** from receipt of the Notice to Proceed. **It is expressly understood that time is of the essence.**

Contractor has thoroughly studied the Project and has satisfied itself that the time period for this Project was adequate for the timely and proper completion of the Project within each milestone and within the Contract time. Further, Contractor has included in the analysis of the time required for this Project.

In the event that the SUPERINTENDENT desires to postpone giving the notice to proceed beyond this fifteen (15) day period, it is expressly understood that with reasonable notice to the Contractor, giving the notice to proceed may be postponed by the SUPERINTENDENT. It is further expressly understood by the Contractor, that the Contractor shall not be entitled to any claim of additional compensation as a result of the SUPERINTENDENT's postponement of giving the notice to proceed.

If the Contractor believes that a postponement will cause hardship to it, the Contractor may terminate the Contract with written notice to the SUPERINTENDENT within ten (10) days after receipt by the Contractor of the SUPERINTENDENT's notice of postponement. It is further understood by the Contractor that in the event that the Contractor terminates the Contract as a result of postponement by the SUPERINTENDENT, the SUPERINTENDENT shall only be obligated to pay the Contractor for the work performed by the Contractor at the time of notification of postponement. Should the Contractor terminate the Contract as a result of a notice of postponement, the SUPERINTENDENT shall have the authority to award the Contract to the next lowest responsible bidder.

ARTICLE 5 - LIQUIDATED DAMAGES: **Time is of the Essence**. If the Work is not completed in accordance with Article 4 above, it is understood that the SUPERINTENDENT will suffer damage. It being impracticable and infeasible to determine the amount of actual damage, in accordance with Government Code Section 53069.85, it is agreed that the Contractor will pay the SUPERINTENDENT as fixed liquidated damages, and not as a penalty, the sum of **One thousand five hundred dollars ($1,500.00)** for each calendar day of delay until work is completed and accepted. Time extensions may be granted by SUPERINTENDENT as provided in the General Conditions.

In the event Liquidated Damages are not paid, the Contractor further agrees that the SUPERINTENDENT may deduct such amount thereof from any money due or that may become due the Contractor under the Contract. This Article shall not be construed as preventing the SUPERINTENDENT from the recovery of damages (actual or other) under the Project Documents.

ARTICLE 6 - CONTRACT PRICE: The SUPERINTENDENT shall pay to the Contractor as full consideration for the faithful performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, the sum of _____ DOLLARS ($_____), said sum being the total amount stipulated in the Bid Contractor submitted, which includes the cash allowance which can only be used by authorization of the SUPERINTENDENT. Payment shall be made as set forth in the General Conditions. Should any Change Order result in an increase in the Contract Price, the cost of such Change Order shall be agreed to in advance by the Contractor and the SUPERINTENDENT, subject to the monetary limitations set forth in Public Contract Code section 20118.4. In the event that the Contractor proceeds with a Change in work without an agreement between the SUPERINTENDENT and Contractor regarding the cost of a Change Order, the Contractor waives any Claim of additional compensation for such additional work.

ARTICLE 7 - HOLD HARMLESS: Contractor shall defend, indemnify and hold harmless SUPERINTENDENT, the Orange County Board of Education, and its officers, employees, and agents from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Project Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, SUPERINTENDENT and its officers, employees, and agents from any legal action including attorney's fees or other proceeding based upon such act, omission, breach or as otherwise required by this Article. Furthermore, Contractor agrees to and does hereby defend, indemnify and hold harmless SUPERINTENDENT, the Orange County Board of Education and its officers, employees, and agents from every claim or demand made, and every liability, loss, damage, expense or attorney's fees of any nature whatsoever, which may be incurred by reason of:

(a) Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Project Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Project Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the SUPERINTENDENT.

(b) Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to or death of persons, loss (including theft) or loss of use of any property, sustained by any

person, firm or corporation, including the SUPERINTENDENT, arising out of or in any way connected with Work covered by this Agreement or the Project Documents, whether said injury or damage occurs either on or off SUPERINTENDENT property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the SUPERINTENDENT.

(c) Any dispute between Contractor and Contractor's subcontractors/supplies/ Sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the SUPERINTENDENT, the Orange its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified herein Article 5 and shall pay or satisfy any judgment that may be rendered against the SUPERINTENDENT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

The Contractor's and Subcontractors' obligation to defend, indemnify and hold harmless the SUPERINTENDENT, the Orange County Board of Education and its officers, employees, and agents hereunder shall include, without limitation, any and all claims, damages, and costs for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any warranty, express or implied; (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; (4) products installed in or used in connection with the Work; and (5) any claims of violation of the Americans with Disabilities Act ("ADA").

ARTICLE 8 - INSURANCE: Contractor shall take out, prior to commencing the work, and maintain, during the life of this Agreement, and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain the insurance coverages set forth below and in Articles 16, 17, 18 and 19 of the General Conditions. Contractor agrees to provide all evidences of coverage required by SUPERINTENDENT including certificates of insurance and endorsements including a statement that the SUPERINTENDENT is an additional insured under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the SUPERINTENDENT.

Public Liability Insurance for personal and bodily injuries including accidental death, to any one person in an amount **not less than**	$2,000,000.00 per occurrence
and Subject to the same limit for each person on account of one accident, in an amount **not less than**	$2,000,000.00 per occurrence

Property Damage Insurance in an amount **not less than**	$2,000,000.00 per occurrence
Automobile Liability Insurance which shall include owned, non-owned and hired vehicles	$1,000,000.00 per occurrence
Workers' Compensation Insurance of	In accordance with the provision Labor Code Section 3700
Course of Construction Insurance without exclusion or limitation in an amount **not less than**	$2,000,000.00 per occurrence

Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:

ARTICILE 9 – TERMINATION FOR CAUSE OR NONAPPROPRIATION: In the event Contractor defaults in the performance of the Agreement as set forth in General Conditions Article 13(a) or if there is a nonappropriation of funds or insufficient funds as set forth in General Conditions Article 13(d), then this Agreement shall terminate or be suspended as set forth in General Conditions Article 13.

Termination for Convenience. SUPERINTENDENT has discretion to terminate this Agreement at any time and require Contractor to cease all work on the Project by providing Contractor written notice of termination specifying the desired date of termination. Upon receipt of written notice from SUPERINTENDENT of such termination for SUPERINTENDENT's convenience, Contractor shall:

(i) Cease operations as directed by SUPERINTENDENT in the notice;

(ii) Take any actions necessary, or that SUPERINTENDENT may direct, for the protection and preservation of the work; and

(iii) Not terminate any insurance provisions required by the Project Documents.

In case of such termination for SUPERINTENDENT's convenience, Contractor shall be entitled to receive payment from SUPERINTENDENT for work satisfactorily executed and for proven loss with respect to materials, equipment, and tools, including overhead and profit for that portion of the work completed. In the case of Termination for Convenience, SUPERINTENDENT shall have the right to accept assignment of subcontractors. The

foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the SUPERINTENDENT.

ARTICLE 10 - PREVAILING WAGES: Wage rates for this Project shall be in accordance with the general prevailing rate of holiday and overtime work in the locality in which the work is to be performed for each craft, classification, or type of work needed to execute the Contract as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations are on file at the administrative office of the SUPERINTENDENT and are also available from the Director of the Department of Industrial Relations. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).

The following are hereby referenced and made a part of this Agreement and Contractor stipulates to the provisions contained therein.

1. Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.)

2. California Code of Regulations, Title 8, Chapter 8, Subchapters 3 through 6 (Section 16000 et seq.)

ARTICLE 11 - RECORD AUDIT: In accordance with Government Code section 8546.7(and Davis Bacon, if applicable) and Article 13.11 of the General Conditions, records of both the SUPERINTENDENT and the Contractor shall be subject to examination and audit for a period of five (5) years after a Final Retention Payment or the Recording of a Notice of Completion, whichever occurs first.

ARTICLE 12 - CONTRACTOR'S LICENSE: The Contractor must possess throughout the Project a Class B Contractor's License, issued by the State of California, which must be current and in good standing.

ARTICLE 13 - SUBSTITUTION OF SECURITIES: Public Contract Code Section 22300 permits the substitution of securities for any retention monies withheld by the SUPERINTENDENT to ensure performance under this Agreement. At the request and expense of the Contractor, securities equivalent to the monies withheld shall be deposited with the SUPERINTENDENT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the Contractor. The SUPERINTENDENT retains the sole discretion to approve the bank selected by the Contractor to serve as escrow agent. Upon satisfactory completion of the Agreement, the securities shall be returned to the Contractor. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

ARTICLE 14 - PROVISIONS REQUIRED BY LAW: Each and every provision of law and clause required to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement 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 inserted correctly, then upon application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 15 - RECORD AUDIT: In accordance with Government Code section 8546.7(and Davis Bacon, if applicable) and Article 13.11 of the General Conditions, records of both the SUPERINTENDENT and the Contractor shall be subject to examination and audit for a period of five (5) years after a Final Retention Payment or the Recording of a Notice of Completion, whichever occurs first.

ARTICLE 16 - CONTRACTOR'S LICENSE: The Contractor must possess throughout the Project a Class B Contractor's License, issued by the State of California, which must be current and in good standing.

ARTICLE 17 – CORPORATION: If Contractor is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of _____, and that _____, whose title is _____, is authorized to act for and bind the corporation.

ARTICLE 18 – ENTIRE AGREEMENT/AMENDMENT: This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been duly executed by the above named parties, on the day and year first above written.

ORANGE COUNTY
SUPERINTENDENT OF SCHOOLS

By: Patricia McCaughey

Title: Executive Director, Business Operations

Dated: _____

CONTRACTOR:

_____
Typed or Printed Name

_____
Title

_____
Signature

_____
Type or Printed Name

_____
Title (Authorized Officers or Agents)

_____
Signature

(CORPORATE SEAL)

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into, as of _____, 20___, by and between _____, whose address is _____, hereinafter called "SUPERINTENDENT;" _____, whose address is _____, hereinafter called "Contractor;" and, _____, whose address is _____, hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the SUPERINTENDENT, 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 SUPERINTENDENT pursuant to the Agreement entered into between the SUPERINTENDENT and Contractor for _____ in the amount of _____, (Name of Project) dated _____ (hereinafter referred to as the "Agreement"). Alternatively, on written request of the Contractor, the SUPERINTENDENT shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for retention earnings, the Escrow Agent shall notify the SUPERINTENDENT within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Agreement between the SUPERINTENDENT and Contractor. Securities shall be held in the name of SUPERINTENDENT, and shall designate the Contractor as the beneficial owner.

(2) The SUPERINTENDENT shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the SUPERINTENDENT makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time 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 SUPERINTENDENT pays the Escrow Agent directly.

(4) 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 SUPERINTENDENT. These expenses and payment terms shall be determined by

the SUPERINTENDENT, 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 SUPERINTENDENT.

(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 the SUPERINTENDENT to the Escrow Agent that SUPERINTENDENT consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The SUPERINTENDENT shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven (7) days' written notice to the Escrow Agent from the SUPERINTENDENT of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the SUPERINTENDENT.

(8) Upon receipt of written notification from the SUPERINTENDENT certifying that the Agreement is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Agreement, 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 monies and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the SUPERINTENDENT and the Contractor pursuant to Sections (5) to (8), inclusive, of this Escrow Agreement and the SUPERINTENDENT 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 SUPERINTENDENT and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of SUPERINTENDENT:	On behalf of Contractor:
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Address	Address

On behalf of Escrow Agent:

_____
Title

_____
Name

_____
Signature

_____
Address

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

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

SUPERINTENDENT	Contractor
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature

Escrow Agent

_____
Title

_____
Name

_____
Signature

GUARANTEE

Guarantee for _____. We hereby guarantee that the _____which we have installed in _____, has been done in accordance with the Project documents, including without limitation, the plans, drawings and specifications and that the work as installed will fulfill the requirements included in the Project Documents. The undersigned and its surety agrees to repair or replace any or all of such work, together with any other adjacent work which may be displaced in connection with such repair or replacement, that may prove to be defective in workmanship or material within a period of ____(___) years from the date of the Notice of Completion of the Project ordinary wear and tear and unusual abuse or neglect excepted.

In the event of the undersigned's or its surety fails to comply with the above-mentioned conditions within a reasonable period of time, as determined by the SUPERINTENDENT, but not later than ten (10) calendar days after being notified in writing by the SUPERINTENDENT or within forty-eight (48) hours in the case of an emergency or urgent matter, the undersigned authorizes the SUPERINTENDENT to proceed to have said defects repaired or replaced and made good at the expense of the undersigned, who will pay the costs and charges therefore upon demand. The undersigned and its surety shall be jointly and severally liable for any costs arising from the SUPERINTENDENT's enforcement of this Guarantee.

	Countersigned
_____	_____
(Legal Name)	(Legal Name)
By: _____	By: _____
_____	_____
(Signature of Subcontract or Contractor)	(Signature of General Contractor if for Subcontractor)

Representatives to be contacted for service:

Name: _____

Address: _____

_____

Phone Number:_____

Contractor shall provide copy of this Guarantee to Contractor's surety.

SHOP DRAWING TRANSMITTAL

The procedure governing shop drawing submittals is contained in the General Conditions. In addition, all Supplemental Conditions, Special Conditions and Specifications, if any, must be followed by the CONTRACTOR.

Failure to comply with all requirements will constitute grounds for return of the shop drawing for proper resubmitted. CONTRACTOR shall sequentially number each submittal.

Date: _____ Submittal No.: _____

From: _____ To: _____

Project Name: _____

This is a(n): Original _____
Submittal _____
2nd Submittal _____
[ ] Submittal _____

_____

Subject of Submittal: Equipment Designation: Specification Section(s):

Complete either (a) or (b) Check One:

(a)	We have verified that the material or equipment contained in this submittal meets all the requirements specified or shown (no exceptions).	_____
(b)	We have verified that the material or equipment contained in this submittal meets all the requirements specified or shown, except for the following deviations (List deviations on attached sheet).	_____

(continued on next page)

The CONTRACTOR has reviewed and approved not only the field dimensions but the construction criteria and has also made written notation regarding any information in the shop drawings that does not conform to the Project Documents. This shop drawing has been coordinated with all other shop drawings received to date by CONTRACTOR and this duty of coordination has not been delegated to subcontractors, material suppliers, the ARCHITECT, or the engineers on this Project.

_____

Signature of Contractor or Supplier

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 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 for the procurement of any property or services 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 awarded by a State agency may be subject to suspension of payments or termination of the contract and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract from a State agency 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 be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, 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 SUPERINTENDENT 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 suspension

of payments, termination, 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.

_____
NAME OF CONTRACTOR

_____
Signature

_____
Print Name

_____
Title

CHANGE ORDER NO.

(Additive)

PROJECT:

_____

TO: _____

You are hereby directed to provide the extra work necessary to comply with this Change Order.

DESCRIPTION OF CHANGE:

_____

COST (This cost shall not be exceeded.):

Original contract price:	$ _____
Change Order amount:	$ _____
New contract price:	$ _____

TIME FOR COMPLETION:

Original completion date:	_____
Time for completion of Change Order:	_____
New completion date:	_____

Contractor agrees to perform the above-described work in accordance with the above terms and in compliance with applicable sections of the Project Documents. The amount of the charges under this Change Order is limited to the charges allowed under Article 59 of the General Conditions. The adjustment in the contract sum, if any, and the adjustment in the contract time, if any, set out in this Change Order shall constitute the entire compensation and/or adjustment in the contract time due Contractor arising out of the change in the work covered by this Change Order, unless otherwise provided in this Change Order.

No additions or deletions to this Change Order shall be allowed, except with written permission of SUPERINTENDENT. Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising from this Change Order.

(continued on next page)

This Change Order is hereby agreed to, accepted and approved.

CONTRACTOR	SUPERINTENDENT
By: _____ Signature	By: _____ Signature
_____ Print Name	_____ Print Name
_____ Title	_____ Title
_____ Date	_____ Date

CHANGE ORDER NO.

(Deductive)

PROJECT:

_____

TO: _____

You are hereby directed to comply with this Change Order.

DESCRIPTION OF CHANGE:

_____

COST (This cost shall be deleted.):

Original contract price:	$ _____
Change Order amount:	$ _____
New contract price:	$ _____

TIME FOR COMPLETION:

Original completion date:	_____
Time for completion of Change Order:	_____
New completion date:	_____

Contractor agrees to deduct the above-described work in accordance with the above terms and in compliance with applicable sections of the Project Documents. Contractor agrees to the adjustment in the contract sum, if any, and the adjustment in the contract time, if any, set out in this Change Order.

No additions or deletions to this Change Order shall be allowed, except with written permission of SUPERINTENDENT. Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising from this Change Order.

(continued on next page)

This Change Order is hereby agreed to, accepted and approved.

CONTRACTOR	SUPERINTENDENT
By: _____ Signature	By: _____ Signature
_____ Print Name	_____ Print Name
_____ Title	_____ Title
_____ Date	_____ Date

CRIMINAL RECORDS CHECK OVERVIEW

State Legislation AB1610, AB162, AB2112, and Education Code 45125.1 requires criminal records checks of contractors' employees who have any contact with students while employed by a contractor who is under contract to a school district. The Orange County Superintendent of Schools requires that all contractors comply with this legislation prior to starting any work with the SUPERINTENDENT. Please carefully read the enclosed notice and form titled "Certification by Contractor Criminal Records Check."

Please complete this form and return it to the Director, Business Operations prior to the performance of any work. Contractors must complete the fingerprinting requirements when the bid is awarded to them and before work can begin. Please contact the Director, Business Operations at (714) 966-4085 or email pmccaughey@ocde.us for further information.

NOTICE TO CONTRACTORS REGARDING VALID CRIMINAL RECORDS SUMMARY (EDUCATION CODE SECTION 45125.1)

Education Code Section 45125.1 provides that any entity that has a contract with a local education agency (school district) shall ensure that any employee who interacts with students outside of the immediate supervision and control of the student's parent or guardian or a District/school employee has a valid criminal records summary resulting from submission of the employee's fingerprints in a manner authorized by the Department of Justice (DOJ).

The DOJ shall ascertain whether the individual whose fingerprints were submitted to it has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the DOJ.

The entity shall not permit an employee to come in contact with any student until the DOJ has ascertained that the employee has not been convicted of a violent felony as defined in Penal Code section 667.5(c) or serious felony as defined in Penal Code section 1192.7(c). The entity shall certify in writing to the governing board of the school district that none of its employees who may come in contact with any student have been convicted of a violent or serious felony.

CERTIFICATION BY CONTRACTOR

To: Orange County Superintendent of Schools

I, _____, am the _____ of _____,
Name of Individual Title Name of Contractor

and I am authorized to execute this Certification on behalf of the Contractor.

1. I have carefully read and understand the Notice to Contractors Regarding a Valid Criminal Record Summary required under Education Code Section 45125.1.

2. Due to the nature of the services that will be provided to the Superintendent, Contractor's employees will or may have contact with students of the Superintendent outside of the immediate supervision and control of the student's parent or guardian or Superintendent employee.

3. I have obtained and reviewed the valid Criminal Records Summary of my employees who will be performing services for the Superintendent. If any subsequent/future employees will be performing services for the Superintendent, I will obtain and review the Valid Criminal Records Summary of these employees and submit an updated Certification to the Superintendent.

4. None of the employees who will be performing the services to the Superintendent have been convicted of a violent felony as defined in Penal Code section 667.5(c) or serious felony as defined in Penal Code Section 1192.7(c), and this determination was made by a fingerprint check through the Department of Justice.

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

Executed at _____, California on _____.
Date

_____
Signature

_____
Typed or Printed Name

_____
Title

_____
Name of Contractor

_____
Address

_____
Telephone Number

CONTRACTOR'S CERTIFICATE REGARDING
NON-ASBESTOS CONTAINING MATERIALS

Per Article 69 of the General Conditions.

Certification for _____. We hereby certify that no Asbestos, or Asbestos Containing Materials shall be used in this Project or in any tools, devices, clothing, or equipment used to affect the _____ which we have installed in the _____ SUPERINTENDENT under Project/Bid No. _____.

(a) The Contractor further certifies that he/she has instructed his/her employees with respect to the above mentioned standards, hazards, risks and liabilities.

(b) Asbestos and/or asbestos containing material shall be defined as all items containing but not limited to chrysotile, corcidolite, amosite, anthopyllite, tremolite and actinolite.

(c) Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos containing material.

(d) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy. The costs of any such tests shall be paid by the Contractor if the material is found to contain asbestos.

(e) All work or materials found to contain asbestos or work or material installed with asbestos containing equipment will be immediately rejected and this work will be removed at no additional cost to the SUPERINTENDENT.

_____ _____
Date Name of Contractor

By: _____
Signature

_____
Print Name

_____
Title

CERTIFICATION – PARTICIPATION OF DISABLED VETERAN BUSINESS ENTERPRISES IN ACCORDANCE WITH EDUCATION CODE 17076.11

In accordance with Education Code Section 17076.11, the _____ School SUPERINTENDENT has a participation goal for Disabled Veteran Business Enterprises of at least three percent (3%) per year of the overall dollar amount of funds allocated by the SUPERINTENDENT by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization of school buildings and expended each year by the SUPERINTENDENT. At the time of execution of the contract, the Contractor will provide a statement to the SUPERINTENDENT of anticipated participation of Disabled Veteran Business Enterprises in the contract. Prior to, and as a condition precedent for final payment under the contract, the Contractor will provide appropriate documentation to the SUPERINTENDENT identifying the amount paid to Disabled Veteran Business Enterprises pursuant to the contract, so that the SUPERINTENDENT can assess its success at meeting this goal.

The Contractor may provide the anticipated participation of Disabled Veteran Business Enterprises in terms of percentage of its total contract or the dollar amount anticipated to be paid to Disabled Veteran Business Enterprises or by providing the names of the Disabled Veteran Business Enterprises that will participate in the contract. If there is a discrepancy between the anticipated goals and the actual goals at completion of the contract or a failure to meet the anticipated goal or dollar amounts, the SUPERINTENDENT will require the Contractor to provide, at the completion of the contract, a detailed statement of the reason(s) for the discrepancy or failure to meet the anticipated goals or dollar amounts.

I certify that I have read the above and will comply with the anticipated participation of Disabled Veteran Business Enterprises in this contract.

_____

Signature | Typed or Printed Name

_____

Title | Company

_____

Address | City, State, Zip

_____

Telephone | Fax

_____

E-mail

EQUAL OPPORTUNITY CERTIFICATION

To: Orange County Superintendent of Schools
200 Kalmus Drive
Costa Mesa, California 92626

Firm: _____

Street Address: _____

City: _____State: _____ Zip Code: _____

Telephone: (___) _____ Fax: (___) _____

Number of Employees: _____

This Firm is:

Independently Owned and Operated

An Affiliate of _____ Parent Company _____

A Subsidiary of _____ Address_____

A Division of _____

I, the official name below, certify under penalty of perjury that I am duly authorized to legally bind the firm to this certification, and that the contents of this certification are true and correct, that we are an Equal Opportunity Employer and have made a good faith effort to improve minority employment.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

(RESPONDENT MUST COMPLETE AND RETURN WITH BID RESPONSE)

CERTIFICATION REGARDING DEBARMENT,SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
(FAR Subpart 9.4 – Debarment, Suspension, and Ineligibility)

I am aware of and hereby certify that neither_____ nor _____
Name of Bidder

its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Bidder/offer or/contractor or any lower participant is unable to certify to this statement, it shall attach an explanation to this solicitation proposal.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above-named Respondent on the _____ day of _____ 20_____ for the purposes of submission of this Bid.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

(RESPONDENT MUST COMPLETE AND RETURN WITH BID RESPONSE)

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code 2200-2208)

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting certification is required for solicitations of goods or services of , One million dollars ($1,000,000) or more if the Vendor/Bidder engages in investment activities in Iran.

MUST BE SUBMITTED WITH BID PROPOSAL IF BID AMOUNT IS $1,000,000 OR MORE

Bidder shall complete **ONLY ONE** of the following three paragraphs.

❑ 1. Bidder's Total Base Bid is less than one million dollars ($1,000,000) or more.

OR

❑ 2. Bidder's Total Base Bid is one million dollars ($1,000,000) or more, but Bidder is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code 2203(b), and Bidder is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person, for 45 days or more, if that other person 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.

OR

❑ 3. Bidder's Total Base Bid is one million dollars($1,000,000) or more, but the SUPERINTENDENT has given prior written permission to Bidder to submit a proposal pursuant to PCC 2203© or (d). **A copy of the written permission from the SUPERINTENDENT is included with Bid.**

I, the official named below, certify I am under penalty of perjury under the laws of the State of California that I am duly authorized to legally bind the Bidder to this certification, that the contents of this certification are true and correct, and this certification is made under the laws of the State of California.

Date: _____
Legal Name of Bidder: _____
Authorized Signature: _____
Print Name: _____
Title: _____

(RESPONDENT MUST COMPLETE AND RETURN WITH BID RESPONSE)

UKRAINE-RUSSIA CONTRACTING CERTIFICATION

On February 21, 2022, President Biden issued Executive Order 14065 ("Federal Order") imposing economic sanctions and prohibiting many activities including, but not limited to, investing, importing, exporting, and contracting, in areas of Ukraine and in Russia. On March 4, 2022, California Governor Newsom issued Order N-6-22 requiring state agencies to take steps to ensure any agency and entity under contract with state agencies comply with the Federal Order ("State Order").

If awarded a contract with the District, your Firm must comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including the orders and sanctions identified on the U.S. Department of the Treasury website (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions).

As part of this procurement, this Certification shall be part of your Response:

(1) Confirmation that your Firm is in compliance with the required economic sanctions of the Federal and State Orders; and

(2) Confirmation that your Firm will take the steps necessary in response to Russia's actions in Ukraine, including, but not limited to, desisting from making new investments in, or engaging in financial transactions with, Russian entities, not transferring technology to Russia or Russian entities, and directly providing support to the government and people of Ukraine. Upon District request, your firm will provide the District a written statement detailing your actions related to this section.

Executive Order 14065;
https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/21/executive-order-on-blocking-property-of-certain-persons-and-prohibiting-certain-transactions-with-respect-to-continued-russian-efforts-to-undermine-the-sovereignty-and-territorial-integrity-of-ukraine/

State Order N-6-22;
https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order

I certify that I am duly authorized to legally bind the Bidder to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Company Name: _____
Authorized Signature: _____
Name: _____
Date: _____

(RESPONDENT MUST COMPLETE AND RETURN WITH BID RESPONSE)

GENERAL CONDITIONS

ARTICLE 1. DEFINITIONS

(a) Action of the Governing Board is a vote of a majority of the members in a lawful meeting.

(b) Addenda are the changes in plans, specifications, drawings, and/or Project Documents which have been authorized in writing by the SUPERINTENDENT or ARCHITECT, and which alter, explain, or clarify the Project Documents prior to the bid deadline.

(c) Approval means written authorization by ARCHITECT or SUPERINTENDENT.

(d) Agreement includes collectively all Project Documents.

(e) Project Documents includes collectively, to wit: Notice Calling for Bids, Information for Bidders, Bid Form, Bid Form 1-A, Bid Security, Designation of Subcontractor form, Information Required of Bidder, all prequalification forms submitted pursuant to Public Contract Code Section 20111.5, if any, Noncollusion Affidavit, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Agreement, Escrow Agreement, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Order forms, Shop Drawing Transmittals form, Insurance Certificates and Endorsements, Guarantee form, Contractor's Certificate Regarding Non-Asbestos Containing Materials, Disabled Veteran Business Enterprises Certification, if applicable, General Conditions, Supplemental Conditions, if any, Special Conditions, if any, Drawings, Specifications, and all modifications, addenda and amendments thereto. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

(f) CONTRACTOR or SUPERINTENDENT are those mentioned as such in the Agreement. They are treated throughout the Project Documents as if they are of singular number and neuter gender.

(g) SUPERINTENDENT is the Governing Board or its duly authorized representative.

(h) Locality in which the work is performed means the county and city in which the work is done.

(i) Project is the planned undertaking as provided for in the Project Documents by SUPERINTENDENT and CONTRACTOR.

(j) Provide shall include "provide complete in place," that is, "furnish and install."

(k) Safety Orders are those issued by the Division of Industrial Safety and OSHA safety and health standards for construction.

(l) Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified.

(m) Subcontractor, as used herein, includes those having a direct contractual relationship with CONTRACTOR and one who furnishes material worked to a special design according to plans, drawings, and specifications, but does not include one who merely furnishes material not so worked.

(n) Surety is the person, firm, or corporation that executes as a California admitted surety insurer, the CONTRACTOR'S Bid Security, faithful performance bond and payment bond.

(o) Work of the CONTRACTOR or subcontractor includes labor or materials (including, without limitation, equipment and appliances) or both, incorporated in, or to be incorporated in the Project.

(p) Workers include laborer, worker, or mechanic.

ARTICLE 2. STATUS OF CONTRACTOR

(a) CONTRACTOR is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the Project Documents. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the SUPERINTENDENT and CONTRACTOR or any of CONTRACTOR'S agents or employees. CONTRACTOR assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. CONTRACTOR, its agents and employees shall not be entitled to any rights or privileges of SUPERINTENDENT employees and shall not be considered in any manner to be SUPERINTENDENT employees. SUPERINTENDENT shall be permitted to monitor the activities of the CONTRACTOR to determine compliance with the terms of the Project Documents.

(b) Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any CONTRACTOR not so licensed is subject to penalties under the law, and the contract will be considered void pursuant to Section 7028.7 of the Business and Professions Code. Any questions concerning

a contractor may be referred to the Registrar, Contractors' State License Board, 9821 Business Park Drive, P. O. Box 26000, Sacramento, CA 95826.

ARTICLE 3. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Before CONTRACTOR makes any change in the name or legal nature of the CONTRACTOR'S entity, CONTRACTOR shall first notify the SUPERINTENDENT in writing and cooperate with SUPERINTENDENT in making such changes as the SUPERINTENDENT may request in the Project Documents.

ARTICLE 4. CONTRACTOR'S SUPERVISION, PROSECUTION AND PROGRESS

(a) During progress of the work, CONTRACTOR shall keep on the work site a competent superintendent satisfactory to SUPERINTENDENT. Before commencing the work herein, CONTRACTOR shall give written notice to SUPERINTENDENT and ARCHITECT of the name, qualifications and experience of such superintendent. If Superintendent is found unsatisfactory by SUPERINTENDENT, CONTRACTOR shall replace the Superintendent with one acceptable to the SUPERINTENDENT. Superintendent shall not be changed except with written consent of SUPERINTENDENT, unless a Superintendent proves to be unsatisfactory to CONTRACTOR and ceases to be in its employ, in which case, CONTRACTOR shall notify SUPERINTENDENT and ARCHITECT in writing and replace said Superintendent with one acceptable to the SUPERINTENDENT. Superintendent shall represent CONTRACTOR and all directions given to Superintendent shall be as binding as if given to CONTRACTOR.

(b) CONTRACTOR shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills as may be necessary to perform the work in accordance with the Project Documents. CONTRACTOR shall carefully study and compare all plans, drawings, specifications, and other instructions and shall at once report to ARCHITECT any error, inconsistency or omission which CONTRACTOR or its employees may discover. The CONTRACTOR represents itself to SUPERINTENDENT as a skilled, knowledgeable, and experienced CONTRACTOR. The CONTRACTOR shall carefully study and compare the Project Documents with each other, and shall at once report to the ARCHITECT any errors, inconsistencies, or omissions discovered. The CONTRACTOR shall be liable to the SUPERINTENDENT for damage resulting from errors, inconsistencies, or omissions in the Project Documents that the CONTRACTOR recognized and which CONTRACTOR knowingly failed to report and which a similarly skilled, knowledgeable, and experienced contractor would have discovered.

(c) The CONTRACTOR shall verify all indicated dimensions before ordering materials or equipment, or before performing work. The CONTRACTOR shall take field measurements, verify field conditions, and shall carefully compare such field

measurements and conditions and other information known to the CONTRACTOR with the Project Documents before commencing work. Errors, inconsistencies or omissions discovered shall be reported to the SUPERINTENDENT at once. Upon commencement of any item of work, the CONTRACTOR shall be responsible for dimensions related to such item of work and shall make any corrections necessary to make work properly fit at no additional cost to SUPERINTENDENT. This responsibility for verification of dimensions is a non-delegable duty and may not be delegated to subcontractors or agents.

(d) Omissions from the plans, drawings or specifications, or the misdescription of details of work which are manifestly necessary to carry out the intent of the plans, drawings and specifications, or which are customarily performed, shall not relieve the CONTRACTOR from performing such omitted or misdescribed work, but they shall be performed as if fully and correctly set forth and described in the plans, drawings and specifications.

(e) The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The CONTRACTOR shall be responsible to see that the finished work complies accurately with the Project Documents.

ARTICLE 5. **SUBCONTRACTORS**

(a) CONTRACTOR agrees to bind every subcontractor by terms of the Project Documents as far as such terms are applicable to subcontractor's work. If CONTRACTOR shall subcontract any part of the work, CONTRACTOR shall be as fully responsible to SUPERINTENDENT for acts and omissions of any subcontractor and of persons either directly or indirectly employed by any subcontractor, as it is for acts and omissions of persons directly employed by CONTRACTOR. Nothing contained in Project Documents shall create any contractual relation between any subcontractor and SUPERINTENDENT, nor shall the contract documents be construed to be for the benefit of any subcontractor.

(b) SUPERINTENDENT'S consent to any subcontractor shall not in any way relieve CONTRACTOR of any obligations under the Project Documents and no such consent shall be deemed to waive any provision of any Project Document.

(c) CONTRACTOR must submit with its bid, a Designation of Subcontractors pursuant to the Subletting and Subcontracting Fair Practices Act. If CONTRACTOR specifies more than one subcontractor for the same portion of work or fails to specify a subcontractor, and such portion of the work exceeds one-half of one percent of the total bid, CONTRACTOR agrees that it is fully qualified to perform and shall perform such work itself, unless CONTRACTOR provides for substitution or addition of subcontractors. Substitution or addition of subcontractors shall be permitted only as authorized under the Subletting and Subcontracting Fair Practices Act, Public Contract Code Section 4100, et. seq.

(d) In accordance with Business and Professions Code Section 7059, if CONTRACTOR is designated as a "specialty contractor" (as defined in Section 7058 of the Public Contract Code), all of the work to be performed outside of the CONTRACTOR'S license specialty shall be performed by a licensed subcontractor in compliance with the Subletting and Subcontracting Fair Practices Act, Public Contract Code Section 4100, et seq.

(e) A copy of each subcontract, if in writing, or, if not in writing, then a written statement signed by the CONTRACTOR giving the name of the subcontractor and the terms and conditions of such subcontract, shall be filed with the SUPERINTENDENT before the subcontractor begins work. Each subcontract shall contain a reference to the Agreement between the SUPERINTENDENT and the CONTRACTOR and the terms of that Agreement and all parts of the Project Documents shall be made a part of such subcontract insofar as applicable to the work covered thereby. Each subcontract will provide for termination in accordance with Article 13 of these General Conditions. Each subcontract shall provide for its annulment by the CONTRACTOR at the order of the ARCHITECT if in the ARCHITECT'S opinion the subcontractor fails to comply with the requirements of the Project Documents insofar as the same may be applicable to this work. Nothing herein contained shall relieve the CONTRACTOR of any liability or obligation hereunder.

ARTICLE 6. **PROHIBITED INTERESTS**

No official of SUPERINTENDENT who is authorized in such capacity and on behalf of SUPERINTENDENT to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the Project, shall become directly or indirectly interested financially in this Project or in any part thereof. No officer, employee, architect, attorney, engineer

or inspector of or for SUPERINTENDENT who is authorized in such capacity and on behalf of SUPERINTENDENT to exercise any executive, supervisory or other similar functions in connection with construction of Project shall become directly or indirectly interested financially in this Project or in any part thereof. CONTRACTOR shall receive no compensation and shall repay SUPERINTENDENT for any compensation received by CONTRACTOR hereunder, should CONTRACTOR aid, abet or knowingly participate in violation of this Article 6.

ARTICLE 7. **SUPERINTENDENT'S INSPECTOR**

(a) One or more Inspector(s), including special inspectors, as required, will be employed by SUPERINTENDENT and will be assigned to the Project.

(b) No work shall be performed by the CONTRACTOR solely upon the instructions or comments by the Inspector. The Inspector has no authority to interpret the Project Documents or order extra work and any extra work performed without the written instruction of the SUPERINTENDENT shall be at CONTRACTOR'S sole cost and expense and there will be no delay damages incurred by SUPERINTENDENT for such work.

(c) No work shall be carried on except with the knowledge and under the inspection of said Inspector(s). He/she shall have free access to any or all parts of work at any time. CONTRACTOR shall furnish Inspector reasonable opportunities for obtaining such information as may be necessary to keep Inspector fully informed respecting progress and manner of work and character of materials. Inspection of work shall not relieve CONTRACTOR from any obligation to fulfill the Project Documents. Inspector or ARCHITECT shall have authority to stop work whenever provisions of Project Documents are not being complied with and such noncompliance is discovered. CONTRACTOR shall instruct its employees accordingly.

(d) CONTRACTOR understands and agrees that the Inspector for the Project may also serve concurrently as inspector for other SUPERINTENDENT projects and may not therefore be available on site during the entire work day. It shall be the responsibility of CONTRACTOR to notify the Inspector not less than twenty-four (24) hours in advance of materials and equipment deliveries and required inspections.

ARTICLE 8. **ARCHITECT'S STATUS**

(a) The ARCHITECT shall be the SUPERINTENDENT'S representative during construction and shall observe the progress and quality of the work on behalf of the SUPERINTENDENT. ARCHITECT shall have the authority to act on behalf of SUPERINTENDENT only to the extent expressly provided in the Project Documents. ARCHITECT shall have authority to stop work whenever such stoppage may be necessary in ARCHITECT'S reasonable opinion to ensure the proper execution of the Project Documents.

(b) The ARCHITECT shall be, in the first instance, the judge of the performance of the work. ARCHITECT shall exercise authority under the Project Documents to enforce CONTRACTOR'S faithful performance.

(c) The ARCHITECT shall have all authority and responsibility established by law. The ARCHITECT has the authority to enforce compliance with the Project Documents and the CONTRACTOR shall promptly comply with instructions from the ARCHITECT or an authorized representative of the ARCHITECT.

(d) On all questions related to the quantities, the acceptability of material, equipment or workmanship, the execution, progress or sequence of work, the interpretation of plans, specifications or drawings, and the acceptable performance of the CONTRACTOR pursuant to the decision of the ARCHITECT shall govern and shall be precedent to any payment unless otherwise ordered by the Governing Board. The progress and completion of the work shall not be impaired or delayed by virtue of any question or dispute arising out of or related to the foregoing matters and the instructions of the ARCHITECT relating thereto.

(e) General supervision and direction of the work by the ARCHITECT shall in no way imply that the ARCHITECT or his or her representatives are in any way responsible for the safety of the CONTRACTOR or its employees or that the ARCHITECT or his or her representatives will maintain supervision over the CONTRACTOR'S construction methods or personnel other than to ensure that the quality of the finished work is in accordance with the Project Documents.

ARTICLE 9. **NOTICE OF TAXABLE POSSESSORY INTEREST**

The terms of the Agreement may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to the Agreement, the private party may be subjected to the payment of property taxes levied on such interest.

ARTICLE 10. **ASSIGNMENT OF ANTITRUST ACTIONS**

Public Contract Code Section 7103.5 provides:

> 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 awarding body (SUPERINTENDENT) 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. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases 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 payment to the contractor, without further acknowledgment by the parties.

CONTRACTOR, for itself and all subcontractors, agrees to assign to SUPERINTENDENT all rights, title, and interest in and to all such causes of action CONTRACTOR and all subcontractors may have under the Agreement. This assignment shall become effective at the time SUPERINTENDENT tenders final

payment to the CONTRACTOR and CONTRACTOR shall require assignments from all subcontractors to comply herewith.

ARTICLE 11. OTHER CONTRACTS

(a) SUPERINTENDENT reserves the right to let other contracts in connection with this work. CONTRACTOR shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly connect and coordinate its work with such other contractors.

(b) If any part of CONTRACTOR'S work depends for proper execution or results upon work of any other contractor, the CONTRACTOR shall inspect and promptly report to ARCHITECT in writing any defects in such work that render it unsuitable for such proper execution and results. CONTRACTOR will be held accountable for damages to SUPERINTENDENT for that work which it failed to inspect or should have inspected. CONTRACTOR'S failure to inspect and report shall constitute its acceptance of other contractor's work as fit and proper for reception of its work, except as to defects which may develop in other contractors' work after execution of CONTRACTOR'S work.

(c) To ensure proper execution of its subsequent work, CONTRACTOR shall measure and inspect work already in place and shall at once report to the ARCHITECT in writing any discrepancy between executed work and Project Documents.

(d) CONTRACTOR shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by SUPERINTENDENT in prosecution of the Project to the end that CONTRACTOR may perform this Agreement in the light of such other contracts, if any.

(e) Nothing herein contained shall be interpreted as granting to CONTRACTOR exclusive occupancy at site of Project. CONTRACTOR shall not cause any unnecessary hindrance or delay to any other contractor working on Project. If simultaneous execution of any contract for Project is likely to cause interference with performance of some other contract or contracts, SUPERINTENDENT shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously.

(f) SUPERINTENDENT shall not be responsible for any damages suffered or extra costs incurred by CONTRACTOR resulting directly or indirectly from award or performance or attempted performance of any other contract or contracts on Project, or caused by any decision or omission of SUPERINTENDENT respecting the order of precedence in performance of contracts.

ARTICLE 12. **OCCUPANCY**

SUPERINTENDENT reserves the right to occupy buildings and/or portions of the site at any time before completion, and such occupancy shall not constitute final acceptance of any part of work covered by this Agreement, nor shall such occupancy extend the date specified for completion of the work. Beneficial occupancy of building(s) does
not commence any warranty period nor shall it entitle CONTRACTOR to any additional compensation due to such occupancy.

ARTICLE 13. **SUPERINTENDENT'S RIGHT TO TERMINATE AGREEMENT**

(a) Termination for Cause. If the CONTRACTOR refuses or fails to complete the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if the CONTRACTOR should file a petition for relief as a debtor, or should relief be ordered against CONTRACTOR as a debtor under Title 11 of the United States Code, or if CONTRACTOR should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or if it should refuse or should fail to supply enough properly skilled workers or proper equipment, tools, and materials in the necessary quantity and quality to complete the work in the time specified, or if CONTRACTOR should fail to make prompt payment to subcontractors for materials or labor, or disregard laws or ordinances or instructions of SUPERINTENDENT, or if CONTRACTOR or its subcontractors should otherwise be guilty of a violation of any provision of this Agreement, then CONTRACTOR shall be deemed to be in default of the Agreement and SUPERINTENDENT may, without prejudice to any other right or remedy, serve written notice upon CONTRACTOR and its surety of SUPERINTENDENT'S intention to terminate this Agreement, such notice to contain the reasons for such intention to terminate, and unless within ten (10) calendar days after the service of such notice such condition shall cease or such violation shall cease, or arrangements satisfactory to SUPERINTENDENT for the correction thereof be made and corrective action commenced in a diligent and workmanlike manner and pursued to satisfactory completion, this Agreement shall upon the expiration of said ten (10) calendar days, cease and terminate. In such case, CONTRACTOR shall be excluded from the worksite and not be entitled to receive any further payment until work is finished to SUPERINTENDENT'S satisfaction.

(b) In the event of any such termination, surety shall have the right to take over and perform this Agreement, provided, however, that if surety within five (5) calendar days after service upon it of said notice of termination does not give SUPERINTENDENT written notice of its intention to take over and perform this Agreement or does not commence performance thereof within ten (10) calendar days after date of serving such notice of termination by SUPERINTENDENT on surety, SUPERINTENDENT may take over the work and prosecute same to

completion by any means determined by SUPERINTENDENT including hiring another contractor for the account and at the expense of CONTRACTOR, and CONTRACTOR and its surety shall be liable to SUPERINTENDENT for any excess cost or other damages occasioned by the SUPERINTENDENT thereby. Time is of the essence in this Agreement. If the SUPERINTENDENT takes over the work as hereinabove provided, the SUPERINTENDENT may, without liability for so doing, take possession of and utilize in completing the work such materials, supplies, equipment and other property belonging to the CONTRACTOR as may be on the site of the work and necessary therefore.

(c) The expense of finishing the work, including compensation for additional architectural, managerial, and administrative services, shall be a charge against CONTRACTOR and CONTRACTOR agrees that the charge may be deducted from any money due or becoming due to CONTRACTOR from SUPERINTENDENT or

CONTRACTOR shall pay the charge to the SUPERINTENDENT. Expense incurred by SUPERINTENDENT as herein provided, and damage incurred through CONTRACTOR'S default, shall be certified to SUPERINTENDENT by ARCHITECT. The surety shall become liable for payment should CONTRACTOR fail to pay in full any cost incurred by the SUPERINTENDENT.

(d) Nonappropriation of Funds/Insufficient Funds. In the event that sufficient funds are not appropriated to complete the Project or the SUPERINTENDENT determines that sufficient funds are not available to complete the Project, SUPERINTENDENT may terminate or suspend the completion of the Project at any time by giving written notice to the CONTRACTOR. In the event that the SUPERINTENDENT exercises this option, the SUPERINTENDENT shall pay for any and all work and materials completed or delivered onto the site, and the value of any and all work then in progress and orders actually placed which cannot be canceled up to the date of notice of termination. The value of work and materials paid for shall include a factor of fifteen percent (15%) for the CONTRACTOR'S overhead and profit and there shall be no other costs or expenses paid to CONTRACTOR. All work, materials and orders paid for pursuant to this provision shall become the property of the SUPERINTENDENT. SUPERINTENDENT may, without cause, order CONTRACTOR in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as SUPERINTENDENT may determine. Adjustment shall be made for increases in the cost of performance of the Agreement caused by suspense, delay or interruption.

(e) The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the SUPERINTENDENT.

ARTICLE 14. **BONDS**

Unless otherwise specified in Special Conditions, CONTRACTOR shall furnish a surety bond in an amount equal to one hundred percent (100%) of contract price as security for faithful performance of this Agreement and shall furnish a separate bond in an amount of one hundred percent (100%) of the contract price as security for payment to persons performing labor and furnishing materials in connection with this Project. Bonds shall be in the form set forth in these Project Documents.

ARTICLE 15. **SUBSTITUTION OF SECURITIES**

(a) Pursuant to the requirements of Public Contract Code Section 22300, upon CONTRACTOR'S request, SUPERINTENDENT will make payment to CONTRACTOR of any earned retention funds withheld from payments under this Agreement if CONTRACTOR deposits with the SUPERINTENDENT or in escrow with a California or federally chartered bank acceptable to SUPERINTENDENT, securities eligible for the investment pursuant to Government Code Section 16430 or bank or savings and loan certificates of deposit, upon the following conditions:

(1) CONTRACTOR shall be the beneficial owner of any securities substituted for retention funds withheld and shall receive any interest thereon.

(2) All expenses relating to the substitution of securities under said Section 22300 and under this Article 15, including, but not limited to SUPERINTENDENT'S overhead and administrative expenses, and expenses of escrow agent shall be the responsibility of the CONTRACTOR.

(3) If CONTRACTOR shall choose to enter into an escrow agreement, such agreement shall be in the form as set forth in Public Contract Code section 22300(f) attached hereto as part of the Project Documents and which shall allow for the conversion to cash to provide funds to meet defaults by the CONTRACTOR including, but not limited to, termination of the CONTRACTOR'S control over the work, stop notices filed pursuant to law, assessment of liquidated damages or amount to be kept or retained under the provisions of the Project Documents.

(4) Securities, if any, shall be returned to CONTRACTOR only upon satisfactory completion of the Agreement.

(b) To minimize the expense caused by such substitution of securities, CONTRACTOR shall, prior to or at the time CONTRACTOR requests to substitute security, deposit sufficient security to cover the entire amount to be then withheld and to be withheld under the General Conditions of this Agreement . Should the value of such substituted security at any time fall below the amount for which it was substituted, or any other amount which the SUPERINTENDENT determines to withhold, CONTRACTOR shall immediately, and at CONTRACTOR'S expense, deposit additional security qualifying under said Section 22300 until the total

security deposited is no less than equivalent to the amount subject to withholding under the Agreement.

(c) In the alternative, under Section 22300, CONTRACTOR, at its own expense, may request SUPERINTENDENT to make payment of earned retention funds directly to the escrow agent. Also, at the expense of CONTRACTOR, CONTRACTOR may direct investment of the payments into securities, and CONTRACTOR shall receive the interest earned on the investment upon the same conditions as shown in paragraph (a) for securities deposited by CONTRACTOR. Upon satisfactory completion of the Agreement, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by the escrow agent from SUPERINTENDENT, pursuant to the terms of Section 22300.

(d) If any provision of this Article 15 shall be found to be illegal or unenforceable, then, notwithstanding, this Article 15 shall remain in full force and effect, and such provision shall be deemed stricken.

ARTICLE 16. **FIRE INSURANCE**

CONTRACTOR will procure at CONTRACTOR'S own expense, and before commencement of any work under this bid fire insurance on the Project. Amount of fire insurance shall be sufficient to protect against loss or damage in full until work is accepted by SUPERINTENDENT. CONTRACTOR shall submit proof of insurance and shall provide endorsements on forms provided by the SUPERINTENDENT or on forms approved by the SUPERINTENDENT.

ARTICLE 17. **PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**

(a) CONTRACTOR shall take out and maintain during the life of this Agreement such public liability and property damage insurance as shall protect CONTRACTOR and SUPERINTENDENT from all claims for personal injury, including accidental death, to any person (including, as to SUPERINTENDENT, injury or death to CONTRACTOR'S or subcontractor's employees), as well as from all claims for property damage arising from operations under this Agreement, in amounts as set forth in the Agreement.

(b) CONTRACTOR shall require its subcontractors, if any, to take out and maintain similar public liability and property damage insurance in like amounts or insure the activities of its subcontractors in CONTRACTOR'S own policy.

(c) CONTRACTOR, during the progress of the work and until final acceptance of the work by SUPERINTENDENT upon completion of the entire Agreement, shall maintain Builder's Risk/ "All Risk," course-of-construction insurance in an amount not less than as set forth in the Agreement. Coverage is to provide extended coverage and insurance against vandalism, malicious mischief, perils of fire, sprinkler leakage, civil authority, sonic boom, earthquake, collapse, flood, wind, lightning, smoke, riot, debris removal (including demolition), and reasonable

compensation for ARCHITECT'S services and expenses required as a result of such insured loss upon the entire work which is the subject of the Project Documents, including completed work and work in progress to the full insurable amount thereof. The risk of damage to the work due to the perils covered by the Builder's Risk/"All Risk" Insurance, as well as any other hazards which might result in damage to the work, is that of CONTRACTOR and the surety, and no claims for such loss or damage shall be recognized by SUPERINTENDENT nor will such loss or damage excuse the complete and satisfactory performance of the Agreement by CONTRACTOR.

(d) CONTRACTOR shall submit proof of insurance and shall provide endorsements on the forms provided by the SUPERINTENDENT or on forms approved by the SUPERINTENDENT. Such insurance shall be issued by admitted surety insurers under the same conditions as required for bonds on the Project.

ARTICLE 18. **WORKERS' COMPENSATION INSURANCE**

(a) In accordance with the provisions of Section 3700 of the Labor Code, the CONTRACTOR and every subcontractor shall be required to secure the payment of compensation to its employees.

(b) The CONTRACTOR shall provide, during the life of the Agreement, workers' compensation insurance for all of its employees engaged in work under this Agreement, on or at the site of the Project, and, in case any of its work is sublet, the CONTRACTOR shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. 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 Agreement, on or at the site of the Project, is not protected under the workers' compensation statute, the CONTRACTOR shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected before subcontractor commences work. The CONTRACTOR shall file with the SUPERINTENDENT certificates of its insurance protecting workers and a thirty (30) day notice shall be provided to SUPERINTENDENT before the cancellation or reduction of any policy of CONTRACTOR or subcontractor. CONTRACTOR shall submit proof of insurance and shall provide endorsements on the forms provided by the SUPERINTENDENT or on forms approved by the SUPERINTENDENT. Such endorsements shall be submitted concurrently with the Project Documents.

ARTICLE 19. **PROOF OF CARRIAGE OF INSURANCE**

(a) CONTRACTOR shall not commence work nor shall it allow any subcontractor to commence work under this Agreement until all required insurance certificates and endorsements from admitted surety insurers have been obtained and delivered in duplicate to and approved by SUPERINTENDENT. Such

insurance shall be issued by admitted surety insurers under the same conditions as required for bonds on the Project. CONTRACTOR shall provide proof of insurance on SUPERINTENDENT approved forms without revisions.

(b) Certificates and insurance policies shall include the following:

(1) A clause stating:

"This policy shall not be canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to SUPERINTENDENT stating date of cancellation or reduction. Date of cancellation or reduction may not be less than thirty (30) days after date of mailing notice."

(2) Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to which cancellation and reduction notice will be sent, and length of notice period.

(3) Statement that the SUPERINTENDENT is an additional insured under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the SUPERINTENDENT.

(c) In case of CONTRACTOR'S failure to provide insurance as required by the Agreement, the SUPERINTENDENT may, at SUPERINTENDENT'S option, take out and maintain at the expense of the CONTRACTOR, such insurance in the name of CONTRACTOR, or subcontractor, as the SUPERINTENDENT may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which are due or to become due to the CONTRACTOR under this Agreement.

ARTICLE 20. **DRAWINGS AND SPECIFICATIONS**

(a) Drawings and Specifications are intended to delineate and describe the Project and its component parts to such a degree as will enable skilled and competent contractors to intelligently bid upon the work, and to carry said work to a successful conclusion.

(b) Drawings and Specifications are intended to comply with all laws, ordinances, rules and regulations of constituted authorities having jurisdiction, and where referred to in the Project Documents, said laws, ordinances, rules and regulations shall be considered as a part of the Agreement within the limits specified. The CONTRACTOR shall bear all expenses of correcting work done contrary to said laws, ordinances, rules and regulations and if the CONTRACTOR performed same (1) without first consulting the ARCHITECT for further instructions regarding said work, or (2) disregarded the ARCHITECT'S instructions regarding said work.

(c) Questions regarding interpretation of drawings and specifications shall be clarified by the ARCHITECT. Before commencing any portion of the work, CONTRACTOR shall carefully examine all drawings and specifications and other information given to CONTRACTOR. CONTRACTOR shall immediately notify ARCHITECT and SUPERINTENDENT in writing of any perceived or alleged error, inconsistency, ambiguity, or lack of detail or explanation in the drawings and specifications. If 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 Project 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. In the event ARCHITECT determines that CONTRACTOR's requests for clarification or interpretation are not justified or do not reflect adequate competent supervision or knowledge by the CONTRACTOR or his/her subcontractors, CONTRACTOR shall be required to pay ARCHITECT'S reasonable and customary fees in processing and responding to such requests. Should the CONTRACTOR commence work or any part thereof without seeking clarification, CONTRACTOR waives any claim for extra work or damages as a result of any ambiguity, conflict or lack of information.

(d) Figured dimensions on drawings shall govern, but work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large scale drawings shall take precedence over smaller scale drawings as to shape and details of construction. Specifications shall govern as to materials, workmanship, and installation procedures. Drawings and specifications are intended to be fully cooperative and to agree. If CONTRACTOR observes that drawings and specifications are in conflict, CONTRACTOR shall promptly notify the ARCHITECT in writing, and any necessary changes shall be adjusted as provided in the Article entitled "Changes and Extra Work;" provided, however, that the specification calling for the higher quality material or workmanship shall prevail without additional cost to SUPERINTENDENT.

(e) Materials or work described in words which so applied has a well known technical or trade meaning shall be deemed to refer to such recognized standards.

(f) It is not the intention of the Agreement to go into detailed descriptions of any materials and/or methods commonly known to the trade under "trade name" or "trade term." The mere mention or notation of such "trade name" or "trade term" shall be considered a sufficient notice to CONTRACTOR that it will be required to complete the work so named with all its incidental and accessory items according to the best practices of the trade.

(g) The naming of any material and/or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and/or labor

necessary to achieve full and complete functioning of the material and/or equipment as per best practices of the trade(s) involved, unless specifically noted otherwise.

(h) ARCHITECT will furnish to CONTRACTOR one (1) complete set of blue-line prints for posting of changes. Additional blue-line prints shall be provided by ARCHITECT upon payment by CONTRACTOR. During the construction period, CONTRACTOR shall maintain the set of blue-line prints in a satisfactory record condition, and shall thoroughly and neatly post, as they occur, all additions, deletions, corrections and/or revisions in the actual construction of the Project. The record drawings must be posted monthly and be current prior to each submission of each certificate of payment.

ARTICLE 21. **OWNERSHIP OF DRAWINGS**

All plans, drawings, designs, specifications, and other incidental architectural and engineering work or materials and other Project Documents and copies thereof furnished by SUPERINTENDENT are SUPERINTENDENT'S property. They are not to be used in other work and are to be returned to SUPERINTENDENT on request at completion of work, and may be used by SUPERINTENDENT as it may require, without any additional costs to SUPERINTENDENT.

ARTICLE 22. **DETAIL DRAWINGS AND INSTRUCTIONS**

(a) In case of ambiguity, conflict, or lack of information, ARCHITECT shall furnish additional instructions by means of drawings or otherwise, necessary for proper execution of work. All such drawings and instructions shall be consistent with Project Documents, true developments thereof, and reasonably inferable therefrom. Such additional instructions shall be furnished with reasonable promptness, provided that CONTRACTOR informs the ARCHITECT of the relationship of the request to the critical path of construction.

(b) Work shall be executed in conformity therewith and CONTRACTOR shall do no work without proper drawings and instructions.

(c) The ARCHITECT will furnish necessary additional details to more fully explain the work, which details shall be considered as part of the Project Documents.

(d) Should any details be more elaborate, in the opinion of the CONTRACTOR, than scale drawings and specifications warrant, CONTRACTOR shall give written notice thereof to the ARCHITECT within five (5) days of the receipt of same. In case no notice is given to the ARCHITECT within five (5) days, it will be assumed the details are reasonable development of the scale drawings. In case notice is given, then it will be considered, and if found justified, the ARCHITECT will either

modify the drawings or shall recommend to SUPERINTENDENT a change order for the extra work involved.

(e) All parts of the described and shown construction shall be of the best quality of their respective kinds and the CONTRACTOR is hereby advised to use all diligence to become fully involved as to the required construction and finish, and in no case to proceed with the different parts of the work without obtaining first from the ARCHITECT such directions and/or drawings as may be necessary for the proper performance of the work.

(f) If it is found at any time, before or after completion of the work, that the CONTRACTOR has varied from the drawings and/or specifications, in materials, quality, form or finish, or in the amount or value of the materials and labor used, the ARCHITECT shall make a recommendation: (1) that all such improper work should be removed, remade and replaced, and all work disturbed by these changes be made good at the CONTRACTOR'S expense; or (2) that the SUPERINTENDENT deduct from any amount due CONTRACTOR, the sum of money equivalent to the difference in value between the work performed and that called for by the drawings and specifications. ARCHITECT shall determine such difference in value. The SUPERINTENDENT, at its option, may pursue either recommendation made by the ARCHITECT.

ARTICLE 23. **SHOP DRAWINGS**

(a) CONTRACTOR shall check and verify all field measurements and shall submit to ARCHITECT within five (5) calendar days of the date specified on the Notice to Proceed three (3) copies, checked and approved by CONTRACTOR, of all shop or setting list drawings, schedules, and materials list required for the work of various trades. ARCHITECT shall review such drawings, schedules and materials list only for conformance with design concept of Project and compliance with information given in Project Documents, and return as approved or disapproved with guidance as to required corrections within seven (7) calendar days. CONTRACTOR shall make any corrections required by ARCHITECT, file three (3) corrected copies with ARCHITECT, and furnish such other copies as may be needed for construction within three (3) calendar days. ARCHITECT'S approval of such drawings, schedules, or materials list shall not relieve CONTRACTOR from responsibility for deviations unless CONTRACTOR has in writing called ARCHITECT'S attention to such deviations at time of submission and secured ARCHITECT'S written approval, nor shall it relieve CONTRACTOR from responsibility for errors in shop drawings or schedules.

(b) All submittals of shop drawings, catalog cuts, data sheets, schedules and material lists shall be complete and shall conform to contract drawings and specifications.

(c) The term "shop drawing" as used herein shall be understood to include, but not be limited to, detail design calculations, fabrication and installation drawings, lists, graphs and operating instructions.

(d) Shop drawings shall be submitted at a time sufficiently early to allow review of same by the Division of State Architect (DSA) if required, and the ARCHITECT, and to accommodate the rate of construction progress required under the Project Documents. CONTRACTOR will be required to pay ARCHITECT'S reasonable and customary fees in order to expedite review of shop drawings which are not submitted in a timely fashion.

(e) All shop drawing submittals shall be accompanied by an accurately completed transmittal form using the format bound herein. Any shop drawing submittal not accompanied by such a form, or where all applicable items on the form are not completed, will be returned for resubmittal. The CONTRACTOR may authorize a material or equipment supplier to deal directly with the ARCHITECT with regard to shop drawings, however, ultimate responsibility for the accuracy and completeness of the information contained in the submittal shall remain with the CONTRACTOR.

(f) Normally, a separate transmittal form shall be used for each specific item or class of material or equipment for which a submittal is required. Transmittal of shop drawings on various items using a single transmittal form will be permitted only when the items taken together constitute a manufacturer's "package" or are so functionally related that expediency indicates review of the group or package as a whole. At its option, the CONTRACTOR or Supplier may obtain from the ARCHITECT quantities of the shop drawing transmittal form at reproduction cost.

(g) CONTRACTOR'S review and approval of shop drawings shall include the following stamp:

> "The CONTRACTOR has reviewed and approved not only the field dimensions but the construction criteria and has also made written notation regarding any information in the shop drawings that does not conform to the Project Documents. This shop drawing has been coordinated with all other shop drawings received to date by CONTRACTOR and this duty of coordination has not been delegated to subcontractors, material suppliers, the ARCHITECT, or the engineers on this project.
>
> _____
> Signature of CONTRACTOR"

(h) Within seven (7) calendar days after receipt of shop drawings, the ARCHITECT will return one or more prints of each drawing to CONTRACTOR with his or her comments noted thereon. The CONTRACTOR shall make a complete and acceptable submittal to the ARCHITECT by the second submission of drawings. The SUPERINTENDENT shall withhold funds due the CONTRACTOR to cover additional costs of the ARCHITECT'S review beyond the second submission and any other costs incurred by SUPERINTENDENT.

(i) If prints of the shop drawing are returned to the CONTRACTOR marked "NO EXCEPTIONS TAKEN," formal revision of said drawing will not be required. If prints of the drawing are returned to the CONTRACTOR marked "MAKE CORRECTIONS NOTED," formal resubmittal of said drawings will not be required. If prints of the drawing are returned to the CONTRACTOR marked "REVISE AND RESUBMIT," the CONTRACTOR shall revise said drawing and shall resubmit six (6) copies of the revised drawing to the ARCHITECT. If prints of the drawing are returned to the CONTRACTOR marked "REJECTED RESUBMIT," the CONTRACTOR shall resubmit six (6) new copies of the drawing to the ARCHITECT.

(j) Fabrication of an item shall not be commenced before the ARCHITECT has reviewed the pertinent shop drawings and returned copies to the CONTRACTOR marked with "NO EXCEPTIONS TAKEN," or "MAKE CORRECTIONS NOTED." Revisions indicated on shop drawings shall be considered as changes necessary to meet the requirements of the Project Documents and shall not be taken as the basis of claims for extra work. The review of such drawings by the ARCHITECT will be limited to checking for general agreement with the Project Documents, and shall in no way relieve the CONTRACTOR of responsibility for errors or omissions contained therein, nor shall such review operate to waive or modify any provision contained in the Project Documents. Fabricating dimensions, quantities of material, applicable code requirements, and other contract requirements shall be the CONTRACTOR'S responsibility.

(k) No work represented by required shop drawings shall be purchased or commenced until the applicable submittal has been approved. The work shall conform to the approved shop drawings and all other requirements of the Project Documents. The CONTRACTOR shall not proceed with any related work which may be affected by the work covered under shop drawings until the applicable shop drawings have been approved, particularly where piping, machinery, and equipment and the required arrangements and clearances are involved.

(l) Except where the preparation of a shop drawing is dependent upon the approval of a prior shop drawing, all shop drawings pertaining to the same class or portion of the work shall be submitted simultaneously.

(m) Calculations of a structural nature must be approved by the Division of State Architect.

(n) THE CONTRACTOR SHALL HAVE NO CLAIM FOR DAMAGES OR EXTENSION OF TIME DUE TO ANY DELAY RESULTING FROM THE CONTRACTOR HAVING TO MAKE THE REQUIRED REVISIONS TO SHOP DRAWINGS UNLESS REVIEW BY THE ARCHITECT OF SAID DRAWINGS IS DELAYED BEYOND THE TIME PROVIDED HEREINBEFORE AND THE CONTRACTOR CAN ESTABLISH THAT THE ARCHITECT□S DELAY IN REVIEW ACTUALLY RESULTED IN A DELAY IN THE CONTRACTOR CONSTRUCTION SCHEDULE. CONTRACTOR SHALL NOT BE ENTITLED TO ANY CLAIM FOR DAMAGES RESULTING FROM DSA REVIEW EXTENDING BEYOND FIFTEEN (15) CALENDAR DAYS AFTER SUBMITTAL. HOWEVER, SUPERINTENDENT MAY CONSIDER AN EXTENSION OF TIME DUE TO ANY DELAY CAUSED BY DSA REVIEW.

ARTICLE 24. **LAYOUT AND FIELD ENGINEERING**

All field engineering required for laying out of this work and establishing grades for earthwork operations shall be furnished by CONTRACTOR at its expense. Such work shall be done by a qualified civil engineer approved by the ARCHITECT. Any required "Record" drawings of site development shall be prepared by the approved civil engineer.

ARTICLE 25. **SOILS INVESTIGATION REPORT**

(a) When a soils investigation report has been obtained from test holes at the site, such report is available for the CONTRACTOR'S use in preparing its bid and work under this Agreement. Such report shall not be part of the Agreement. Any information obtained from such report or any information given on drawings as to surface and subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed and does not form a part of the Agreement. CONTRACTOR is required to make a visual examination of site and must make whatever test CONTRACTOR deems appropriate to determine surface and subsurface soil conditions. If, during the course of work under this Agreement, CONTRACTOR encounters subsurface or latent conditions which differ materially from those indicated in the soils investigation report, then CONTRACTOR shall notify the SUPERINTENDENT within five (5) working days of discovery of the condition.

WARNING: SUPERINTENDENT DOES NOT WARRANT THE SOILS AT THE PROJECT SITE NOR ANY INFORMATION CONTAINED IN ANY SOILS REPORT. SOILS INVESTIGATION REPORT IS PROVIDED FOR CONTRACTOR'S INFORMATION ONLY. CONTRACTOR HAS CONDUCTED AN INDEPENDENT INVESTIGATION OF THE PROJECT SITE AND THE SOILS CONDITIONS OF THE SITE. SUPERINTENDENT DOES NOT WARRANT THE SOILS CONDITIONS OF THE SITE AND CONTRACTOR IS FULLY RESPONSIBLE TO ASCERTAIN SITE CONDITIONS FOR THE PURPOSES OF

DETERMINING CONSTRUCTION MEANS AND METHODS PRIOR TO COMMENCING CONSTRUCTION.

(b) CONTRACTOR agrees that no claim against SUPERINTENDENT will be made by CONTRACTOR for damages and hereby waives any rights to damages in the event that during progress of work CONTRACTOR encounters subsurface or latent conditions at the worksite materially different from those shown on drawings or indicated in specifications.

ARTICLE 26. **TESTS AND INSPECTIONS**

(a) Tests and inspections will comply with California Code of Regulations and with all other laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction over the Project.

(b) If the Agreement, SUPERINTENDENT'S instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, CONTRACTOR shall give notice in accordance with such authority of its readiness for observation or inspection at least two (2) working days prior to being tested or covered up. If inspection is by authority other than SUPERINTENDENT, CONTRACTOR shall inform the SUPERINTENDENT'S Inspector of the date fixed for such inspection. Required certificates of inspection shall be secured by CONTRACTOR. Observations by SUPERINTENDENT'S Inspector shall be promptly made, and where practicable, at source of supply. If any work should be covered up without approval or consent of SUPERINTENDENT'S Inspector, it must be uncovered for examination and satisfactorily reconstructured at CONTRACTOR'S expense in compliance with the Agreement. Costs of tests, inspections and any materials found to be not in compliance with the Agreement shall be paid for by CONTRACTOR. Other costs for test and inspection shall be paid by the SUPERINTENDENT.

ARTICLE 27. **TRENCHES**

(a) CONTRACTOR shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation which conform to applicable safety standards.

(b) If this Agreement involves the excavation of any trench or trenches five (5) feet or more in depth, and the Project cost is in excess of $25,000, the CONTRACTOR shall, in advance of excavation, submit to the SUPERINTENDENT for acceptance or to whomever SUPERINTENDENT designates which may include a registered civil or structural engineer employed by the SUPERINTENDENT to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System

Standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by the CONTRACTOR, and all costs therefore shall be included in the price named in the Agreement for completion of the work as set forth in the Project Documents. 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 CAL-OSHA and a CAL-OSHA permit for such plan delivered to the SUPERINTENDENT. Labor Code Section 6500 and 6705; Health and Safety Code Section 17922.5)

(c) If this Agreement involves the digging of trenches or excavations that extend deeper than four feet below the surface, the following shall apply pursuant to Public Contract Code section 7104:

(1) The CONTRACTOR shall promptly, and before the following conditions are disturbed, notify the SUPERINTENDENT, in writing, of any:

(i) 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 provisions of existing law.

(ii) Subsurface or latent physical conditions at the site different from those indicated.

(iii) 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.

(2) The SUPERINTENDENT 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 Project Documents.

(3) In the event a dispute arises between the SUPERINTENDENT 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 Project Documents, but shall proceed with all the work to be performed under the Project Documents. 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.

ARTICLE 28. **DOCUMENTS ON WORK**

CONTRACTOR shall keep on the job site at all times one legible copy of all Project Documents, including addenda and change orders, and all approved drawings, plans, schedules and specifications. Said Documents shall be kept in good order and available to ARCHITECT, ARCHITECT'S representatives, and all authorities having jurisdiction. CONTRACTOR shall be acquainted with and comply with all California Code of Regulations provisions relating to conditions on this Project.

ARTICLE 29. **STATE 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 SUPERINTENDENT, the CONTRACTOR, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars ($10,000.00), including, but not limited to, the costs of administration of the Agreement, shall be subject to the examination and audit of the State Auditor at the request of the SUPERINTENDENT or as part of any audit of the SUPERINTENDENT for a period of three (3) years after final payment is made under this Agreement .

ARTICLE 30. **SUBSTITUTIONS – "OR EQUAL"**

(a) Prior to Bid Opening. Should the CONTRACTOR wish to request prior to bid opening, any **substitution** for the materials, process, service or equipment specified, the CONTRACTOR shall submit a written request before **10:00:00 a.m. PST, November 10, 2026**. No requests shall be considered after this time. If the substituted item is acceptable, the SUPERINTENDENT will approve it in an Addendum issued to all CONTRACTOR'S of record. SUPERINTENDENT shall only consider substitution requests from the CONTRACTOR submitting the bid for the project.

(b) After Bid Opening and Prior to Award of Contract. If the CONTRACTOR clearly indicates in its bid that it is proposing to use an "equal" product, the brand name or trade name, if any, of a proposed substitute item shall be inserted in the space provided in the bid or shall be otherwise clearly identified in the bid. If the CONTRACTOR fails to indicate an **"equal"** product, its bid shall be considered as offering the material, process, service or equipment referred to by the brand name or trade name specified. It is expressly understood and agreed to by the CONTRACTOR that the SUPERINTENDENT reserves the right to reject any such proposed substituted item. It is further expressly understood and agreed by CONTRACTOR that in the event the SUPERINTENDENT rejects a proposed

“equal” item, the CONTRACTOR will then supply the material, process, service or equipment designated by brand name or trade name or a substitute therefore which meets with the approval of the SUPERINTENDENT.

With respect to all proposed substitutions of “**equal**” items, the CONTRACTOR shall submit all pertinent and appropriate data substantiating its request for substitutions within **five (5) working days** prior to the award of the contract. SUPERINTENDENT shall only consider substitution requests from the CONTRACTOR submitting the bid for the Project. The SUPERINTENDENT is not responsible for locating or securing any information which is not included in such substantiating data. The burden of proof as to the quality or suitability of proposed substituted items shall be borne by the CONTRACTOR. The SUPERINTENDENT shall be the sole judge as to the quality and suitability of proposed substituted items, and decisions of the SUPERINTENDENT shall be final and conclusive. Unless extended by the mutual agreement of the parties, the SUPERINTENDENT shall notify the successful CONTRACTOR of the decision concerning the proposed substitution of “equal” items prior to the award of the contract. Also, such decisions by the SUPERINTENDENT shall be in writing, and no proposed substituted item shall be deemed approved unless the SUPERINTENDENT has so indicated in writing. These time limitations shall be complied with strictly, and in no case will an extension of time for completion be granted because of the CONTRACTOR’S failure to request the substitution of an item at the times and in the manner set forth herein.

(c) Whenever in specifications any materials, process, service or equipment is indicated or specified by brand name, trade name, proprietary name or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of material, process, service or equipment desired and shall be deemed to be followed by the words "or equal," and CONTRACTOR may, unless otherwise stated, offer any material, process, service, or equipment which shall be substantially equal or better in every respect to that so indicated or specified subject to SUPERINTENDENT or ARCHITECT approval.

(d) If material, process, service, or equipment offered by CONTRACTOR is not, in opinion of ARCHITECT, or SUPERINTENDENT, substantially equal or better in every respect to that specified, then CONTRACTOR shall furnish the material, process, service, or equipment specified. Burden of proof as to equality of any material, process, service, or equipment shall rest with CONTRACTOR. Provision authorizing submission of "or equal" substantiating data shall not in any way authorize an extension of time for performance of this Agreement nor shall SUPERINTENDENT or ARCHITECT authorize the submission of “or equal” substantiating data within **three (3)** days of the filing of the Notice of Completion on the Project.

(e) In the event CONTRACTOR furnishes material, process, service or equipment other than what was specified by the SUPERINTENDENT and which

has been accepted by the SUPERINTENDENT and which later is defective, then CONTRACTOR at its sole cost and expense shall furnish the SUPERINTENDENT specified material, process, service or equipment or fully replace with new the defective material process, service or equipment at SUPERINTENDENT'S discretion.

(f) In the event CONTRACTOR furnishes material, process service, or equipment more expensive than that specified, difference in cost of such material, process, service, or equipment so furnished shall be borne by CONTRACTOR. Any engineering, design fees, or approval agencies' fees required to make adjustments in material or work of all trades directly or indirectly affected by the approved substituted items shall be borne entirely by CONTRACTOR. Any difference in cost between an approved substitution which is lower in cost than the originally specified item shall be refunded or credited by CONTRACTOR to SUPERINTENDENT.

(g) Price, fitness and quality being equal with regard to supplies, the SUPERINTENDENT may prefer supplies grown, manufactured, or produced in California and next prefer supplies partially manufactured grown, or produced in California provided the bids of said suppliers or the prices quoted by them do not exceed by more than 5% of the lowest bids/prices quoted by out of state suppliers, the major portion of the manufacture of the supplies is not done outside of California and the public good will be served thereby. (Government Code section 4330-4334)

ARTICLE 31. **SAMPLES**

(a) CONTRACTOR shall furnish for approval, within thirty-five (35) calendar days following award of contract, all samples as required in specifications together with catalogs and supporting data required by ARCHITECT. This provision shall not authorize any extension of time for performance of the work. ARCHITECT shall review such samples, as to conformance with design concept of work and for compliance with information given in Project Documents and approve or disapprove same within ten (10) working days from receipt of same.

(b) Unless specified otherwise, sampling, preparation of samples and tests shall be in accordance with the latest standards of the American Society for Testing and Materials.

(c) Samples shall, upon demand of ARCHITECT or SUPERINTENDENT, be submitted for tests or examinations and considered before incorporation of same into the work. CONTRACTOR shall be solely responsible for delays due to samples not being submitted in time to allow for tests. Acceptance or rejection will be expressed in writing. Work shall be equal to approved samples in every respect. Samples which are of value after testing will remain the property of the CONTRACTOR.

ARTICLE 32. **PROGRESS SCHEDULE**

(a) Within **five (5)** calendar days after being awarded the contract, CONTRACTOR shall submit a progress schedule for SUPERINTENDENT'S approval. The schedule shall indicate the beginning and completion dates of all phases of construction and shall use the "critical path method" (commonly called CPM) or equivalent scheduling methodology for the value reporting, planning and scheduling, of all work required under the Project Documents. The schedule will separately identify those milestones or events that must be completed before other portions of the work can be accomplished.

(b) The scheduling is necessary for the SUPERINTENDENT'S adequate monitoring of the progress of the work and shall be prepared in accordance with the time frame described in Article 4 of the Agreement. The SUPERINTENDENT may disapprove such a schedule and require modification to it if, in the opinion of the ARCHITECT or SUPERINTENDENT, adherence to the progress schedule will cause the work not to be completed in accordance with the Agreement. CONTRACTOR shall adhere to any such modifications required by the SUPERINTENDENT.

(c) CONTRACTOR will exchange scheduling information with subcontractors and suppliers. Bidder will order work, equipment and materials with sufficient lead time to avoid interruption of the work.

(d) The CONTRACTOR shall submit to SUPERINTENDENT a monthly schedule to reflect the actual sequence of the work which shall be totally separate and apart from the original progress schedule.

(e) The CONTRACTOR shall also, if requested by the ARCHITECT or SUPERINTENDENT, provide revised schedules within ten (10) calendar days if, at any time, the ARCHITECT or SUPERINTENDENT, consider the completion date to be in jeopardy. The revised schedule shall be designed to show how the CONTRACTOR intends to accomplish the work to meet the original completion date. The form and method employed by the CONTRACTOR shall be the same as for the original progress schedule. The CONTRACTOR shall modify any portions of the schedule that become infeasible because of "activities behind schedule" or for any other valid reason. CONTRACTOR will provide documents and justification for any schedule changes. An activity that cannot be completed by its original completion date shall be deemed to be behind schedule.

(f) CONTRACTOR shall submit a revised schedule within ten (10) consecutive calendar days of CONTRACTOR'S request for any extension of time. Failure to submit such schedule will result in CONTRACTOR waiving his/her right to obtain any extension of time.

(g) IT IS AGREED THAT THE SUPERINTENDENT OWNS THE "FLOAT" ON THIS PROJECT. IF CONTRACTOR SUBMITS A REVISED SCHEDULE SHOWING AN EARLIER COMPLETION DATE FOR THE PROJECT, SUPERINTENDENT'S ACCEPTANCE OF THIS REVISED SCHEDULE SHALL NOT ENTITLE CONTRACTOR TO ANY DELAY CLAIM OR DISRUPTION DAMAGES OR ANY OTHER DAMAGES DUE TO ANY SUCH REVISED SCHEDULE. NOTHING PROVIDED HEREIN SHALL BE CONSTRUED AS A DIRECT, INDIRECT OR IMPLICIT ACCELERATION ORDER TO THE CONTRACTOR.

(h) CONTRACTOR agrees that failure to timely submit the progress schedule, the monthly schedule or any revised progress schedule requested by the ARCHITECT or the SUPERINTENDENT may result in delay in payment to CONTRACTOR.

ARTICLE 33. **MATERIALS AND WORK**

(a) Except as otherwise specifically stated in this Agreement, CONTRACTOR shall provide and pay for all materials, supplies, tools, equipment, labor transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete the Project within specified time.

(b) Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.

(c) Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work and shall be stored properly and protected as required. SUPERINTENDENT has no obligation to pay for any prefabricated material stored offsite until delivered and installed to the jobsite and inspected and approved by the inspector of record.

(d) CONTRACTOR shall, after issuance of the Notice to Proceed by SUPERINTENDENT, place orders for materials and/or equipment as specified so that delivery of same may be made without delays to the work. CONTRACTOR shall, upon demand from the ARCHITECT, furnish to the ARCHITECT documentary evidence showing that orders have been placed.

(e) SUPERINTENDENT reserves the right, for any neglect in not complying with the above instructions, to place orders for such materials and/or equipment as it may deem advisable in order that the work may be completed at the date specified in the Agreement, and all expenses incidental to the procuring of said materials and/or equipment shall be paid for by the CONTRACTOR.

(f) No materials, supplies, or equipment for work under this Agreement shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in 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 all improvements and appurtenances constructed or placed thereon by it, to SUPERINTENDENT free from any claims, liens, or charges. CONTRACTOR further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any work covered by this Agreement shall have any right to lien upon premises or any improvement or appurtenance thereon, except that CONTRACTOR may install metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by utility company or political subdivision. In the event of installation of any such metering device or equipment, CONTRACTOR shall advise SUPERINTENDENT as to owner thereof.

(g) Nothing contained in this Article 33, however, shall defeat or impair the rights of persons furnishing material or labor under any bond given by CONTRACTOR for their protection or any rights under any law permitting such persons to look to funds due CONTRACTOR in hand of SUPERINTENDENT, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials or labor when no formal contract is entered into for such materials or labor.

(h) The title to new materials and/or equipment and attendant liability for its protection and safety, shall remain in the CONTRACTOR until incorporated in the work and accepted by the SUPERINTENDENT; no part of said materials and/or equipment shall be removed from its place of onsite/offsite storage except for immediate installation in the work; and CONTRACTOR shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the SUPERINTENDENT or its authorized representative.

ARTICLE 34. **INTEGRATION OF WORK**

(a) CONTRACTOR shall do all cutting, fitting, patching, and preparation of work as required to make its several parts come together properly, and fit it to receive or be received by work of other contractors or existing conditions showing upon, or reasonably implied by, the drawings and specifications, and shall follow all directions given by the Architect.

(b) All costs caused by defective or ill-timed work shall be borne by CONTRACTOR.

(c) CONTRACTOR shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor without the written consent of the ARCHITECT. CONTRACTOR shall be solely

responsible for protecting existing work on adjacent properties and shall obtain all required permits for shoring and excavations near property lines.

(d) When modifying existing work or installing new work adjacent to existing work, CONTRACTOR shall match, as closely as conditions of site and materials will allow, the finishes, textures, and colors of the original work, refinishing existing work as required, at no additional cost to SUPERINTENDENT.

(e) CONTRACTOR is aware that this Project may be split into several phases. If the Project is split into phases then CONTRACTOR has made allowances for any delays or damages which may arise from coordination with contractors for other phases. If any delays should arise from a contractor working on a different phase, CONTRACTOR's sole remedy for damages, including delay damages, shall be against the contractor who caused such damage and not the SUPERINTENDENT. CONTRACTOR shall provide access to contractors for other phases as necessary to prevent delays and damages to contractors working on other phases of construction.

ARTICLE 35. OBTAINING OF PERMITS, LICENSES AND EASEMENTS

(a) Licenses, and certificates necessary for prosecution of work, shall be secured and paid for by CONTRACTOR, unless otherwise specified. All such licenses, and certificates shall be delivered to the ARCHITECT before demand is made for the certificate of final payment. CONTRACTOR shall, and shall require subcontractors to, maintain contractors' licenses in effect as required by law.

(b) Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by SUPERINTENDENT, unless otherwise specified.

(c) Permits and charges for installation, and inspection thereof, of utility services by serving utilities shall be secured and paid for by SUPERINTENDENT.

(d) City building permit costs shall be paid directly by the Contractor and shall be submitted to the SUPERINTENDENT for reimbursement at actual cost with no mark-up. Contractor shall estimate the building permit cost of $7,500.00 in their bid submission. SUPERINTENDENT shall reimburse the Contractor for the actual building permit costs, with no markup.

ARTICLE 36. SURVEYS

Surveys to determine location of property lines and corners will be supplied by SUPERINTENDENT. Surveys to determine locations of construction, grading, and site work, shall be provided by CONTRACTOR.

ARTICLE 37. EXISTING UTILITY LINES; REMOVAL, RESTORATION

(a) Pursuant to Government Code Section 4215, the SUPERINTENDENT assumes the responsibility for removal, relocation, and protection of utilities located on the construction site at the time of commencement of construction under this Agreement with respect to any such utility facilities which are not identified in the plans and specifications. The CONTRACTOR shall not be assessed for liquidated damages for delay in completion of the Project caused by failure of the SUPERINTENDENT to provide for removal or relocation of such utility facilities. If the CONTRACTOR, while performing work under this Agreement, discovers utility facilities not identified by the SUPERINTENDENT in the plans or specifications, CONTRACTOR shall immediately notify the SUPERINTENDENT and the utility in writing. CONTRACTOR shall be compensated according to the provisions governing changes in the work.

(b) This Article 37 shall not be construed to preclude assessment against the CONTRACTOR for any other delays in completion of the work. Nothing in this Article shall be deemed to require the SUPERINTENDENT to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the construction site can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the site of the construction.

(c) As part of the work to be performed, CONTRACTOR shall provide the notices and proceed in accordance with Government Code Sections 4216.2, 4216.3 and 4216.4, and pay all fees charged pursuant to Government Code Section 4216, et seq.

ARTICLE 38. WORK TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS

(a) CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the work as indicated and specified.

(b) If CONTRACTOR observes that drawings or specifications are at variance therewith, CONTRACTOR shall promptly notify ARCHITECT in writing and any changes deemed necessary by the ARCHITECT shall be adjusted as provided for changes in work. If CONTRACTOR performs any work which it knew, or through exercise of reasonable care should have known, to be contrary to such laws, ordinances, rules or regulations, and without such notice to ARCHITECT, CONTRACTOR shall bear all costs arising therefrom. Where plans, drawings or specifications state that materials, processes, or procedures must be approved by the Division of State Architect, State Fire Marshall, or other body or agency, CONTRACTOR shall be responsible for satisfying requirements of such bodies or agencies.

ARTICLE 39. ACCESS TO WORK

SUPERINTENDENT and its representatives shall at all times have access to work wherever it is in preparation or progress. CONTRACTOR shall provide safe and proper facilities for such access so that SUPERINTENDENT'S representatives may perform their functions.

ARTICLE 40. **PAYMENTS BY CONTRACTOR**

CONTRACTOR shall pay:

(1) For all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered;

(2) For all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at site of Project and balance of cost thereof not later than the 30th day following completion of that part of work in or on which such materials, tools, and equipment are incorporated or used; and

(3) To each of its subcontractors, not later than the 5th day following each payment to CONTRACTOR the respective amounts allowed CONTRACTOR on account of work performed by respective subcontractor to the extent of such subcontractor's interest therein.

(4) Within seven (7) days from the time that all or any portion of the retentions are received by CONTRACTOR from SUPERINTENDENT, to each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. However, if a retention payment received by CONTRACTOR is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor, if the payment is consistent with the terms of the subcontract. CONTRACTOR may withhold from a subcontractor its portion of the retentions if a bona fide dispute exists between the subcontractor and the CONTRACTOR. The amount withheld from the retention shall not exceed one hundred fifty percent (150%) of the estimated value of the disputed amount.

ARTICLE 41. **INSPECTOR'S FIELD OFFICE**

CONTRACTOR shall provide for the exclusive use of Inspector a temporary field office to be located as directed by Inspector and to be maintained until removal is authorized by SUPERINTENDENT. Office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key-type lock or padlock hasp. A table satisfactory for study of plans and two chairs shall be provided by CONTRACTOR.

CONTRACTOR shall provide and pay for adequate electric lights, telephone service (not a pay phone), and adequate heat for the field office until authorized removal.

ARTICLE 42. **UTILITIES**

(a) All utilities, including but not limited to electricity, water, gas, and telephone used on work shall be furnished and paid for by CONTRACTOR. CONTRACTOR shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where utility is necessary to carry on the work. When it is necessary to interrupt any existing utility service to make connections, a minimum of forty-eight (48) hours advance notice shall be given to the SUPERINTENDENT and ARCHITECT. Interruptions in utility services shall be of the shortest possible duration for the work at hand and shall be approved by the SUPERINTENDENT and the ARCHITECT. In the event any utility service is interrupted without the required forty-eight (48) hours notice, then CONTRACTOR shall be liable for all damage suffered by SUPERINTENDENT due to the interruption. Upon completion of work, CONTRACTOR shall remove all temporary distribution systems.

(b) CONTRACTOR may, with written permission of SUPERINTENDENT, use SUPERINTENDENT'S existing utilities by making prearranged payments to SUPERINTENDENT for utilities used by CONTRACTOR for the Project.

ARTICLE 43. **SANITARY FACILITIES**

The CONTRACTOR shall provide sanitary temporary toilet facilities in no fewer numbers than required by law and such additional facilities as may be directed by the Inspector for the use of all workers. The toilet facilities shall be maintained in a sanitary condition at all times and shall be left at the site until removal is directed by the Inspector. Use of toilet facilities in the work under construction shall not be permitted.

ARTICLE 44. **CLEANING UP**

CONTRACTOR at all times shall keep work site free from debris such as waste, rubbish, and excess materials and equipment caused by this work. CONTRACTOR shall not leave debris under, in, or about the work site, but shall promptly remove same. Upon completion of work, CONTRACTOR shall clean interior and exterior of building, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected. CONTRACTOR shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking, sanitary facilities and similar temporary facilities from site. If CONTRACTOR fails to clean up, the SUPERINTENDENT

shall do so and the cost thereof shall be charged to the CONTRACTOR and deducted from any progress payment due.

ARTICLE 45. PATENTS, ROYALTIES, AND INDEMNITIES

The CONTRACTOR shall hold and save the SUPERINTENDENT and its governing board, officers, agents, and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this Agreement, including its use by the SUPERINTENDENT, unless otherwise specifically provided in the Project Documents, and unless such liability arises from the sole negligence, or active negligence, or willful misconduct of the SUPERINTENDENT.

ARTICLE 46. GUARANTEE

(a) CONTRACTOR warrants that the work (which includes any equipment furnished by CONTRACTOR as part of the materials) shall: (a) be free from defects in workmanship and material; (b) be free from defects in any design performed by CONTRACTOR; (c) be new, and conform and perform to the requirements stated in the specifications and where detail requirements are not so stated, shall conform to applicable industry standards; and (d) be suitable for the use stated in the specifications.

(b) The warranty period for discovery of defective work shall commence on the date stamped on the Notice of Completion verifying County recordation and continue for the period set forth in the specifications or for one year if not so specified. If, during the warranty period, the work is not available for use due to defective work, such time of unavailability shall not be counted as part of the warranty period. The warranty period for corrected defective work shall continue for a duration equivalent to the original warranty period.

(c) SUPERINTENDENT shall give CONTRACTOR prompt written notice after discovery of any defective work. CONTRACTOR shall correct any such defective work, as well as any damage to any other part of the work resulting from such defective work, and provide repair, replacement, or reimbursement, at its sole expense, in a manner approved by the SUPERINTENDENT and with due diligence and dispatch as required to make the work ready for use by SUPERINTENDENT, ordinary wear and tear, unusual abuse or neglect excepted. Such corrections shall include, but not be limited to, any necessary adjustments, modifications, changes of design (unless of SUPERINTENDENT'S design), removal, repair, replacement or reinstallation, and shall include all necessary parts, materials, tools, equipment, transportation charges and labor as may be necessary, and cost of removal and replacement of work shall be performed at a time and in such a manner so as to minimize the disruption to SUPERINTENDENT'S use of the work.

(d) In the event of failure of CONTRACTOR or Surety to commence and pursue with diligence said repairs or replacements within ten (10) calendar days after being notified in writing, SUPERINTENDENT is hereby authorized to proceed to have defects repaired or replaced and made good at expense of CONTRACTOR and Surety who hereby agree to pay costs and charges therefore immediately on demand.

(e) If, in the opinion of the SUPERINTENDENT, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the SUPERINTENDENT or to prevent interruption of operations of the SUPERINTENDENT, the SUPERINTENDENT will attempt to give the written notice required by this Article. If the CONTRACTOR or Surety cannot be contacted or neither complies with the SUPERINTENDENT'S requirements for correction within a reasonable time as determined by the SUPERINTENDENT, the SUPERINTENDENT may, notwithstanding the provisions of this Article, proceed to make such correction or provide such attention and the costs of such correction or attention shall be charged against the CONTRACTOR and Surety. Such action by the SUPERINTENDENT will not relieve the CONTRACTOR and Surety of the guarantees provided in this Article or elsewhere in the Project Documents.

(f) This Article does not in any way limit the guarantees on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. CONTRACTOR shall furnish to SUPERINTENDENT all appropriate guarantee or warranty certificates upon completion of the Project or upon request by SUPERINTENDENT.

(g) All guarantees required under this Article shall be in writing on the Guarantee form included in the Project Documents.

(h) CONTRACTOR shall provide to SUPERINTENDENT instruction manuals for all items which require same.

(i) Nothing herein shall limit any other rights or remedies available to SUPERINTENDENT.

(j) The SUPERINTENDENT may collect its reasonable costs and attorneys' fees in any action to enforce this Article.

ARTICLE 47. **DUTY TO PROVIDE FIT WORKERS**

(a) CONTRACTOR and subcontractors shall at all times enforce strict discipline and good order among their employees and shall not employ on work any unfit person or anyone not skilled in work assigned to such person. It shall be the responsibility of CONTRACTOR to ensure compliance with this Article.

(b) Any person in the employ of the CONTRACTOR or subcontractors whom SUPERINTENDENT or ARCHITECT may deem incompetent, unfit, troublesome or otherwise undesirable shall be excluded from the work site and shall not again be employed on it except with written consent of SUPERINTENDENT.

ARTICLE 48. WAGE RATES, TRAVEL AND SUBSISTENCE

(a) Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the Labor Code, the governing board of SUPERINTENDENT 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 the Department of Industrial Relations ("Director.") These rates are on file with the Clerk of the SUPERINTENDENT'S governing board and copies will be made available to any interested party on request. CONTRACTOR shall post a copy of such wage rates at the work site. Labor Code Section 1773.2. The rates are available on the Internet at www.dir.ca.gov "Statistics & Research."

(b) Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half 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.

(c) 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.

(d) CONTRACTOR shall pay and shall cause to be paid to each worker needed to execute the work on the Project travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with Labor Code Section 1773.8.

(e) 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 in the Notice Calling for Bids or the contract subsequently awarded.

(f) Pursuant to Labor Code Section 1775, CONTRACTOR shall as a penalty to the SUPERINTENDENT, forfeit fifty dollars ($50) 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 CONTRACTOR or by any subcontractor under it. The amount of the penalty shall be determined by the Labor Commission and shall be based on consideration of the CONTRACTOR'S mistake, inadvertence or neglect in failing to pay the correct prevailing rate of per diem wage, or the previous record of the CONTRACTOR in meeting his or her prevailing rate of per diem wage obligations, or the CONTRACTOR'S willful failure to pay the correct prevailing rate of per diem wages. A mistake, inadvertence or neglect in failing to pay the correct prevailing rate of per diem wage is not excusable if the CONTRACTOR had knowledge of his or her obligations under this part. 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.

(g) 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 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.

(h) Pursuant to Labor Code Section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Labor Code Section 1773.8.

(i) CONTRACTOR shall post at appropriate conspicuous points on the site of the Project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

ARTICLE 49. **HOURS OF WORK**

(a) As provided in Article 3, (commencing at Section 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 Agreement upon the work or upon any part of the work contemplated by this Agreement shall be limited and restricted by the Agreement to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of CONTRACTOR in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

(b) The CONTRACTOR shall keep and shall cause each subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the work or any part of the work contemplated by this Agreement. The record shall be kept open at all reasonable hours to the inspection of the SUPERINTENDENT and to the Division of Labor Standards Enforcement, Department of Industrial Relations.

(c) Pursuant to Labor Code Section 1813, the CONTRACTOR shall pay to the SUPERINTENDENT a penalty of Twenty-Five Dollars ($25) 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 one calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.

(d) Any work necessary to be performed after regular working hours or on Sundays or other holidays shall be performed without additional expense to SUPERINTENDENT.

ARTICLE 50. **PAYROLL RECORDS**

(a) Pursuant to the provisions of Labor Code Section 1776, the CONTRACTOR shall keep and shall cause each subcontractor performing any portion of the work under this Agreement to keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by CONTRACTOR in connection with the work.

(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 SUPERINTENDENT, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection upon request by the public or copies

thereof made; provided, however, that a request by the public shall be made through either the SUPERINTENDENT the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. 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 preparation by the CONTRACTOR, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the CONTRACTOR.

(4) The form of certification shall be as follows:

I, _____ (Name-print), the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____ (Name of business and/or CONTRACTOR), certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, number of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Dated: _____ Signature:_____

(c) Contractor shall file a certified copy of the payroll records enumerated in subdivision (a) with the entity that requested the records within ten (10) days after receipt of a written request. In the event that the CONTRACTOR fails to comply within the 10-day period, the CONTRACTOR shall, as a penalty to the SUPERINTENDENT, forfeit Twenty-Five Dollars ($25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

(d) Any copy of payroll records made available for inspection as copies and furnished upon request to the public by the SUPERINTENDENT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR shall not be marked or obliterated.

(e) The CONTRACTOR shall inform the SUPERINTENDENT of the location of the payroll records enumerated under subdivision (a), including the street address, city and county, and shall, within five (5) working days, provide a written notice of a change of location and address.

(f) It shall be the responsibility of the CONTRACTOR to ensure compliance with the provisions of this Article 50 and the provisions of Labor Code Section 1776.

ARTICLE 51. **APPRENTICES**

(a) The CONTRACTOR acknowledges and agrees that, if this Agreement involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Agreement is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the CONTRACTOR to ensure compliance with this Article 51 and with Labor Code Section 1777.5 for all apprenticing occupations.

(b) Apprentices of any crafts or trades may be employed and, when required by Labor Code Section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.

(c) Every such apprentice 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.

(d) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3 of the Labor Code, are eligible to be employed on public works. The employment and training of each apprenticeship shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he or she is training.

(e) Pursuant to Labor Code Section 1777.5, the CONTRACTOR and any subcontractors employing workers in any apprenticeship craft or trade in performing any work under this Agreement shall employ apprentices in at least the ratio set forth in Section 1777.5 and apply to the applicable joint apprenticeship committee for a certificate approving the CONTRACTOR or subcontractor under the applicable apprenticeship standards for the employment and training of apprentices.

(f) Every contractor and subcontractor shall submit contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the Agreement, the number of apprentices to be employed and the approximate dates the apprentices will be employed.

(g) If the CONTRACTOR or subcontractor willfully fails to comply with Labor Code Section 1777.5, then, upon a determination of noncompliance by the Chief of the Division of Apprenticeship Standards, the CONTRACTOR or subcontractor

shall be subject to the penalties imposed under Labor Code Section 1777.7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council.

(h) The CONTRACTOR and all subcontractors shall comply with Labor Code Section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.

(i) CONTRACTOR shall become fully acquainted with the law regarding apprentices prior to commencement of the work. Special attention is directed to Sections 1777.5, 1777.6, and 1777.7 of the Labor Code, and Title 8, California Code of Regulations, Section 200, et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, 8th Floor, San Francisco, California 94102, (415) 703-4920.

ARTICLE 52. **LABOR - FIRST AID**

The CONTRACTOR shall maintain emergency first aid treatment for CONTRACTOR'S workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C.A., Sec. 651, et seq.).

ARTICLE 53. **PROTECTION OF PERSONS AND PROPERTY**

(a) The CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this Agreement and shall take all necessary measures and be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the SUPERINTENDENT. CONTRACTOR shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions. All work shall be solely at the CONTRACTOR'S risk with the exception of damage to the work caused by "acts of God" as defined in Public Contract Code Section 7105.

(b) CONTRACTOR shall take, and require subcontractors to take, all necessary precautions for safety of workers and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to the work site and to provide a safe and healthful place of employment. CONTRACTOR shall furnish, erect and properly maintain at all times, as directed by SUPERINTENDENT or ARCHITECT or required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. CONTRACTOR shall designate a responsible employee, whose

duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety and health of workers. Name and position of person so designated shall be reported in writing to SUPERINTENDENT by CONTRACTOR. CONTRACTOR shall correct any violations of safety laws, standards, orders, rules, or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health, such violation shall be corrected immediately by the CONTRACTOR at CONTRACTOR'S expense.

(c) In an emergency affecting safety of person or of work or of adjoining property, CONTRACTOR, without special instruction or authorization from ARCHITECT or SUPERINTENDENT, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and CONTRACTOR shall so act if so authorized or instructed by Architect or SUPERINTENDENT. Any compensation claimed by CONTRACTOR on account of emergency work shall be determined by written agreement with the SUPERINTENDENT.

(d) CONTRACTOR shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations.

(e) CONTRACTOR shall (unless waived by the SUPERINTENDENT in writing):

(1) When performing new construction on existing sites, become informed and take into specific account the maturity of the students on the site; perform work which may interfere with school routine before or after school hours; enclose working area with a substantial barricade; not allow any unauthorized individuals on the site; require all workers on the Project to be conspicuously identified either by a firm logo on their clothing or prominent identification badge and arrange work to cause a minimum amount of inconvenience and danger to students and faculty in their regular school activities.

(2) Provide substantial barricades around any shrubs or trees indicated to be preserved.

(3) Deliver materials to building area over route designated by ARCHITECT.

(4) When directed by SUPERINTENDENT, take preventive measures to eliminate objectionable dust.

(5) Enforce all instructions of SUPERINTENDENT and ARCHITECT regarding signs, advertising, fires, and smoking and require that all workers comply with all regulations while on construction site.

(6) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer at no cost to the SUPERINTENDENT.

ARTICLE 54. **NON-DISCRIMINATION**

In the performance of the terms of this Agreement, CONTRACTOR agrees that it will not engage in nor permit such subcontractor as it may employ to engage in unlawful discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex of such persons.

ARTICLE 55. **SCHEDULE OF VALUES AND PERIODICAL ESTIMATES**

(a) CONTRACTOR shall furnish on form(s) approved by SUPERINTENDENT:

(1) Within five (5) calendar days of award of contract a detailed schedule of values giving complete breakdown of contract price for each component of the Project or site which shall include all subcontractor/supplier agreements showing dollar amounts of these agreements to justify the schedule of values; and

(2) A periodical itemized estimate of work done for purpose of making partial payments thereon. Change order work shall be clearly identified on a separate schedule of values.

(3) Within five (5) calendar days of request of SUPERINTENDENT, a schedule of estimated monthly payments which shall be due CONTRACTOR under the Agreement.

(b) Values employed in making up any of these schedules are subject to the ARCHITECT'S written approval and will be used only for determining basis of partial payments and will not be considered as fixing a basis for additions to or deductions from contract price.

ARTICLE 56. **CONTRACTOR CLAIMS**

If the CONTRACTOR shall claim compensation for any damage sustained by reason of the acts of the SUPERINTENDENT or its agents, CONTRACTOR shall, within five (5) calendar days after sustaining of such damage, make to the ARCHITECT a written statement of the damage sustained. On or before the 15th

day of the month succeeding that in which such damage shall have been sustained the CONTRACTOR shall file with the SUPERINTENDENT an itemized statement of the details and amount of such damage, and unless such statement shall be made as thus required, CONTRACTOR'S claims for compensation shall be forfeited and invalidated and it shall not be entitled to consideration for payment on account of any such damage.

ARTICLE 57. **DISPUTES - ARCHITECT'S DECISIONS**

(a) The ARCHITECT shall, within a reasonable time, make decisions on all matters relating to the CONTRACTOR'S execution and progress of the work. The decisions of the ARCHITECT shall not be binding, but shall be advisory only on the CONTRACTOR for the purpose of CONTRACTOR'S obligation to proceed with the work.

(b) Except for tort claims, all claims by the CONTRACTOR for a time extension, payment of money or damages arising from work done by, or on behalf of, the CONTRACTOR pursuant to the Agreement and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or as to the amount of payment which is disputed by the SUPERINTENDENT of Three Hundred Seventy Five Thousand Dollars ($375,000) or less shall be subject to the settlement procedures set forth in Public Contract Code Section 20104, et seq. which provisions are incorporated herein by reference.

(c) In the event of a dispute between the parties as to performance of the work, the interpretation of this Agreement or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of the dispute, CONTRACTOR agrees to continue the work diligently to completion. If the dispute is not resolved, CONTRACTOR agrees it will neither rescind the Agreement nor stop the progress of the work, but CONTRACTOR'S sole remedy shall be to submit such controversy to determination by a court of the State of California, in Orange County, having competent jurisdiction of the dispute, after the Project has been completed, and not before.

ARTICLE 58. **PAYMENTS**

(a) Unless otherwise specified in writing, each month within thirty (30) days after receipt by the SUPERINTENDENT of the monthly progress schedule and an undisputed, properly submitted payment request from CONTRACTOR which has been certified for payment by the Architect, there shall be paid to CONTRACTOR a sum equal to ninety-five percent (95%) of value of work performed and of materials delivered to the jobsite and inspected and approved by the inspector of record and subject to or under the control of the SUPERINTENDENT and unused up to the last day of the previous month, less aggregate previous payments. Public Contract Code Section 20104.50. Monthly payments shall be made only on the basis of monthly estimates which shall be prepared by CONTRACTOR on a form

approved by SUPERINTENDENT and filed before the fifth (5th) day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall operate to release CONTRACTOR or Surety from any damages arising from such work or from enforcing each and every provision of this Agreement, and SUPERINTENDENT shall have the right subsequently to correct any error made in any estimate for payment. CONTRACTOR SHALL NOT BE ENTITLED TO HAVE ANY PAYMENT ESTIMATES PROCESSED OR BE ENTITLED TO HAVE ANY PAYMENT FOR WORK PERFORMED SO LONG AS ANY LAWFUL OR PROPER DIRECTION CONCERNING WORK, OR ANY PORTION THEREOF, GIVEN BY THE SUPERINTENDENT OR ARCHITECT SHALL REMAIN UNCOMPLIED WITH BY THE CONTRACTOR. CONTRACTOR AGREES TO THE FIVE PERCENT (5%) RETENTION ON ALL PROGRESS PAYMENTS. Public Contract Code Section 9203.

(b) SUPERINTENDENT has discretion to require from the CONTRACTOR any of the following information with the application for payment: (i) certified payroll covering the period of the prior application for payment; (ii) unconditional waivers and releases from all subcontractors/suppliers for which payment was requested under the prior application for payment; and/or (iii) receipts or bills of sale for any items. CONTRACTOR agrees that payment may be contingent upon SUPERINTENDENT receiving any one or more of these documents.

(c) Before payment is made hereunder, a certificate in writing shall be obtained from the ARCHITECT stating that the work for which the payment is demanded has
been performed in accordance with the terms of the Project Documents and that the amount stated in the certificate is due under the terms of the Project Documents, which certificate shall be attached to and made a part of the claim made and filed with the SUPERINTENDENT, provided that if the ARCHITECT shall, within three (3) days after written demand therefore, fail to deliver such certificate to the SUPERINTENDENT, the CONTRACTOR may file its claim with the SUPERINTENDENT without said certificate, but together with such claim shall be filed a statement that demand was made for such certificate and that the same was refused. Thereupon, the SUPERINTENDENT will either allow said claim as presented or shall, by an order entered on the minutes of said SUPERINTENDENT state the reasons for refusing to allow said claim. It is understood, moreover, that the certificate of the ARCHITECT shall not be conclusive upon the SUPERINTENDENT, but advisory only.

(d) Upon receipt of CONTRACTOR'S payment request, SUPERINTENDENT shall review the payment request as soon as practicable after receipt for the purpose of determining that the payment request is proper. Any payment request determined not to be proper shall be returned to the CONTRACTOR as soon as practicable but not later than seven (7) days after receipt and shall be

accompanied by a document setting forth in writing the reasons(s) why the payment request was not proper. Public Contract Code Section 20104.50

(e) NO PAYMENT BY SUPERINTENDENT HEREUNDER SHALL BE INTERPRETED SO AS TO IMPLY THAT SUPERINTENDENT HAS INSPECTED, APPROVED, OR ACCEPTED ANY PART OF THE WORK.

(f) Unless otherwise provided, on or before making request for final payment of the undisputed amount due under the Agreement, CONTRACTOR shall submit to SUPERINTENDENT, in writing a summary of all claims for compensation under or arising out of this Agreement which were timely filed. The acceptance by CONTRACTOR of the payment of the final amount shall constitute a waiver of all claims against SUPERINTENDENT under or arising out of this Agreement, except those previously made, in a timely manner and in writing, and identified by CONTRACTOR as unsettled at the time of CONTRACTOR'S final request for payment.

(g) CONTRACTOR shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received within seven (7) days from the time that all or any portion of the retention are received by the CONTRACTOR subject to any limitations set forth in Public Contract Code Section 7107(e).

(h) The final payment of the five percent (5%) retention of the value of the work done under this Agreement, if unencumbered, shall be made thirty-five (35) days after recording by the SUPERINTENDENT of the Notice of Completion at the County Recorder's Office. APPROVAL OF COMPLETION OF THE PROJECT WILL BE MADE ONLY BY ACTION OF THE GOVERNING BOARD OF SUPERINTENDENT. Public Contract Code Section 7107.

ARTICLE 59. **CHANGES AND EXTRA WORK**

(a) SUPERINTENDENT may, as provided by law and without affecting the validity of this Agreement, order changes, modifications, deletions and extra work by issuance of written change orders from time to time during the progress of the Project, contract sum being adjusted accordingly. All such work shall be executed under conditions of the original Agreement except that any extension of time caused thereby shall be adjusted at time of ordering such change. SUPERINTENDENT has discretion to order changes on a "time and material" basis with adjustments to time made after CONTRACTOR has justified through documentation the impact on the critical path of the Project.

(b) Notwithstanding any other provision in the Project Documents, the adjustment in the contract sum, if any, and the adjustment in the contract time, if any, set out in a change order shall constitute the entire compensation and/or adjustment in the contract time due CONTRACTOR arising out of the change in

the work covered by the change order unless otherwise provided in the change order. The amount of the compensation due CONTRACTOR shall be calculated pursuant to subparagraph (e) of this Article 59. The entire compensation shall not include any additional charges not set forth in subparagraph (e) and shall not include delay damages (due to processing of a change order, refusal to sign a change order) indirect, consequential, and incidental costs including any project management costs, extended home office and field office overhead, administrative costs and profit other than those amounts authorized under subparagraph (e) of this Article 59.

(c) In giving instructions, ARCHITECT shall have authority to make minor changes in work, not involving change in cost, and not inconsistent with purposes of the Project. The SUPERINTENDENT'S Assistant Superintendent of Administrative Services may authorize changes in work involving a change in cost that does not exceed Fifteen Thousand Dollars $15,000. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order from SUPERINTENDENT, authorized by action of the governing board, and no claim for addition to contract sum shall be valid unless so ordered.

(d) If the ARCHITECT determines that work required to be done constitutes extra work outside the scope of the Agreement, the ARCHITECT shall send a request for a detailed proposal to the CONTRACTOR. CONTRACTOR will respond with a detailed proposal within five (5) calendar days of receipt of the Request for Proposal which shall include a complete itemized cost breakdown of all labor and materials showing actual quantities, hours, unit prices, and the wage rates required for the change. If the change order involves a change in construction time, a request for the time change shall accompany the change order cost breakdown. All such requests for time shall be specified by CONTRACTOR as either "work days" or "calendar days." Any request for time received with only the designation of "days" shall be considered calendar days. The term "work days" as used in this paragraph shall mean Monday through Friday, excluding Saturdays, Sundays and federal/State of California observed holidays. If the work is to be performed by a subcontractor, CONTRACTOR must include a bid from the subcontractor containing the same detailed information as required for CONTRACTOR. No extensions of time will be granted for change orders that, in the opinion of the ARCHITECT, do not affect the critical path of the Project.

(e) Value of any such extra work, change, or deduction shall be determined at the discretion of SUPERINTENDENT in one or more of the following ways:

(1) By mutual written acceptance of a lump sum proposal from CONTRACTOR properly itemized and supported by sufficient substantiating data to permit evaluation by SUPERINTENDENT and ARCHITECT.

(2) By unit prices contained in CONTRACTOR'S original bid and incorporated in the Project Documents or fixed by subsequent agreement between SUPERINTENDENT and CONTRACTOR.

(3) By cost of material and labor and percentage for overhead and profit ("time and material"). If the value is determined by this method the following requirements shall apply:

(A) Daily Reports by Contractor.

(i) General. At the close of each working day, the CONTRACTOR shall submit a daily report to the ARCHITECT and the Inspector, on forms approved by the SUPERINTENDENT, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, 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 ARCHITECT 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.

(ii) Labor. The report shall show names of workers, classifications, and hours worked and hourly rate. Project Superintendent expenses are not allowed.

(iii) Materials. The report shall describe and list quantities of materials used and unit cost.

(iv) Equipment. The report shall show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable, and hourly/daily cost.

(v) Other Services and Expenditures. Other services and expenditures shall be described in such detail as the SUPERINTENDENT may require.

(B) Basis for Establishing Costs

(i) Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft classification 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 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.

(ii) Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the work site in the quantifies involved, plus sales tax, freight and delivery. The SUPERINTENDENT 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 SUPERINTENDENT.

(iii) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of $100 or less or where an invoice is not provided.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental source, 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 SUPERINTENDENT 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 SUPERINTENDENT.

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

(iv) Other Items. The SUPERINTENDENT 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 request for payment.

(v) Invoices. Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, the SUPERINTENDENT may establish the cost of the item involved at the lowest price which was current at the time of the report.

(C) The following form shall be used as applicable by the SUPERINTENDENT and CONTRACTOR to communicate proposed additions and deductions to the Agreement.

		EXTRA	CREDIT
i.	Material/Equipment (attach itemized quantity and unit cost plus sales tax)	_____	_____
ii.	Labor (attach itemized hours and rates)	_____	_____
iii.	Subtotal	_____	_____
iv.	If subcontractor performed work, add Subcontractor's overhead and profit to portions performed by it, not to exceed 15% of Item iii. above	_____	_____
v.	Subtotal	_____	_____
vi.	General Contractor's Overhead and Profit, not to exceed 15% of Item v if Contractor performed the work. If subcontractor performed the work, not to exceed 5% of Item v. Of portions performed by Contractor and subcontractors, portions performed by Contractor shall not exceed 15% of Item V, and portions performed by Subcontractor shall not exceed 5% of Item v.	_____	_____
vii.	Subtotal	_____	_____

viii. Bond and Liability Insurance Premium, if in fact additional bonds or insurance were actually purchased, not to exceed 1% of Item vii. _____ _____

ix. Total _____ _____

(4) IT IS EXPRESSLY UNDERSTOOD THAT THE VALUE OF SUCH EXTRA WORK OR CHANGES, AS DETERMINED BY ANY OF THE AFOREMENTIONED METHODS, EXPRESSLY INCLUDES ANY AND ALL OF CONTRACTOR'S COSTS AND EXPENSES, BOTH DIRECT AND INDIRECT, RESULTING FROM ADDITIONAL TIME REQUIRED ON THE PROJECT, OR RESULTING FROM DELAYS TO THE PROJECT. ANY COSTS OR EXPENSES NOT INCLUDED ARE DEEMED WAIVED. FOR PURPOSES OF DETERMINING THE COST, IF ANY, OF ANY EXTRA WORK, CHANGE, ADDITION OR OMISSION HEREUNDER, ALL TRADE DISCOUNTS, REBATES, REFUNDS, AND ALL RETURNS FROM THE SALE OF SURPLUS MATERIALS AND EQUIPMENT SHALL ACCRUE AND BE CREDITED TO CONTRACTOR, AND CONTRACTOR SHALL ENSURE THAT SUCH DISCOUNTS, REBATES, REFUNDS, AND RETURNS MAY BE SECURED, AND THE AMOUNT THEREOF SHALL BE ALLOWED AS A REDUCTION OF CONTRACTOR'S COST IN DETERMINING THE ACTUAL COST OF CONSTRUCTION FOR PURPOSES OF ANY EXTRA WORK, CHANGE, ADDITION OR OMISSIONS IN THE WORK AS PROVIDED HEREIN.

(f) If the CONTRACTOR should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation obligates the SUPERINTENDENT to pay additional compensation to CONTRACTOR or to grant an extension of time, or constitutes a waiver of any provision in the Agreement, CONTRACTOR shall notify the SUPERINTENDENT, in writing, of such claim within five (5) calendar days from the date CONTRACTOR has actual or constructive notice of the factual basis supporting the claim. The notice shall state the factual bases for the claim and cite in detail the Project Documents (including plans and specifications) upon which the claim is based. The CONTRACTOR'S failure to notify the SUPERINTENDENT within such five (5) day period shall be deemed a waiver and relinquishment of such a claim. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in these General Conditions.

(g) "PROHIBITED USAGE OF CONTRACTOR QUALIFYING LANGUAGE STAMPS ON SUPERINTENDENT DRAWINGS OR CONTRACT FORMS." Contractor shall not countersign or endorse any form, drawing, change order, contract or other documents with any conditions not mutually agreed to in advance

by the SUPERINTENDENT and the CONTRACTOR. Endorsement of a contract, change order, specification, drawing or form with the following: "This change order is being executed without waiver of the right to seek additional compensation for such services," shall be of no legal force or effect.

ARTICLE 60. **COMPLETION**

(a) The SUPERINTENDENT shall accept completion of the Project and have the Notice of Completion recorded within ten (10) days of acceptance of completion of the Project when the entire work including punch list items shall have been completed to the satisfaction of the SUPERINTENDENT. Civil Code Section 3093. The work may only be accepted as complete by action of the SUPERINTENDENT'S Governing Board.

(b) However, the SUPERINTENDENT, at its sole option, may accept completion of the Project and have the Notice of Completion recorded when the entire work including individual portions of the work shall have been completed to the satisfaction of the SUPERINTENDENT, except for minor corrective items, as distinguished from incomplete items.

(c) A final walk through of the Project to determine completion and to record the Notice of Completion shall occur only upon a valid claim by CONTRACTOR that the Project is complete except for minor corrective items. Any erroneous claims of completion by CONTRACTOR resulting in a premature walk through shall be at CONTRACTOR's sole cost and expense and SUPERINTENDENT shall make adjustments to the contract price by reducing the amount thereof to pay for any costs incurred by the SUPERINTENDENT due to the erroneous claims by the CONTRACTOR that the Project is complete. Minor corrective items shall be identified in the final walk through of the Project.

(d) If the CONTRACTOR fails to complete the minor corrective items prior to the expiration of the thirty-five (35) day period immediately following recording of the Notice of Completion, the SUPERINTENDENT shall withhold from the final payment an amount equal to one hundred fifty percent (150%), as determined by the SUPERINTENDENT, of the amount of each item until such time as the item is completed. Public Contract Code Section 7107. At the end of such 35-day period, if there are items remaining to be corrected, the SUPERINTENDENT may elect to proceed as provided in Article 61(b) entitled "Adjustments to Contract Price."

ARTICLE 61. **ADJUSTMENTS TO CONTRACT PRICE**

(a) If CONTRACTOR defaults or neglects to carry out the work in accordance with the Project Documents or fails to perform any provision thereof, SUPERINTENDENT may, after ten (10) days written notice to the CONTRACTOR and without prejudice to any other remedy it may have, make good such deficiencies.

(b) The SUPERINTENDENT shall adjust the total contract price by reducing the amount thereof by the cost of making good such deficiencies. If SUPERINTENDENT deems it inexpedient to correct work not done in accordance with the Project Documents, an equitable reduction in the contract price shall be made therefore.

ARTICLE 62. **CORRECTION OF WORK**

(a) CONTRACTOR shall promptly remove all work identified by SUPERINTENDENT as failing to conform to the Project Documents, whether incorporated or not. CONTRACTOR shall promptly replace and re-execute its own work to comply with Project Documents without additional expense to SUPERINTENDENT and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

(b) If CONTRACTOR does not remove such work within a reasonable time, fixed by written notice, SUPERINTENDENT may remove it and may store the material at CONTRACTOR'S expense. If CONTRACTOR does not pay expenses of such removal within ten (10) days' time thereafter, SUPERINTENDENT may, upon ten (10) days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by CONTRACTOR.

ARTICLE 63. **EXTENSION OF TIME - LIQUIDATED DAMAGES**

(a) The CONTRACTOR and SUPERINTENDENT hereby agree that the exact amount of damages for failure to complete the work within the time specified is extremely difficult or impossible to determine. CONTRACTOR shall be assessed liquidated damages for each and every day the work required under the Project Documents remains unfinished past the time for completion, as set forth in the Agreement, and any extensions of time granted by the SUPERINTENDENT to the CONTRACTOR under the terms of the Project Documents. The CONTRACTOR will pay to the SUPERINTENDENT or SUPERINTENDENT may retain from amounts otherwise payable to the CONTRACTOR, said amount for each day after failure to meet the requirements of the contract completion as scheduled in the Agreement. Government Code Section 53069.85. For purposes of this article, the work shall be considered "complete" in accordance with the provisions of Article 60, "COMPLETION", except that the work may be considered complete without formal acceptance by the SUPERINTENDENT Governing Board so long as the Governing Board, at its next regularly scheduled meeting, accepts the work.

(b) CONTRACTOR shall not be charged for liquidated damages, as set forth above, because of any delays in completion of work which are not the fault or negligence of CONTRACTOR, including but not restricted to acts of God. CONTRACTOR shall within ten (10) days of beginning of any such delay, notify

SUPERINTENDENT in writing of causes of delay. CONTRACTOR shall provide documentation and justification to substantiate the delay and its relation to the Project's critical path. SUPERINTENDENT shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. The SUPERINTENDENT'S finding of fact thereon shall be final and conclusive on the parties hereto. Extension of time shall apply only to that portion of work affected by the delay, and shall not apply to other portions of work not so affected.

ARTICLE 64. **PAYMENTS WITHHELD**

(a) In addition to amount which SUPERINTENDENT may retain under Article entitled "COMPLETION" and Article entitled "PAYMENTS," SUPERINTENDENT may withhold a sufficient amount or amounts of any payment or payments otherwise due to CONTRACTOR, as in its judgment may be necessary to cover:

(1) Payments which may be past due and payable for just claims against CONTRACTOR or any subcontractors, or against and about the performance of work on the Project, including, without limitation, payments made pursuant to the Article entitled "PAYMENTS BY CONTRACTOR."

(2) The cost of defective work which CONTRACTOR has not remedied.

(3) Liquidated damages assessed against CONTRACTOR.

(4) Penalties for violation of labor laws.

(5) The cost of materials ordered by the SUPERINTENDENT pursuant to Article 33 entitled "MATERIALS AND WORK."

(6) The cost of completion of this Agreement if there exists a reasonable doubt that this Agreement can be completed for the balance then unpaid to CONTRACTOR.

(7) Damage to SUPERINTENDENT, another contractor, or subcontractor.

(8) Site clean-up as provided in Article 44 entitled "CLEANING UP."

(9) Payments to indemnify, defend, or hold harmless the SUPERINTENDENT.

(10) Any payments due to the SUPERINTENDENT including but not limited to payments for failed tests, utilities or imperfections.

(11) Extra services for ARCHITECT.

(12) Extra services for the INSPECTOR including but not limited to reinspection required due to CONTRACTOR'S failed tests or installation of unapproved or defective materials and CONTRACTOR'S requests for inspection and CONTRACTOR□s failure to attend the inspection.

(13) Failure of CONTRACTOR to submit on a timely basis, proper and sufficient documentation required by the Project 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.

(14) Any other obligation(s) of the SUPERINTENDENT which the SUPERINTENDENT is authorized and/or compelled by law to perform.

(b) If the above grounds are in the opinion of the SUPERINTENDENT removed by or at the expense of CONTRACTOR, payment shall be made for amounts withheld because of them.

(c) SUPERINTENDENT may apply such withheld amount or amounts to payment of such claims or obligations at its discretion. In so doing, SUPERINTENDENT shall make such payments on behalf of CONTRACTOR. If any payment is so made by SUPERINTENDENT, then such amount shall be considered as a payment made under contract by SUPERINTENDENT to CONTRACTOR and SUPERINTENDENT shall not be liable to CONTRACTOR for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. SUPERINTENDENT will render CONTRACTOR an accounting of such funds disbursed on behalf of CONTRACTOR.

(d) As an alternative to payment of such claims or obligations, SUPERINTENDENT, in its sole discretion, may reduce the total contract price as provided in Article 61 entitled "ADJUSTMENTS TO CONTRACT PRICE."

ARTICLE 65. **TAXES**

(a) 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 Project Documents.

(b) If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, the SUPERINTENDENT, upon request, will execute documents necessary to show (1) that the SUPERINTENDENT is a political subdivision of the State for the purposes of such exemption and (2) that the sale is for the exclusive use of the SUPERINTENDENT. No excise tax for such materials shall be included in any bid price.

ARTICLE 66. **NO ASSIGNMENT**

The CONTRACTOR shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its rights, title or interest in or to the same or any part thereof. If the CONTRACTOR shall assign, transfer, convey, sublet or otherwise dispose of the Agreement or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever; and the Agreement may, at the option of the SUPERINTENDENT, be terminated, revoked and annulled, and the SUPERINTENDENT shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the CONTRACTOR, and to its purported assignee or transferee.

ARTICLE 67. **NOTICE**

Any notice from one party to the other or otherwise under the Agreement shall be in writing and shall be dated and signed by party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

(1) If notice is given to SUPERINTENDENT, by personal delivery thereof to SUPERINTENDENT, or by depositing same in United States mail, enclosed in a sealed envelope addressed to SUPERINTENDENT, and sent by registered or certified mail with postage prepaid;

(2) If notice is given to CONTRACTOR, by personal delivery thereof to said CONTRACTOR, or to CONTRACTOR'S superintendent at site of Project, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said CONTRACTOR at its regular place of business or at such address as may have been established for the conduct of work under this Agreement, and sent by registered or certified mail with postage prepaid;

(3) If notice is given to surety or other persons, by personal delivery to such surety or other person, or by depositing same in United States mail, enclosed in a sealed envelope, addressed to such surety or person at the address of such surety or person last communicated by surety or other

person to party giving notice, and sent by registered or certified mail with postage prepaid.

ARTICLE 68. **NO WAIVER**

The failure of the SUPERINTENDENT in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

ARTICLE 69. **NON-UTILIZATION OF ASBESTOS MATERIAL**

(a) The CONTRACTOR will be required to execute and submit the Certificate Regarding Non-Asbestos Containing Materials.

(b) Should asbestos containing materials be installed by the CONTRACTOR in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will meet the following criteria:

(1) Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).

(2) The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

(3) The asbestos consultant shall be chosen and approved by the SUPERINTENDENT who shall have sole discretion and final determination in this matter.

(4) The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

(c) Cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs as may be incurred by the SUPERINTENDENT shall be borne entirely by the CONTRACTOR.

(d) Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by the CONTRACTOR at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products.

By execution of the Agreement, the CONTRACTOR acknowledges the above and agrees to hold harmless the SUPERINTENDENT, its Governing Board, employees, agents, and ARCHITECT and assigns for all asbestos liability which may be associated with this work. The CONTRACTOR further agrees to instruct his/her employees with respect to the above mentioned standards, hazards, risks and liabilities.

ARTICLE 70. **LEAD**

Pursuant to the Lead-Safe Schools Protection Act (Education Code Sections 32240, et seq.) and other applicable law, the CONTRACTOR shall not use lead-based paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or the modernization or renovation of any existing school facility.

ARTICLE 71. **CRIMINAL RECORDS CHECK**

Education Code Section 45125.1 provides that if the employees of any entity that has a contract with a school SUPERINTENDENT may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application. The CONTRACTOR shall not permit an employee to come in contact with SUPERINTENDENT pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The CONTRACTOR shall certify in writing to the Governing Board of the SUPERINTENDENT that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony. Criminal Records Check Certification by CONTRACTOR is included in the Project Documents.

ARTICLE 72. **DISABLED VETERAN BUSINESS ENTERPRISES**

Each bidder must meet goals and requirements relating to three percent (3%) participation by Disabled Veteran Business Enterprises, established by the SUPERINTENDENT and the State Allocation Board (SAB), or make a good faith effort with respect thereto, in accordance with the SUPERINTENDENT'S policies and procedures. CONTRACTOR may obtain information from the Office of Small Business Certification and Resources (OSBCR) at http://www.dgs.ca.gov/osbcr or (916) 323-5478. The CONTRACTOR shall be required to submit to the SUPERINTENDENT the DVBE Certification which is included in the Project Documents. Prior to, and as a condition precedent for final payment on the Project, the CONTRACTOR shall provide appropriate documentation to the SUPERINTENDENT so that the SUPERINTENDENT can assess its success at meeting the DVBE participation goal.

ARTICLE 73. **TOBACCO FREE POLICY**

CONTRACTOR has been advised and is aware that SUPERINTENDENT has adopted a Board Policy which prohibits the use of tobacco products, including smokeless tobacco, anywhere on SUPERINTENDENT property. CONTRACTOR shall be responsible for the enforcement of SUPERINTENDENT'S tobacco-free policy among all CONTRACTOR'S employees and subcontractors while on SUPERINTENDENT property. CONTRACTOR understands and agrees that should any employee or subcontractor of CONTRACTOR violate the SUPERINTENDENT'S Board Policy after having already been warned once for violating SUPERINTENDENT'S tobacco-free policy, CONTRACTOR shall remove the individual for the duration of the Project. CONTRACTOR shall not be entitled to any additional compensation and/or time in completing the Project for such removal.

ARTICLE 74. **CASH ALLOWANCE**

CONTRACTOR shall include a CASH allowance in the amount of One hundred fifty thousand dollars ($150,000.00) in his/her Base Bid. CONTRACTOR is to include the Cash Allowance as a separate line item in the in the Schedule of Values (Costs Breakdown). This Cash Allowance will be utilized to pay for extra work as approved in accordance with General Conditions, Article 59, at the sole discretion of the SUPERINTENDENT. Any unused portions of the Cash Allowance remaining at the end of the project will be deducted from the final construction cost and will be credited back to SUPERINTENDENT in the form of a Deductive Change Order (reducing the Total Contract Price by that amount).

ARTICLE 75. **GOVERNING LAW**

The laws of the State of California shall govern the Project and the Agreement.

REQUEST FOR INTERPRETATION (RFI) FORM

PROJECT NAME:	ESPLANADE BUILDING 4 AND KALMUS BUILDING A INTERIOR IMPROVEMENTS		
BID NUMBER:	26-05		
TO:	Kristin Lange	EMAIL:	klange@ocde.us

DATE:			
FROM:		EMAIL:	
DOCUMENT/DIVISION NUMBER:		DRAWING NUMBER:	

REQUESTED CLARIFICATION:
RESPONSE TO CLARIFICATION:

CONTRACTOR'S CERTIFICATE REGARDING ALCOHOLIC BEVERAGE AND TOBACCO-FREE CAMPUS POLICY

The Contractor agrees that it will abide by and implement the SUPERINTENDENT's Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, of any kind and at any time, on SUPERINTENDENT-owned or leased buildings, on SUPERINTENDENT property and in SUPERINTENDENT vehicles. The Contractor shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all times.

DATE:_____

_____
CONTRACTOR

By:_____
Signature

REQUEST FOR SUBSTITUTION AT TIME OF BID

Pursuant to Public Contract Code section 3400, bidder submits the following request to Substitute with the bid that is submitted. I understand that if the request to substitute is not "an/or equal" or is not accepted by SUPERINTENDENT and I answer "no" I will not provide the specified item, then I will be held non-responsive and my bid will be rejected. With this understanding, I hereby request Substitution of the following articles, devices, equipment, products, materials, fixtures, patented processes, forms, methods, or types of construction:

	Specification Section	Specified Item	Requested Substituted Item	Contractor Agrees to Provide Specified Item if request to Substitute is Denied[2] (circle one)	SUPERINTENDENT Decision (circle one)
1.				Yes No	Grant Deny
2.				Yes No	Grant Deny
3.				Yes No	Grant Deny
4.				Yes No	Grant Deny
5.				Yes No	Grant Deny
6.				Yes No	Grant Deny
7.				Yes No	Grant Deny
8.				Yes No	Grant Deny
9.				Yes No	Grant Deny
10.				Yes No	Grant Deny
11.				Yes No	Grant Deny
12.				Yes No	Grant Deny

1 Bidder must state whether bidder will provide the Specified Item in the event the Substitution request is evaluate and denied. If bidder states that bidder will not provide the Specified Item the denial of a request to Substitute shall result in the rejection of the bidder as non-responsive. However, if bidder states that bidder will provide the Specified Item in the event that bidder's request for Substitution is denied, bidder shall execute the Agreement and provide the Specified Item(s). If bidder refuses to execute the Agreement due to the District's decision to require the Specified Item(s) at no additional cost, bidder's Bid Bond shall be forfeited.

This Request Form must be accompanied by evidence as to whether the proposed Substitution (1) is equal in quality, service, and ability to the Specified Item; (2) will entail no change in detail, construction, and scheduling of related work; (3) will be acceptable in consideration of the required design and artistic effect; (4) will provide no cost disadvantage to the SUPERINTENDENT; (5) will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts; and (6) will require no change of the construction schedule or milestones for the Project.

The undersigned states that the following paragraphs are correct:

1. The proposed Substitution does not affect the dimensions shown on the Drawings.

2. The undersigned will pay for changes to the building design, including Architect, engineering, or other consultant design, detailing, and construction costs caused by the requested substitution.

3. The proposed substitution will have no adverse effect on other trades, the Contract Time, or specified warranty requirements.

4. Maintenance and service parts will be available locally for the proposed substitution.

5. In order for the Architect to properly review the substitution request, within five (5) days following the opening of bids, the Contractor shall provide samples, test criteria, manufacturer information, and any other documents requested by Architect or Architect's engineers or consultants, including the submissions that would ordinarily be required for Shop Drawings along with a document which provides a side by side comparison of key characteristics and performance criteria (often known as a CSI side by side comparison chart).

6. If Substitution Request is accepted by the SUPERINTENDENT, Contractor is still required to provide a Submittal for the substituted item pursuant to Article 30 and shall provide required Schedule information (including schedule fragnets, if applicable) for the substituted item as required under Article 30. The approval of the Architect, Engineer, or SUPERINTENDENT of the substitution request does not mean that the Contractor is relieved of Contractor's responsibilities for Submittals, Shop Drawings, and schedules under Article 30 if the Contractor is awarded the Project.

NAME OF BIDDER: _____By:_____

SUPERINTENDENT: _____By: _____